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update

Senate OKs FTC probe of insurance industry

WASHINGTON—The Senate last week approved an amendment that directs the Federal Trade Commission to conduct two major studies of the insurance industry.

The amendment, introduced by Sen. Howard Metzenbaum, D-Ohio, was tacked onto an FTC funding bill, S. 677, that also was cleared by the Senate last week.

The FTC will study the reasons

Continued on next page

RIMS '87 **A record 3,700 people registered for the 25th annual Risk & Insurance Management Society conference in Las Vegas March 30-April 3. For a report on risk management issues, see page 3.**

Lloyd's offers PCW members $166 million

By STACY SHAPIRO

LONDON—To avoid long litigation, Lloyd's of London is offering members of non-marine syndicates formerly managed by PCW Underwriting Agencies Ltd. a 103 million pound settlement and immunity from any further losses.

Under the $165.8 million settlement offered last week, Lloyd's will contribute 45 million pounds ($72.5 million) from its Central Fund. And, Lloyd's will cover any underwriting losses related to the former PCW syndicates exceeding the current estimate.

Thirty-seven other organizations—including 26 members' agencies, accountants, law firms and brokers—will contribute 55 million pounds ($88.6 million) of the settlement.

They include Sedgwick Group P.L.C., which is contributing 10 million pounds ($16.1 million), Alexander & Alexander Services Inc. and PCW's parent company, Minet Holdings P.L.C.

For their part, the 1,547 PCW members belonging to the PCW non-marine syndicates must pay 34 million pounds ($54.7 million) toward the agreement to help fund the syndicates' losses. These PCW members also must relinquish their rights to sue Lloyd's and must transfer to Lloyd's their rights to sue other parties to the settlement.

If members refuse the offer, they will 'face years of uncertainty with regard to their obligations,' warns Peter Miller.

However, individual PCW members can appeal to Lloyd's to reduce their liability for the settlement if they can show the settlement would create severe financial hardship. Lloyd's will consider their appeals but has made no promises to pay on their behalf.

Claims against the syndicates are projected by Lloyd's ultimately to cost 680 million pounds ($1.1 billion), resulting in an estimated 235 million pound ($378.4 million) loss for the names, net of reinsurance recoveries.

But, the 134 million pounds ($215.7 million) contributed by Lloyd's, other parties and the PCW names will be enough to close the PCW accounts and cover ultimate claims, Lloyd's says.

However, a committee of PCW names criticizing the settlement contests the estimate of the losses, contending it is based on "vast alleged losses based on meaningless accounts."

Under the settlement, Lloyd's also will pay 2.9 million pounds ($4.7 million) to the Inland Revenue to end tax disputes involving PCW members, increasing the value of the settlement to the names to $165.8 million.

Lloyd's will administer and control the PCW syndicates' runoff by reinsuring the syndicates' liabilities under a "time and distance" reinsurance policy with a new Lloyd's syndicate, which in turn will reinsure with a new Lloyd's insurance company subsidiary.

"The Society of Lloyd's, in taking on ultimate financial responsibility, is almost certainly assuming a heavy financial burden," Lloyd's chairman Peter Miller said last week.

The settlement is designed to avoid litigation that PCW members have drafted, naming 70 parties, including Lloyd's. The allegations in the complaint have not been made public.

Lloyd's settlement offer is its last, Mr. Miller said.

If at least 90% of the PCW non-marine members accept Lloyd's offer by May 30, it becomes unconditional. If less than 90% of the non-marine members accept the settlement, Lloyd's can seek approval from Additional Underwriting Agencies (No. 3) Ltd., which

Continued on page 101

Hall sues insurer, MGAs for causing Union losses

By DOUGLAS McLEOD

KANSAS CITY, Mo.—Frank B. Hall & Co. Inc. is attempting to take the offensive in litigation involving its defunct underwriting unit, Union Indemnity Insurance Co. of New York.

In court papers filed last month, Hall accuses Omaha Indemnity Co., two managing general agents and related parties of breaching duties owed to Union as reinsurer of Omaha Indemnity on the MGA business.

Among other things, the Hall action charges that one MGA and two of its officers fraudulently misrepresented the business they wrote and that Omaha Indemnity and its parent, Mutual of Omaha Insurance Co., were negligent in their handling of the risks.

Omaha Indemnity and its MGA intentionally ignored limitations in the MGA agreement "in an effort to reap substantial premiums while leaving Union with the losses in the future," according to Hall, which claims that 90% of the risks bound by the MGA and ceded to Union were in violation of the MGA agreement.

Union Indemnity, judged to be insolvent by $138.5 million at year-end 1984, currently is being liquidated by the New York Insurance Department.

Hall's charges are contained in a counterclaim and third-party complaint filed in response to an earlier lawsuit brought against Hall and two Hall subsidiaries by Omaha (*BI*, March 23).

In several respects, the allegations in Hall's counterclaim mirror Omaha's charges against Hall.

The Omaha lawsuit, amended last month, seeks $150 million in damages and charges that Hall conspired with the same two MGAs to defraud Omaha by placing a large volume of business with Omaha "without regard to the financial stability and capacity of the reinsurers."

Continued on page 102

Corporations shield directors

By STEVE TARAVELLA

Corporations, threatened with losing outside directors because of insurance problems, are moving swiftly to take advantage of new state laws permitting them to limit their directors' liability.

Many corporations, in anticipation of annual meetings later this month and in May, are asking shareholders in recently mailed proxy statements to approve bylaw changes that would shield directors from liability to the fullest extent allowable under state laws.

In addition, some businesses are asking shareholders to expand their authority to indemnify outside directors or provide them advances to defend or settle lawsuits if directors and officers liability insurance is not available or does not cover the situation.

And, some businesses incorporated in states that have not amended their laws are re-incorporating in states that have enacted a law limiting directors' liability.

Observers, who note that some states allow corporations to limit their directors' liability to a greater degree than other states, predict that more and more corporations will attempt to protect their directors by asking shareholders to shield the directors.

"The whole situation is very significant. They're all doing it," says John Nash, president of the National Assn. of Corporate Directors in Washington, D.C.

"I think it will continue and become more widespread," says William P. Hackney, an attorney with Reed Smith Shaw & McClay in Pittsburgh, who also is chairman-elect of the American Bar Assn.'s Committee on Law and Accounting.

"I think every company would like to have this proposal

Continued on page 99

Employers ask Congress to amend administration's PBGC premium proposal
Page 2

All-woman jury in Wisconsin says Eli Lilly not liable for DES daughter's cancer
Page 2

update

FTC study of industry OK'd

Continued from previous page

for the sharp increases in property/casualty insurance rates for small businesses, local governments, physicians, dentists and child-care centers. The study also will probe the degree of competition in the market for those coverages.

The second study directed by the amendment will cover industry marketing of so-called Medigap policies to the elderly and whether deceptive or misleading sales practices are being used.

Both studies would be due in a year.

The amendment, approved on an 80-18 vote, came after Sen. Metzenbaum withdrew an earlier amendment that would have overturned legislation Congress passed more than six years ago that bars the FTC from conducting insurance-related studies without specific congressional approval.

The House has not yet considered FTC funding and reauthorization legislation.

CalFed starts excess insurer

LONDON—Capping 10 years of planning, CalFed Inc. this week is activating a new London market excess insurer, Anglo-American Insurance Co. Ltd., with $80 million in capital and surplus.

Anglo-American's policies will be underwritten by H.S. Weavers (Underwriting) Agencies Ltd., a leading London underwriter of U.S. excess liability coverage, which writes for Walbrook Insurance Co. Ltd., a Weavers affiliate. Weavers will write a parallel line for Anglo-American, said George P. Rutland, president and chief executive officer of CalFed, a diversified Los Angeles financial services holding company.

Walbrook also has capital of about $80 million.

Anglo-American will issue excess-layer liability policies on manuscript, claims-made forms and will write excess property insurance. It will not write workers compensation, marine or aviation coverages.

The maximum gross limit offered on behalf of the two insurers will be $10 million. Their maximum net line will be $1 million.

Clarendon bids on Argonaut

MENLO PARK, Calif.—Clarendon Group Ltd., a privately held Bermuda-based company with insurance interests, is seeking to acquire Argonaut Group Inc. for approximately $413.3 million.

In an April 3 letter, Clarendon said that it or an affiliate would pay $37 per share in cash to Argonaut stockholders. Clarendon already owns approximately 540,000 of Argonaut's 11.7 million shares of outstanding common stock.

Clarendon told Argonaut that it wants the support of the board and that it is "interested in the retention of management."

In its statement, Argonaut said its board of directors intended to give "immediate attention" to the Clarendon proposal. Late last week a spokeswoman for Argonaut said only that the "board is continuing to give it (the bid) its attention."

Separately, the Securities and Exchange Commission recently subpoenaed Clarendon Group Ltd. and two officials as part of an investigation of possible takeover abuses.

An attorney for the company confirmed that Clarendon, Clarendon money manager Guy O. Dove III and the insurer's President Rodrigo Rocha have received SEC subpoenas, but that the subpoenas don't name the three as the subject of the investigation.

The attorney also confirmed the investigation involves an inquiry into trading of certain securities and stressed that a subpoena does not necessarily indicate wrongdoing.

The SEC subpoenaed most of the purchasers of high-yield bonds from Drexel Burnham Lambert, and Clarendon's records were requested as part of that probe, a Clarendon Insurance Group official said.

The records were supplied earlier this year, and Clarendon has not heard since from the SEC, the official added.

House panel OKs Medicare cap

WASHINGTON—Legislation capping out-of-pocket expenses for Medicare covered services at approximately $1,600 per year was approved last week by the House Ways and Means Health Subcommittee.

The bill, approved by a 9-2 vote, would be financed by taxing beneficiaries on a portion of the actuarial value of the benefits for which they are eligible.

The legislation, H.R. 1280 and H.R. 1281, was introduced in February by Rep. Fortney Stark, D-Calif., chairman of the health subcommittee, and ranking minority member Rep. Willis Gradison, R-Ohio (*BI*, March 9). If passed by Congress, the legislation would become effective Jan. 1, 1988.

The subcommittee defeated by a vote of 8-3 a Reagan administration proposal that would cap annual out-of-pocket expenses for Medicare-covered services at $2,000, which have been financed by raising the Part B monthly premium (*BI*, March 23).

Briefly noted

Overturning two lower court rulings involving claims for disability benefits discontinued by insurers, the U.S. Supreme Court ruled unanimously in Washington, D.C., last week that the federal **Employee Retirement Insurance Security Act of 1974** pre-empts state laws relating to employee benefit plans. . . .**Idaho's new sweeping tort reform measure**, signed into law April 1, repeals joint and several liability in most cases and places a $400,000 limit on non-economic damages. . . .A **New Mexico law reinstates the theory of joint and several liability** to cases in which injury or damage was intentionally inflicted and cases involving the manufacture or sale of defective products. . . .Townsend Thore-

Continued on page 101

Jury says DES manufacturer not liable for woman's injury

By STEPHEN TARNOFF

MILWAUKEE—In a verdict with potential national implications, a federal court jury says former DES manufacturer Eli Lilly & Co. is not liable for the vaginal cancer of a woman whose mother took the anti-miscarriage drug.

Following a three-week trial, an eight-person, all-woman jury ruled last month that Indianapolis-based Lilly was not negligent and not strictly liable for Julie A. Shirkey's clear cell vaginal adeocarcinoma.

In its verdict, the jury found that Lilly did not know and could not have known at the time Ms. Shirkey's mother ingested DES that the drug would cause cancer in her daughter. Lilly argued this theory, known as the state-of-the-art defense, at trial.

Not only is the case the first trial in Wisconsin involving the drug diethylstilbestrol, but it also is one of the first vaginal cancer cases tried nationwide, said Lilly's attorney Lane D. Bauer. The verdict should have a significant impact on DES litigation, he said.

"I think it was a significant case that the whole industry and the plaintiffs' bar was looking at throughout the country," said Mr. Bauer with the Kansas City, Mo., firm of Shook, Hardy & Bacon. "The impact will be very significant in Wisconsin and also very probably throughout the country."

In going to trial, the plaintiff turned down a "substantial six-figure" settlement offer, said Mr. Bauer.

Last week, the attorney for the plaintiff did not return phone calls. However, the plaintiff, Ms. Shirkey, has filed a motion for a new trial, which is pending, Mr. Bauer said.

The suit was brought by Ms. Shirkey, now 27, who contracted clear cell vaginal adeocarcinoma, which has been linked to DES exposure. Eli Lilly was the only defendant at trial.

Ms. Shirkey, whose mother ingested DES in 1960, underwent surgery in 1982 for a radical hysterectomy, a vaginectomy and vaginal reconstructive surgery, Mr. Bauer said. She also has suffered bladder and urinary tract problems.

She sued Lilly in 1984, seeking $5 million in compensatory and $20 million in punitive damages. Lilly subsequently brought other DES manufacturers and distributors into the litigation in a third-party action. However, those defendants were severed from the trial that proceeded solely against Lilly.

What made Ms. Shirkey's case even more sympathetic was that she is missing a left arm below the elbow, a birth defect not caused by DES, Mr. Bauer said.

"She was a very, very appealing, sympathetic plaintiff," he said.

The jury consisted of eight women, a factor Lilly attorneys believed could have favored the plaintiff. "At the time it gave us a lot of cause for concern," Mr. Bauer said.

Among Ms. Shirkey's arguments was that Lilly did not adequately test the drug and also that animal studies going back to the 1940s and 1950s indicated that DES caused cancer. The jury initially found that Ms. Shirkey's mother ingested DES while she was

Continued on page 94

Texaco bond would exceed world capacity

By ROBERT A. FINLAYSON

HOUSTON—If Texaco Inc. could buy a $12 billion bond pending the appeal of a $10.53 billion award to Pennzoil Co., the premium would be about $240 million.

But, there isn't enough capacity in the surety market to write such a bond.

And, buying a bond would hardly be worth it to Texaco, since surety underwriters would require full collateralization of the bond.

Texaco is seeking an injunction to prevent Pennzoil from demanding that Texaco post $12 billion in security while it appeals the 1985 judgment that ordered Texaco to pay Pennzoil $10.53 billion.

In its petition for an injunction, Texaco told an appeals court in Houston that worldwide capacity in the surety bond market totals at most $1.5 billion and that requir-

Continued on page 102

Changes sought in PBGC proposal

By JERRY GEISEL

WASHINGTON—Employers already are urging Congress to revise the Reagan administration's newly released proposal to base termination insurance premiums charged by the Pension Benefit Guaranty Corp. on the financial condition of pension plans.

Business groups testifying at a House subcommittee hearing last week said the so-called variable-rate proposal gives the PBGC too much authority to adjust premiums.

Employer groups also object to a provision that would automatically index PBGC premium increases to the average annual rise in national wages.

In addition, while generally supportive of the variable-rate concept, employers warned that premiums still will climb unless simultaneous changes are made in pension funding rules.

These objections, delivered at a House Ways and Means Oversight Subcommittee hearing April 7, came as the administration officially released its variable-rate proposal.

Key details of that proposal, first reported in *Business Insurance* (*BI*, March 30), include:

- Employers whose vested pension benefits are overfunded by at least 25% would pay the same annual premium of $8.50 per plan participant that the PBGC now charges all employers with defined benefit pension plans. The premium would be indexed to the annual average increase in national wages.

Funding levels will be determined according to PBGC interest rates.

- Plans that are less than 25% overfunded would pay, in addition to the basic $8.50 premium, a "funding charge" of $6 per $1,000

Continued on page 99

inside

departments

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RIMS 1987

Is a violent insurance cycle inevitable?

By KATHRYN J. McINTYRE

LAS VEGAS, Nev.—The insurance cycle, indeed, is inevitable, but its peaks and troughs do not have to be so violent.

A panel of leaders in the commercial insurance business tackled the question of "The Insurance Cycle: Is It Inevitable?" during the 25th annual Risk & Insurance Management Society conference earlier this month. Panelists offered opinions on why the price and availability of commercial insurance fluctuates, why the market turned so violently in 1985 and 1986 and some suggestions for smoothing the cycles of the future.

Insurance buyers can't expect price stability, because the price of insurance cannot be precise, said Charles J. Clarke, senior vp of Travelers Corp. in Hartford, Conn.

"In lieu of precision, most of us price within a band of reasonableness—you call it a band of unreasonableness," he said.

"The width of this band is dictated by long-term pricing objectives, but short-term pricing is dictated by competition—nothing else.

"There isn't an underwriter in this room who isn't trying to stabilize prices," he added. "We'd love to keep them where they are right now," to which the audience erupted in nervous laughter.

Robert Clements, president of Marsh & McLennan Inc. in New York, contended: "We have cycles in the insurance business because the cost of the product that insurers produce is unknown at the time they make the product. So, there is always going to be some difference between today's price and today's cost, which leads to fluctuating prices."

Illinois Director of Insurance John E. Washburn agreed: "I think the cycle is caused by the instability of the product itself: casualty insurance, where you don't know the actual cost for several years."

Stephen R. Merrett, chairman of Merrett Holdings P.L.C. at Lloyd's of London, was even more succinct: "The main reason for the upturn of the cycle was market forces—that insurance had been priced too cheap."

But, the panel was asked, why did underwriters allow the price of insurance to get so low?

"Nobody deliberately underwrites to a loss," Mr. Clarke said. "They may underprice in the short term to keep business, but every underwriter in the long run feels he is going to make a profit."

When necessary, insurers "move away from the most unprofitable and try to maintain those resources that are necessary to take advantage when the market comes back up," he explained.

"What we should do, conceptually, is stop underwriting business," Mr. Clarke said, noting the expenses to run Travelers' commercial lines business would be $150 million annually, while in some years of the competitive cycle "we lost $500 million."

But, Mr. Clarke continued, the point in time at which the business is unprofitable is unknown and so "the absence of that knowledge allows us to say, 'This is what is necessary to be here when it comes back.'

"As long as you let me be free to make money, I am going to make mistakes and you will have trauma and absence of market. I don't see what's

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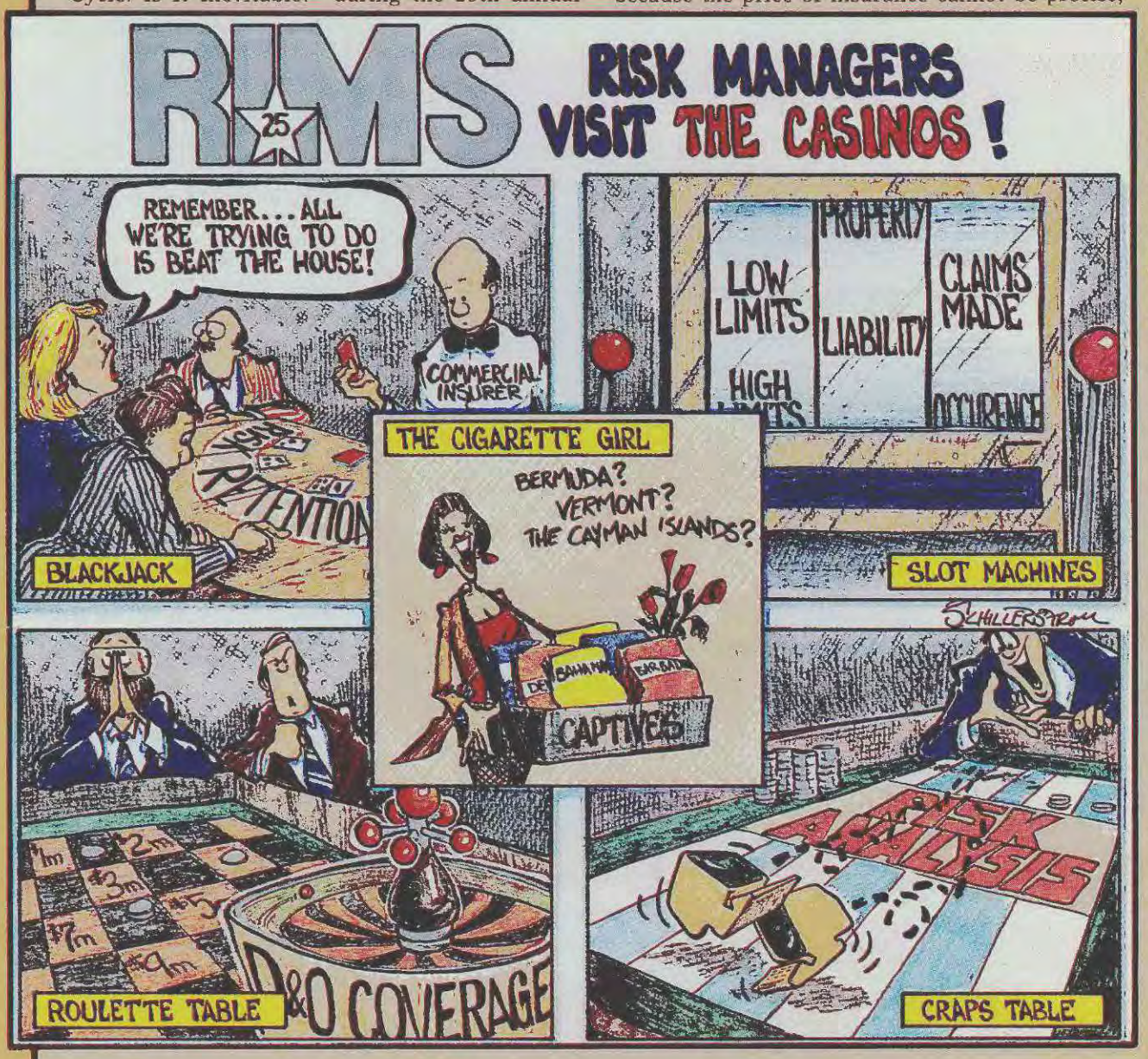


Risk managers could be liable for errors

By STEVE TARAVELLA

LAS VEGAS, Nev.—Consider this scenario:

A quality control inspector—under the supervision of the risk management department—is poorly trained and therefore fails to properly examine above-ground tanks used to store chemicals produced by his employer.

The chemicals leak into a nearby water source, causing damage to neighboring property and severe injuries to unsuspecting area residents.

Faced with these circumstances, the company's risk manager typically would turn to the company's commercial general liability insurance to respond to the lawsuits. But what if the risk manager has unknowingly let the coverage lapse? Or if the company's treasurer, who was supposed to have paid the premium months ago, has embezzled funds and told no one that the premium was never paid?

Or, perhaps more likely, what if the policy is indeed in effect, but the insurer denies coverage on any of a number of grounds, such as that the company's legal department has continued to be uncooperative?

Could the risk manager be held personally liable for damages in these circumstances?

The question, hypothetical in this instance, is one many risk managers would prefer not to dwell on, but one that should be given serious consideration, according to Dr. George L. Head, vp of both the American Institute for Property & Liability Underwriters and the Insurance Institute of America in Malvern, Pa.

Dr. Head, who supervises the curriculum for the Associate in Risk Management designation, discussed risk managers' own liability exposures at the 25th annual Risk & Insurance Management Society conference earlier this month in Las Vegas.

The preceding account, while purely fictional, is "quite potentially realistic," Dr. Head said. He offered it to provoke thought on the subject among risk managers and to establish a framework in which risk managers can prepare for the day when they may be held financially accountable for their professional actions.

"If the insurer denies liability under the CGL, I'd suggest the risk manager's position is at least questionable," Dr. Head told members of the audience, virtually all of whom were risk managers.

In addition to CGL coverage, some risk managers may rely on indemnity agreements with their employer that are designed to protect them from personal liability. But, Dr. Head asks, what would happen if claims against the company far exceed what it can afford to pay out in the absence of liability coverage?

"In that situation, how meaningful is the indemnity agreement going to become?"

Another solution would be to cover the risk manager under the company's directors and officers liability insurance.

But since D&O policies frequently exclude coverage for bodily injury and property damage, this coverage would probably not offer relief, Dr. Head noted.

"At this point, the risk manager begins to wonder if he's doing an effective job of managing his own risks," Dr. Head says.

Concerned risk managers must recognize that

Continued on page 14

Insurance cycle

Continued from previous page
in between," he said.

Observing that the insurance business is by nature subject to price fluctuation, M&M's Mr. Clements said the cycle has become more violent over the last 20 years to the point "it causes severe interference for the users of the product to use it as it is intended."

He suggested: "It has a lot to do with the analogy of insurance to a commodity, which is disputed by underwriters much less frequently than I would like to see.

"The difference between a commodity and a product is: In the commodity business, all producers make the same product and the buyer can't tell one from another, so he only buys on the basis of price. A product is something in which the producer makes an effort to differentiate his product from other producers' products in order to be able to charge a price that lets the value be added to the product."

Mr. Clements suggested that to smooth future cycles, underwriters should keep in mind that "it is possible to add value to insurance. Quality services and quality products are a defense against the vicissitudes of the cycle."

Specifically, he called for insurers to provide "quality claim services" and to return to long-term relationships with policyholders "in which the prices fluctuated within the swings of the cycle and to much less of a degree."

Mr. Clarke of Travelers accepted the challenge, but skeptically.

"How much will you pay for quality? 15%? 20%? How many risk managers in this room could go to their financial people and sell 50% or more for quality that is not perceived by that person?

"Many of us feel we have super claim facilities and there have been times we have questioned what that was worth—when I lose to the Mission at 40% and then have to bail them out," Mr. Clarke said, referring to the price-cutting of Mission Insurance Co. in the early 1980s and its subsequent insolvency resulting in guaranty fund assessments against admitted insurers.

"Who here in this room when the next Mission is here and undercuts my quality by 40% will be able to stay with me?" he asked.

"I would love to have that product differentiation that you can buy. But I have to be able to sell it, which means you have to want to buy it."

Mr. Clarke also challenged: "I will guarantee any risk manager that is with the Travelers today or comes to me: I will not move prices more than inflation throughout the next cycle if you stay with me through the next cycle. I can give you stability if you guarantee you will stay with me. How many of you can stay?"

David B. Mathis, chairman and president of Kemper Reinsurance Co. in Long Grove, Ill., suggested that the smaller, more disciplined reinsurance market of today compared with the early 1980s will stabilize insurance prices.

"To the extent that reinsurance played a part in the softening of the marketplace—by availability of false capacity and/or unrealistically low prices—and insurers were able to say, 'I wouldn't normally do this on my own but I can buy reinsurance for it, so why not?' —that is not in existence in 1987 and probably won't be over the next five- to six-year period.

"At least for the next few years, you can count on a leveling rather than a dramatic up-and-down environment because a lot of people have their own money at risk," Mr. Mathis said, referring to the lack of reinsurance and retrocessional capacity.

Mr. Clarke agreed: "I hope as long as most of us remain big net underwriters, there will be more stability."

Mr. Clements suggested: "The same is possible in your approach to risk management. There is no question that most companies buy insurance for business they can afford to retain. And most insurance companies are more interested in writing the kind of risks that are predictable than unpredictable.

"The challenge to the risk manager is to get the retention up to the level where some of these factors are taken out of the picture. And the challenge to the underwriter is to resist the temptation to sell his product for less than its worth."

Mr. Clements also suggested that the new excess liability facilities created by corporate insurance buyers could stabilize the market.

"Excess liability has always been the most widely fluctuating part of the business, because there has been a notable lack of well-capitalized, committed participants in that part of the market. There are a couple now."

But Mr. Clements bristled at calling these facilities, such as A.C.E. Insurance Co. Ltd. and X.L. Insurance Co. Ltd., "captives or alternatives to traditional markets. If they are well-designed, they will become traditional markets."

Mr. Merrett indicated better communication between insurers and policyholders on the adequacy of rates would be helpful in times of changing cycles.

"There seemed to be some sort of a concern that if underwriters spoke publicly about the need for rating adjustments, this was some sort of evidence of a conspiracy.

"It is right and proper for an underwriter to point out to the customer what the consequence is likely to be—to tell them that prices have to change and if they don't there will be insolvencies."

Mr. Clarke also commented that competitive forces include the insurance buyer: "The forces are you as the buyer trying to get the most efficient way to transfer risk."

He suggested claims-made forms would "bring more stability," though buyers have resisted them. "You have occurrence, and you will have a little more cycle. The occurrence form is very fragile."

Panelist Jan M. Edelstein, Republican staff counsel for the House Energy and Commerce Committee, commented that at nine congressional hearings held last year on insurance price and availability problems, "panelists did not agree on the causes or solution. I think it became apparent to any-

Continued on page 6

They're lucky. Six million other retired Americans are in a different boat.

For many Americans, retirement is exactly what they hoped for.

But for others, retirement can be complicated by poor health. One out of four Americans will require long-term care in a nursing home with an average annual cost of $20,000 to $30,000. How that care is paid for has become a complex issue.

History has shown that personal savings and programs like Medicare and Medicaid can't cover all the costs of retirement health care. Companies with retirement health benefits also face the problem of unfunded future liabilities.

Additional solutions must be found to address this retirement health care cost issue that will eventually affect every person, company and institution in our country.

At NWNL Group, we're developing an employee benefit program called LifeScope℠ that would provide for a person's retirement years and working years. What makes the LifeScope Program unique is its comprehensive approach to providing benefits. It is more than life insurance and a nursing home policy.

By managing the delivery of health care and planning for future needs, the LifeScope Program can find alternatives that make health care more affordable, while allowing individuals to live independently. The program's benefits would be voluntary, flexible and portable.

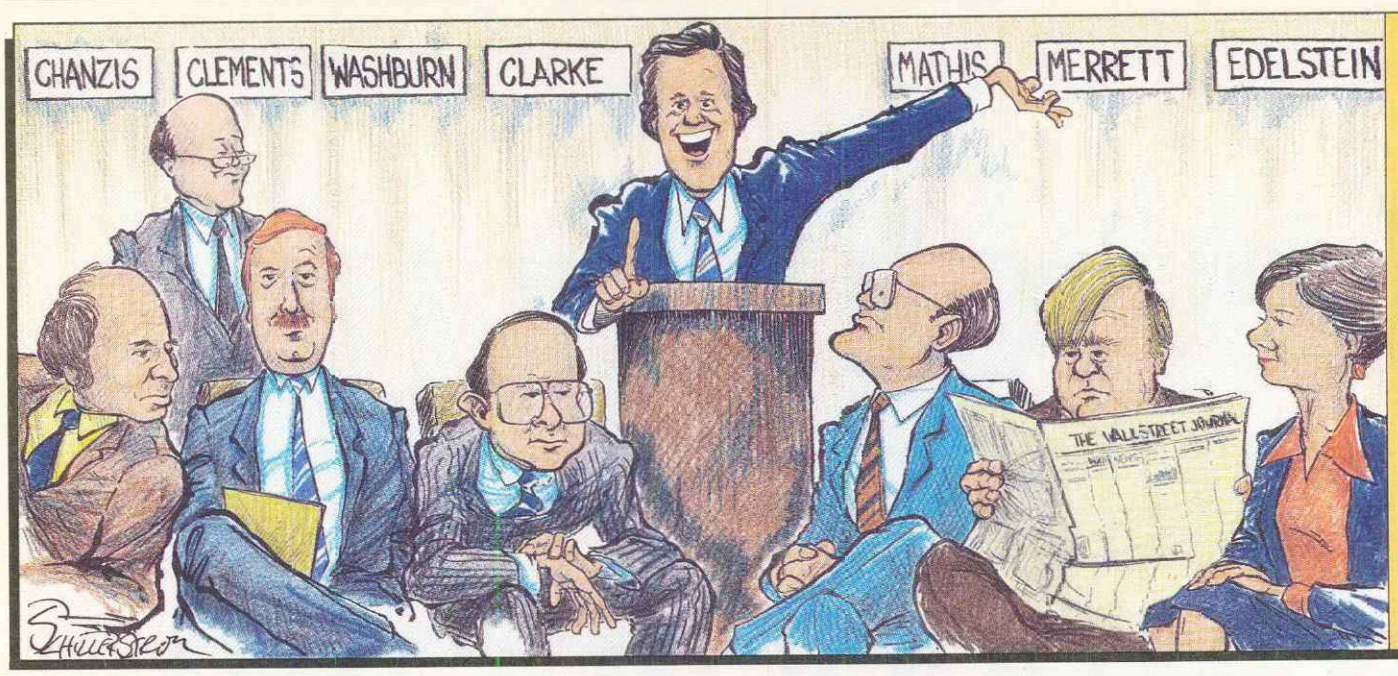
Many elements of the LifeScope Program have already been put into place through current NWNL Group benefit programs. Using our resources as the nation's 10th largest group insurance company, we will soon be adding more elements.

To find out more about NWNL Group and the LifeScope Program, contact Ginny Patrick, NWNL Group, Box 20, Minneapolis, MN 55440 or call (612) 372-5784. Because now is the time to begin solving the problems of providing health care in the future.

NWNL GROUP

The right benefits for today.
The right ideas for the future.℠

Sources for statistics: Employee Benefit Research Institute, 1985; Benefits Research, Inc. 1986; National Underwriter, 1986.



We interrupt this panel to bring you this. . .

Approving smiles and chuckles swept the audience of the RIMS panel discussion on the insurance cycle when panelist Stephen R. Merrett, chairman of Merrett Holdings P.L.C., picked up his Wall Street Journal and began to read intently.

The reason: Delaware Insurance Commissioner David Levinson was telling an off-color joke and plugging his state as a home for risk retention groups after being invited to the podium and handed a microphone to contribute his remarks to the panel discussion.

"Delaware wants quality risk retention groups and quality risk management firms," Mr. Levinson announced. "We can have you up and running in 30 days," he bragged.

When Mr. Levinson finished his promotional presentation and left the podium, Mr. Merrett nonchalantly folded up his paper and returned his attention to the panel.

Insurance cycle

Continued from page 4

one who sat through all those hearings that there was no obvious federal solution to the market cycle problems."

However, she added, amendments to the Risk Retention Act expanding its use to all liability lines except workers compensation were "a pressure relief valve."

Congress had been confronted with the "evil conspiracy theory," that insurers had reduced availability to drive up prices. "We were trying to provide an alternative that would test what we were hearing about the problems with the affordability and availability of insurance. We will see in the next three to five 10 years if they run into the same problems as the insurance companies do."

Mr. Clarke said they will. The bigger risk retention groups get, the more they will have to deal with problems such as the definition of an accident and how to deal with environmental injury.

And, Mr. Washburn warned that since state regulators have lost some regulatory authority over risk retention groups and purchasing groups, "the next hard market could start with these guys dropping off the face of the earth."

The risk retention groups he has seen want to undercapitalize and some purchasing groups are insuring with undercapitalized offshore companies and coming into the nation under a state surplus lines law, he said.

Moderator Norman B. Chanzis, director of risk management at American Standard Inc., stepped into the role of spokesman for risk managers, observing there was "gradual softening as interest rates rose but a sudden transition to the hard market. You charged me $10 for a policy. You should have charged me $20. Then, you charged me $30. All casualty underwriters jumped on this and said 'to hell with you all, we are going to make it all back as quickly as we can over the next two years.' How can you expect loyalty from our end?"

Mr. Clarke fielded the response:

"I apologize for the fact it happened. It did not happen with malice. We hope it doesn't happen again. But when you are hurting so bad, you say, 'I am not going to die.'

"We're like Lazarus. We rose from the dead. We charged maybe more than a gradual increase should have been."

But, he added: "Who knows how long a gradual increase will be. It's only been two years, and it's already starting to come down."

Mr. Mathis of Kemper Re added that he doesn't know if rates are "enough at this stage of the game. Anyone who can tell me they made a lot of money on casualty last year knows a lot more than I do." ■

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opinions

Show town no town for RIMS

THE CONSENSUS IS: Las Vegas is no place for a RIMS meeting.

Sorry Vegas. Sorry RIMS. But the town where risk is business is no town for a meeting of people in the risk business.

We grant that certain Las Vegas accommodations were excellent: The exhibit hall and meeting rooms were comfortably large. And, Las Vegas is one of the few towns with enough hotel rooms to accommodate the growing Risk & Insurance Management Society annual conference.

The sessions, generally, were up to RIMS' high standards and the large turnout at most seminars proved risk managers were taking this meeting as seriously as any other year. Indeed, this year's RIMS registration broke all records.

However, Las Vegas as a RIMS host town can't deliver an important feature of every RIMS meeting: ample opportunity for registrants to mingle.

Whether it was the location of the exhibit hall, the gaming tables or the sunny weather outside, traffic inside the exhibit hall was dreadfully slow. And, with the hotel lobby consumed by a casino, there was nowhere for registrants to sit down and have a chat with an old friend or new acquaintance. The hotel restaurants, which afforded the only place to sit and conduct some business, rushed people out of their seats so the next hungry crowd could be fed. And, as registrants understandably scattered in the evenings to all the shows around town, most hospitality suites—where people traditionally meet and greet—were nearly empty.

Another strong complaint: The inappropriate ambiance for a business meeting. Never mind the decor. The worst part was being forced to walk through the casino at 8 a.m. to reach the meeting rooms, barraged by the cranking, clanking and buzzing of slot machines.

The best news from the RIMS meeting in Las Vegas: Gaming costs we heard of were within the realm of reason and affordability—which is more than can be said for many insurance premiums.

letters

Pools can help solve public entities' problems

To the editor: We are very concerned that your editorial "In the Public Interest" (*BI*, Feb. 23) may have left readers with an erroneous perception about public entity pools and their abilities to provide coverages and services.

Since the inception of the first municipal insurance pool in 1974, no public entity pool has failed or stopped writing business. Today, more than 200 public entity pools prove a viable alternative to the unpredictable and unreliable commercial insurance market by offering their members needed coverages and risk management services. The objectives of these pools are the same as the captives and risk retention groups that you supported in your editorial, "The Impact of Alternatives" (*BI*, March 2): to replace industry uncertainty and roller-coaster pricing with long-term stability.

Public pools are by definition designed to be controlled by and responsive to the needs of their members, with savings rather than profit as their mission. Pool managers have recognized the need for strong management standards and accountability to their members. When the Pooling Section of the Public Risk & Insurance Management Assn. was formed in 1983, it immediately developed guidelines for pool administration dealing with structure, insurance, member relations, use of contracted services and finance.

Recent deterioration of the reinsurance market and the growing number of new pools, often formed when literally no other coverage was available, have increased efforts to set standard financial accounting and reporting procedures, and to establish a common data base for public entity loss experience. Last October, PRIMA's Pooling Section voted to establish a task force of pool administrators, accountants and actuaries to develop these guidelines. This group is represented on the insurance task force formed by the Governmental Accounting Standards Board, which is preparing accounting standards for public pools, their members and other individually self-insured public entities.

PRIMA and its Pooling Section share your concern about protecting the public treasury. We, too, believe that pooling arrangements should be fully disclosed to each participant. That is why we are educating trustees through seminars, preparing standards and guidelines for pool operations and keeping pool administrators current on public pooling developments.

Public pools are solving the insurance problems of their members and they are implementing safeguards to protect the public trust.

Mark Ferraro
President
Public Risk & Insurance
Management Assn.

Elizabeth D. Puddington
President
PRIMA Intergovernmental
Pooling Section

Assigned risk pools overstepping bounds

To the editor: Over the past year, a strange phenomenon has taken place: Various state assigned-risk programs have become more competitive than the voluntary market for truckers automobile liability insurance.

The assigned-risk markets in such states as Alabama, Illinois, New York, Michigan and Kentucky, to name a few, have been destroying the credibility of the voluntary market over the past year by presenting quotations that are nearly half the price. Call us old-fashioned, but we always looked upon the assigned-risk pools as the very last option and the most costly.

Insurance companies that are licensed in these various states that have to participate in the assigned-risk plans should be policing this travesty because it is their monies that will be lost because of this inept underwriting. The situation is so far out of hand that agencies are actively soliciting Ohio trucking companies using out-of-state assigned risk plans. This is easily done by putting the location of a terminal in that assigned-risk state as the home headquarters on the application. As dumb as it sounds, it is currently being done and in great numbers.

When the assigned-risk programs are more competitive than the standard markets, we have lost the original intention of these facilities.

Edward G. Donovan
Wellington F. Roemer Insurance Inc.
Toledo, Ohio

Rules shouldn't hamper pool formation

To the editor: I am writing in response to your editorial "In the Public Interest" (*BI*, Feb. 23) and your story "Godsend or Gamble?" (*BI*, Feb. 16).

The National League of Cities works closely with the 27 state municipal leagues that now operate intergovernmental self-insurance pooling programs for their member municipalities, pools that are professionally managed and fully accountable as instruments of the local governments who organize and control them. These pools have since 1982 voluntarily participated in a special NLC program for exchanging information and experience, solving common problems and strengthening pool operations.

They strongly support current efforts by the Governmental Accounting Standards Board and Public Risk & Insurance Management Assn. to establish management and financial accounting and reporting standards against which operations can be measured. We are also pleased to have worked with them in organizing NLC Mutual Insurance Co. to meet their needs for excess insurance or reinsurance.

We applaud *BI's* position that regulations should not hamper pool formation and operations. Pools have proven to be a cost-effective device for cities and towns to meet their own risk funding needs.

We trust that *BI* readers will avoid overreaction or too much generalization about intergovernmental pools based upon your analysis of a single pool that is not part of the state municipal league group of pools. The league-operated pools have an excellent track record and are meeting serious municipal needs in a responsible manner.

Alan Beals
Executive Director
National League of Cities
Washington

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill., 60611.

'DMO' is trademark registered by insurer

To the editor: In your article, "Dental PPOs, HMOs Trim Benefit Costs" (*BI*, Feb. 16), the initials 'DMO' are used as a generic term for dental maintenance organization.

The Prudential holds Registration No. 1,394,347 for the term 'DMO' with the United States Patent and Trademark Office. We assume that you were unaware that 'DMO' is a Registered Service Mark and that your use of the mark is an infringement of Prudential's proprietary rights.

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Facilities affect commercial market: Broker

By KATHRYN J. McINTYRE

LAS VEGAS, Nev.—The emergence of alternative excess liability insurance facilities has spurred a rapid turnaround in the commercial insurance marketplace for specialized catastrophic coverages, a managing director of Marsh & McLennan Inc. contends.

"In less than 18 months, we've emerged from the depths of despair in our attempts to transfer the catastrophic risks to actually having to make a choice in many cases between two, maybe three, alternatives," says Peter F. Garvey, based in M&M's San Francisco office.

"Without the A.C.E.s, the Tortugas and the X.L.s and the like; while well-intentioned, I don't think the big stock companies would have been inclined to compete as quickly as they did," he said.

Mr. Garvey spoke at a seminar, "Alternative Large Liability Market Update," during the 25th annual Risk & Insurance Management Society conference earlier this month.


Mr. Garvey

Representatives of X.L. Insurance Co. Ltd., Tortuga Casualty Co. Ltd. and the American Excess Insurance Assn. updated the status of their facilities, while Mr. Garvey also gave a brief report on A.C.E. Insurance Co. Ltd.

While acknowledging the impact these alternative facilities have had on the commercial insurance marketplace, Mr. Garvey also predicted the number of new alternative facilities that will succeed is "going to dwindle as the conventional market becomes more and more willing to address the needs they didn't think were worth addressing in the last few years."

"The real challenge is whether or not these facilities can satisfy their policyholders when other attractive and more cost-effective alternatives become available," he said.

Facilities that will succeed, according to Mr. Garvey, are those that have a more than adequate amount of capital up front; charge reasonable premiums up front in addition to requiring substantial capital commitments; do not compete with the major U.S. insurers but complement the existing conventional market; deal within the conventional distribution system; specialize in a particular line; and get a good spread of risk.

At the end of February, A.C.E. had capital and surplus of about $730 million and 280 policyholders, of which 240 are shareholders, Mr. Garvey noted. It started issuing policies in November 1985.

A.C.E., which is incorporated in the Cayman Islands but operates from Bermuda, no longer issues shares, and instead charges a reserve premium equal to first year's premium. The reserve premium is earned back by the policyholder in future years.

A.C.E. expects to write $250 million in premium in the fiscal year ending this fall.

A.C.E. offers limits under its claims-first-made excess policy form of $20 million to $140 million, purchased in $20 million increments excess of $100 million.

Directors and officers liability insurance is available to excess liability insurance policyholders in limits of $10 million to $50 million in increments of $5 million excess of a minimum of $25 million. However, D&O limits cannot exceed what has been purchased in the commercial market or more than 50% of the excess liability limits purchased from A.C.E.

"A.C.E. is writing the biggest and toughest risks in America and will go on to be a stable facility," Mr. Garvey said. "There is really no incentive for anyone else to compete."

Three other alternative facilities represented at the seminar provide capacity below $100 million.

X.L., which offers limits of $75 million excess of a $25 million layer, began May 1, 1986, with 68 sponsors contributing $5 million to $10 million in capital, said Brian M. O'Hara, president and chief operating officer.


Mr. O'Hara

Beginning July 1, X.L. was opened to others companies that purchased stock equal to 100% or 200% of their premium, depending on the policyholder's risks.

In October, the sale of stock was halted; new policyholders are required to pay 100% of their premium as a reserve premium, 20% of which is earned back each year at renewal.

X.L.'s policy is a claims-made policy with "a rather unique attempt to do something that has not been done too successfully in the past: Define what is one occurrence," Mr. O'Hara said.

However, the occurrence will be defined after the fact, via a settlement with the policyholder or by arbitration.

"If you have a similar type of repeated, continuous exposure, that could be one occurrence—but only to the extent that it is fundamentally different in nature, or vastly greater in order of magnitude," Mr. O'Hara said.

"This is an ongoing, continuous policy for losses stemming from all similar claims," he continued. "On many of these risks, the number of product liability claims would eventually exceed $25 million if you just counted them all. But each year, the corporation has to pay as a normal cost of business the losses that are expected." This might be based on a failure rate for a product every year or on a historical trend or track record that shows it is expected or intended that losses will occur.

X.L. excludes from coverage anything covered by a prior occurrence policy; errors and omissions for property damage, except for architectural and engineering risks; asbestos; tobacco; aircraft; and watercraft.

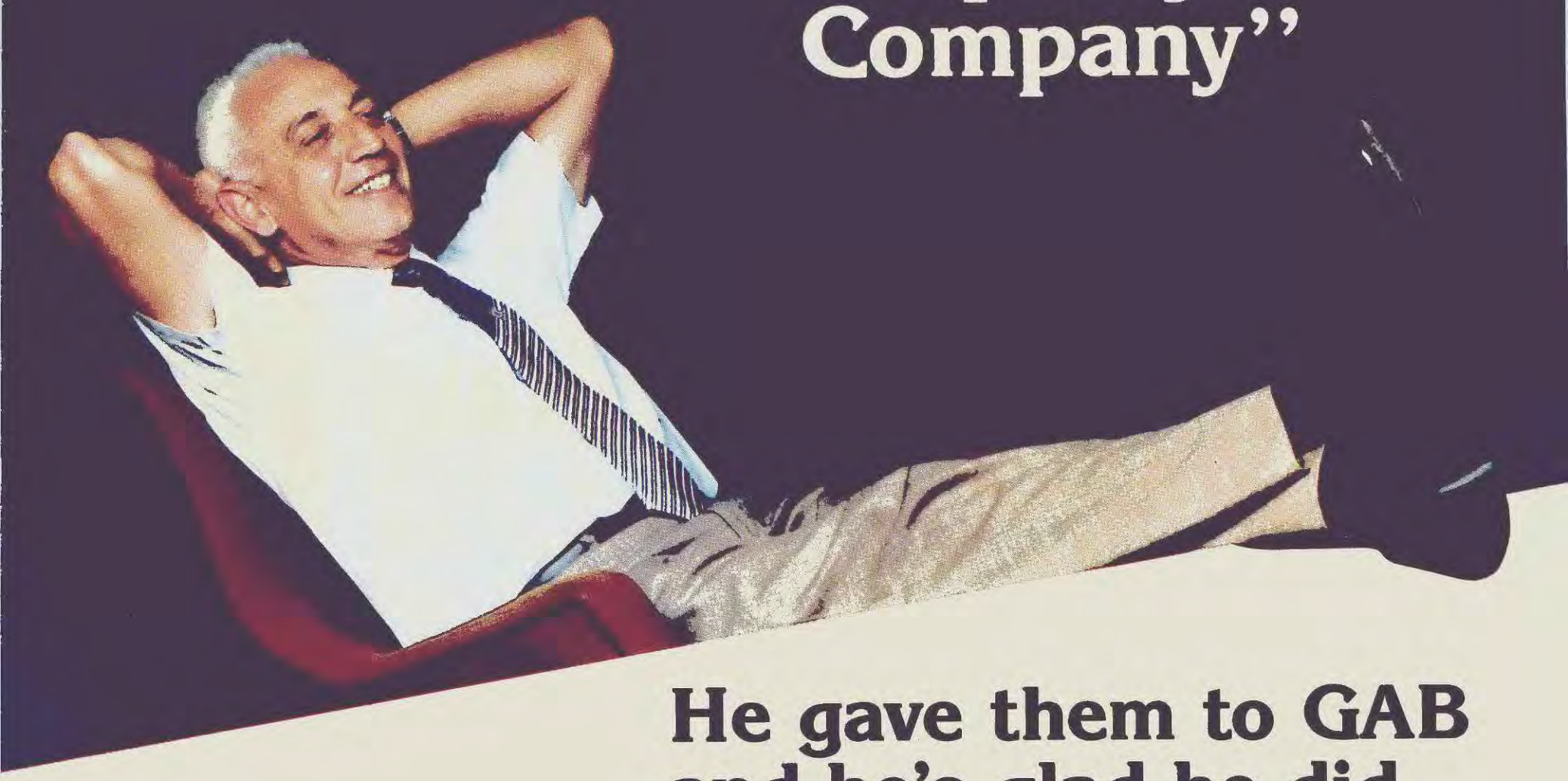
If the policy is not renewed, the discovery period can be renewed annually without limit.

An excess liability insurance policyholder also can purchase D&O coverage as an endorsement.

X.L. also is offering professional liability insurance to lawyers, insurance companies and insurance

Continued on page 12

Last week Ed Wilson placed 3 tough casualty claims... with the nation's leading "Property Company"



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Facilities

Continued from page 10

brokers, with limits of $25 million excess of $25 million or $50 million excess of $50 million. No prior acts coverage is available, but punitive damages will be covered.

X.L. is based in Barbados, whose tax treaty with the United States exempts premiums from the 4% federal excise tax on direct premiums paid to foreign insurers.

As of Jan. 31, 1987, X.L.'s assets totaled $902.4 million and net worth about $600 million. X.L. has 260 policyholders, generating about $260 million in premiums.

Mr. O'Hara noted that originally X.L. was to participate in the American Excess Insurance Assn., but disagreements arose over how to proceed. "It has added more capacity to the marketplace than would have been, and I think competition is healthy," Mr. O'Hara said.

Mr. Greene

The underwriting members of American Excess, which began issuing quotes July 10, 1986, are: The Aetna Casualty & Surety Co.; Insurance Co. of North America, a CIGNA unit; The Travelers Indemnity Co.; Federal Insurance Co., a unit of Chubb Group of Insurance Cos.; United States Fire Insurance Co., a unit of Crum & Forster Insurance Cos.; Zurich Insurance Co., U.S. Branch; The Home Insurance Co.; General Accident Insurance Co. of America; and North American Co. for Property & Casualty Insurance.

American Excess is an unincorporated, non-profit association with no assets, noted Clinton N. Greene, president of Farmington Management, which manages American Excess. Each of the members, which is rated A or A-plus by A.M. Best Co., is liable for its share of a policy issued.

Farmington Management, in East Hartford, Conn., has written about 135 policies generating premiums of $120 million, Mr. Greene said. About 45% of the business written is for the Fortune 1,000 companies.

American Excess uses a reported occurrence form, which means the policyholder reports a claim when it appears the loss will penetrate the policy. The policyholder has 10 years from the end of policy period during which the occurrence was reported to submit claims.

The retroactive date generally is the effective date of the first association policy, although an earlier date can be individually negotiated, Mr. Greene said.

An extended reporting period of up to five years can be purchased for a predetermined price.

Classes that American Excess will not insure are airlines or aircraft product manufacturers, railroads, watercraft transportation for hire, wrap-ups and association business. And, American Excess writes certain classes only excess of $50 million: pharmaceuticals, chemicals, offshore drilling, refineries, automobile manufacturers and light railroads.

Tortuga Casualty Co., which was organized Jan. 1, 1986, in the Cayman Islands, currently has capacity of $50 million excess of $25 million, according to William Torpey, vp of American Risk Management Inc., a member of The Reiss Organization.

Currently members are all Reiss clients, but the Tortuga board in May will establish the criteria for accepting participants whose captives are not managed by Reiss.

Tortuga expects to have 35 to 40 participants in 1987, compared with 28 now, he said.

For fiscal 1986, ending Oct. 31, Tortuga wrote $20 million in premiums, had $43 million in assets and net earnings of $1.2 million.

In 1987, Tortuga expects written premium to total $30 million.

The Reiss client captives forming Tortuga had more than $750 million in aggregate surplus.

Currently, Tortuga reinsures about 50% of its limits with its shareholders' captives and about 25% with commercial reinsurers.

Tortuga incorporates a "rather unusual assessment mechanism" that was designed to pay in each and every loss so that high-risk participants pay more than low-risk participants. "This creates risk equalization. It's not a last resort in the worst-case situation," Mr. Torpey stressed.

Mr. Torpey

Participants are all shareholders, policyholders and reinsurers. Each participant pays a premium plus a security deposit of twice the annual premium to secure the assessment for each and every loss. Each captive dedicates a minimum of $3 million of its surplus to support the reinsurance treaty.

"The company was designed not to be reliant on the commercial reinsurance marketplace," although the group was "pleasantly surprised" in January 1986 when it started with 20% of its support from commercial reinsurers.

Tortuga has two $25 million treaties: one is $25 million excess of a minimum of $25 million, and can be used to fill gaps in blocks of $5 million; the other treaty is $25 million excess of a minimum of $50 million.

Participants can use the total $50 million or as little as $5 million.

Coverage is on a claims-made basis, which Mr. Torpey said, is "significantly broader than the market generally in several areas," including coverage for sudden and accidental pollution as long as the event is specific in time, place and cause and provable by the policyholder.

Coverage also is provided for the exhaustion of aggregate limits for product liability.

Excluded from coverage under Tortuga's policy are asbestos, liability under the Employee Retirement Income Security Act, directors and officers liability and professional liability.

Coverage is available with a retroactive date of Jan. 1, 1986.

Mr. O'Hara, Mr. Greene and Mr. Torpey all said that their companies are committed to a consistent underwriting position in the face of a more competitive insurance market.

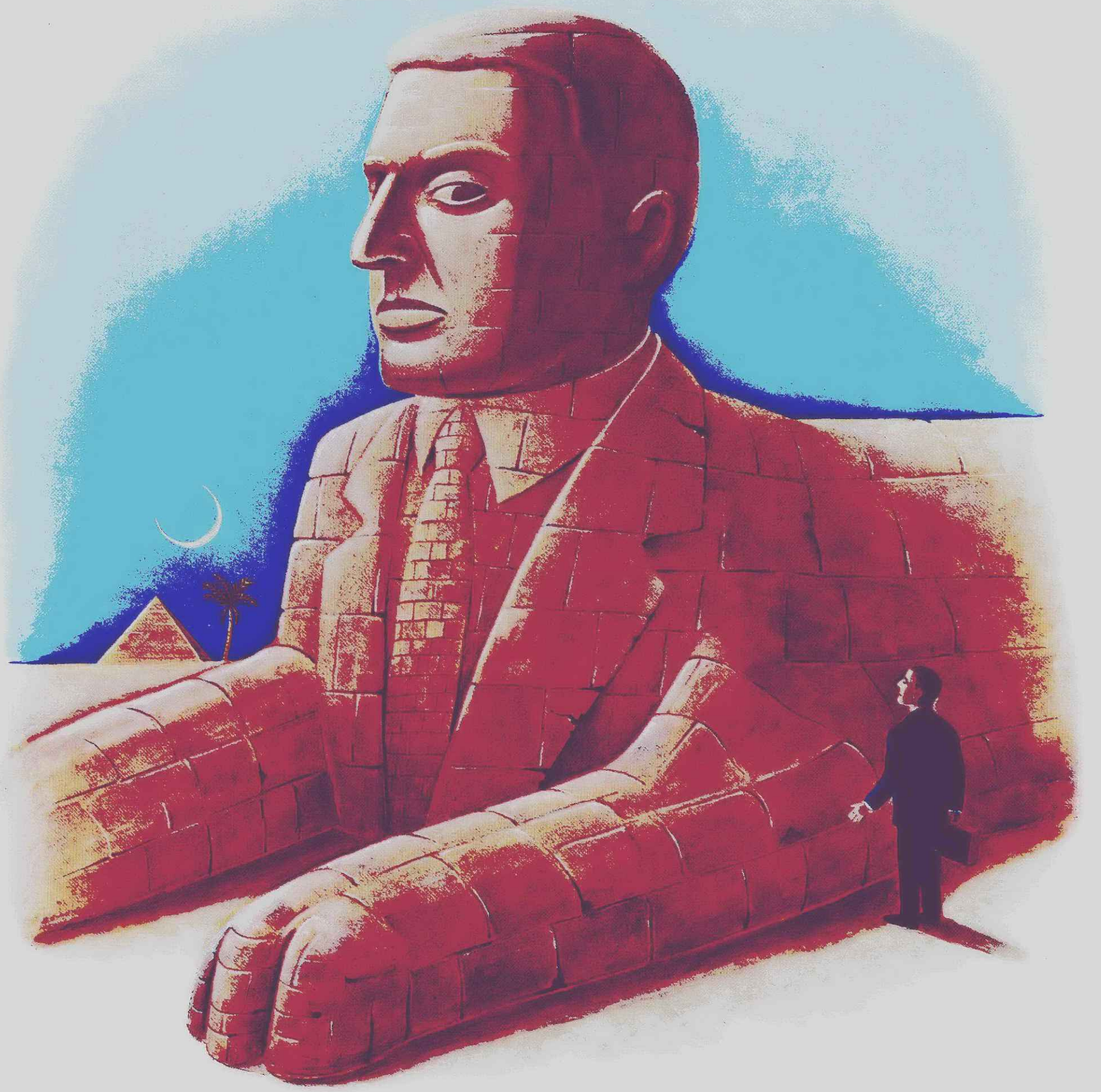
"The founders of this company want continuity and stability and not to chase after market share," said Mr. O'Hara. "The underwriting philosophy and pricing will be dictated by the experience of the group, segregated by classes of exposure. Any changes will be gradual and be based on the facts of the situation and not what other companies are doing in the marketplace."

"We will have to be somewhat with the market, but we don't want to fragment the excess market so that three or five years from now the whole thing falls apart," said Mr. Greene. "We want to maintain a consistent underwriting position so we are in the market on a long-term basis."

"You'd probably be very surprised if I said we're going to compete on price," Mr. Torpey said. "Obviously we are talking about stability and long-term relationships."

The session was moderated by Judith Tornese, director-risk management of Transamerica Corp. in San Francisco. ■

Do reinsurers care about the little guy?



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Risk managers

Continued from page 3

even though they organized their company's risk management program, they may not be able to rely completely on the employers' financial strength or its insurance.

"In organizing it for the company, were you also looking out for the interests of yourself and your fellow officers, who may face liability in these days when creative plaintiffs' attorneys try to find all the solvent defendants that they can?" Dr. Head asked.

Risk managers should consider buying insurance to protect themselves against suits by third parties, not just against suits by the company or its shareholders, he advised.

"When we come to third-party claims (from those) who were killed or became disabled because of some flaw in the risk management program, there I become concerned because I think it is only a matter of time until someone sues a risk manager as an individual defendant, along with corporate defendants," he said.

Dr. Head recommends risk managers seek a personal lines umbrella liability policy for themselves without the traditional "professional pursuits" exclusion. Insurers issue such policies, though not commonly, he said.

One risk manager in the audience suggested forming a pool or a captive to provide risk management professionals with personal liability coverage.

"If a doctor can get malpractice coverage for his role as a full-time employee, there's room for others to get it as well," Dr. Head agreed.

Broker Fred S. James & Co. Inc. in New York marketed an E&O policy specifically for risk managers several years ago. The broker sold a few policies, but the coverage never took off and was eventually discontinued.

But, Dr. Head was quick to point out: "If we're practicing risk management as we should be, we ought to be looking at some other alternatives before we automatically go out and seek insurance."

Risk managers can take certain steps to lessen their personal liability exposure. One is, "Simply do your job right," Dr. Head advised. "Make it awfully difficult for a plaintiff's attorney to show you did a poor job."

This task encompasses encouraging others to perform their jobs properly and to document what they've done, he noted.

Secondly, he suggested that risk managers pay careful attention to the financial strength and management skills of their company.

"If you see the company becoming financially weak or poorly managed, you have an obligation to yourselves and your family to take some action to call attention to this and to perhaps suggest that the company may begin to lose its key officers if the insurance protection is not there to protect them against personal liability."

"Point out to your management that the organization has an interest in providing liability protection for its employees, including yourselves, whose professional conduct may expose them to personal liability," Dr. Head suggested.

"I'm not saying leave your organization or quit, except as an ultimate last step," he said. "Even quitting might not protect you from claims ultimately brought on a claims-made basis."

Two officials with broker Frank B. Hall & Co. Inc. offered insight into ways risk managers could minimize their personal liability exposure.

William N. Weld, a vp in Briarcliff Manor, N.Y., highlighted several points in the risk management process that could, if not handled properly, expose risk managers to errors or omissions in their jobs. Drawing on their own experience, risk managers present then expanded on how to properly perform these duties.

Four of these areas are:

- Identifying the risk adequately. This process includes developing an official policy that no company acquisitions take place without the risk manager's knowledge; reviewing board minutes and financial statements; making it easy for other departments to keep the risk manager informed of new developments by providing them with short memo forms; reviewing contracts; and speaking regularly with corporate counsel.
- Analyzing business interruption loss potentials properly. This process includes tying business interruption values to company profitability projections; walking through the business interruption claims process with the company's controller; seeking help from insurers in assessing the value of new products; and verifying information heard about a company loss with reliable sources.
- Properly exploring risk management alternatives Risk managers can read the trade press; take advantage of continuing education programs; talk with risk management colleagues at other businesses; and visit with vendors at conference exhibit halls.
- Selecting the best vendor. Of particular importance is comparing products or services by performing a simple cost analysis and by involving top management in the decision. The risk manager should consider documenting upper management's role in the selection process.

After these steps, regular monitoring is necessary. "This is the risk manager's job. It's the broker's job to assist you; he or she cannot do it for you," Mr. Weld said.

"If risk managers do (these steps) right, the chances are that there won't be an error or omission, or those that do pop up will be relatively minor," he said.

Documentation—keeping a written record of business conversations, actions taken and decisions made—is key to minimizing personal liability, another panel member noted.

"If you're not documenting, I'll tell you right now, you're not disciplined. And, if you're not disciplined, you're not doing this job well. It's as simple as that," said Edward P. Hollingsworth, another Hall vp based in Briarcliff Manor.

"If you want to analyze your own performance, simply go back and look at your files, and if you can't find telephone records where you have taken notes, then you're not very well disciplined and there's probably some errors in your program," he added.

One risk manager suggested that the specter of personal liability may force members of her profession to choose between two management styles: Opening themselves up to greater personal liability by performing risk management functions in a variety of areas, or limiting the likelihood of personal lawsuits by viewing their job as one of insurance-buying only.

"We may in fact kill the profession if we don't get smart," said the risk manager.

But even if risk managers perceive only a remote possibility of being held liable, they are nonetheless concerned as evidenced by the reaction of the audience.

Another risk manager, citing the potential exposure in creating safety manuals or in insuring huge risks with nominal supervision, said, "Sometimes I feel wide open for the possibility (of a lawsuit)."

The session was moderated by Coleen A. Koester-Walsh, risk manager at Ingersoll-Rand Co. in Woodcliff Lake, New Jersey. ■

Professional liability suits expected to grow

By DEBORAH SHALOWITZ

'The future promises to hold' more professional liability suits, largely because 'when you deal with professional services, invariably people have different expectations of what the result is to be,' says James Wallace, a vp of Johnson & Higgins.

LAS VEGAS, Nev.—The number of lawsuits against professionals will continue to grow in the future, but risk managers can mitigate this liability through proper risk management, experts say.

"The future promises to hold" more professional liability suits, largely because "when you deal with professional services, invariably people have different expectations of what the result is to be," said James B. Wallace Jr., a vp of Johnson & Higgins in New York.

The problem is heightened because insurance for some professionals "has disappeared," or its cost exceeds the risk to be insured, he added.

Mr. Wallace agreed with other participants in a panel discussion on "Managing Professional Liability Claims," held during the 25th annual Risk & Insurance Management Society conference earlier this month, that risk managers can take certain steps to help professionals cope with their increasing liabilities.

The first thing a risk manager must do is identify to what kinds of risks professionals in the organization are subject, the panelists said.

To do this, risk managers must know who they are serving and what the activities of those people are, said John J. Herguth Jr., manager of risk management for Foster Wheeler Corp., an engineering and construction company based in Livingston, N.J. "Get into the pits and participate," he advised.

Next, risk managers should determine what kind of insurance coverage is available to cover those risks.

The terminology in insurance policies varies tremendously, so read policies with a sharp eye, advised Mr. Wallace.

Mr. Herguth noted that one thing to watch for when reading policies is the definition of professional liability, because various insurers define it differently. It is especially important to note the various exclusions written into the coverage, warned the panelists.

For example, Mr. Herguth said professional liability insurance written to cover the engineers and architects in his company excludes coverage for claims arising from liabilities Foster Wheeler assumed from other firms. He speculated that insurers employ this exclusion because they often do not assess the risk exposure assumed by the company from subcontractors or others.

Joseph F. Johnston Jr., an attorney with the Washington law firm of Drinker, Biddle & Reath, noted that insurance policies for corporate directors and officers normally include an exclusion for fraudulent, dishonest or criminal acts; for liability based on obtaining personal profit or conflict of interest; and for the violation of federal securities laws.

Directors and officers are expected to act with loyalty and honesty for the good of the corporation and are expected to maintain a certain standard of behavior, Mr. Johnston said. The three acts commonly excluded from coverage could be viewed as flagrant violations of this standard, he explained.

Mr. Johnston also noted that D&O policies only cover wrongful acts committed while the director or officer is acting in his official capacity.

Insurance policies that include aggregates can lead to conflicts between risk managers and insurers, panelists noted.

Mr. Wallace pointed out that risk managers must clearly establish guidelines with insurers to determine under which policies different claims fall, or an insurer may say that an aggregate limit for deductibles has not been reached while a risk manager says that it has.

A risk manager also should keep abreast of both current and potential claims against professionals or directors and officers because almost all professional liability policies are written on a claims-made basis, the panelists noted.

Because of the lag time between occurrences and the filing of lawsuits, which can be especially lengthy in professional liability cases, risk managers with claims-made policies should make sure they have extended reporting periods, advised Mr. Herguth.

Anthony J. Falkowski, assistant vp of Chubb & Son Inc., a division of the Chubb Corp. in Warren, N.J., commented that his company receives numerous claims or notifications of potential claims just before a claims-made policy is set to expire.

The panelists agreed that a risk manager has a difficult task before him in dealing with professional and D&O liability.

But, "don't be fooled by the history of what your department has done before you arrived," advised Mr. Herguth.

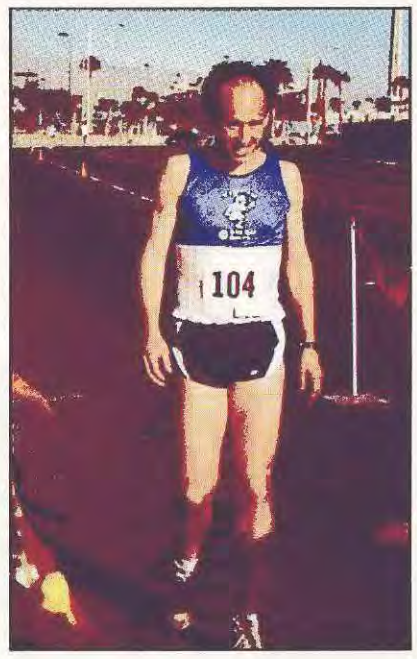
He also suggested that risk managers learn from experience, especially mistakes that were made in the past. "Most people don't spend enough time going over bad experiences," he added.

Sometimes it is up to the risk manager to educate professionals, directors and officers about what their liabilities are and what insurance policies do and do not cover.

Mr. Johnston suggested that corporate codes of conduct can help directors and officers understand exactly what is expected of them and what will not be tolerated.

Mr. Herguth stressed that "people in the organization have got to understand who the risk manager is" and what he does.

Set up an informal organizational chart or a formal risk management policy that includes people from other departments, he suggested, noting that at Foster Wheeler, the legal department works with the risk management department on an ongoing basis. ■



Peter Pruitt, president and chief operating officer of Frank B. Hall & Co. Inc. (No. 51, above), leads a pack of runners at the start of the RIMS 5-K run. At right, Bruce Harrison of Comshare Inc. (No. 104) is the first to cross the finish line with a time of 16:39.

RIMS takes Vegas in stride

By MICHAEL BRADFORD

LAS VEGAS, Nev.—Bruce Harrison of Comshare Inc. is basking in the post-conference glory that follows the fleetest of all risk managers.

In the city where clocks are all but outlawed and time is a concept most visitors leave back home, the benefits and risk manager of the Ann Arbor-based company ticked off an impressive reading of 16:39 to finish first in The Robert S. Spencer Memorial Foundation 5-Kilometer Race.

The event, sponsored by Frank B. Hall & Co. Inc. and held during the 25th annual Risk & Insurance Management Society conference, drew around 320 runners and raised an estimated $3,500 for the Spencer scholarship fund.

The top female finisher in the race was Deb Bailey, a manager with Gallagher Risk Data Inc., who clocked a 21:49 finish in the service company/exhibitor category.

Other winners in the risk managers category were:

- Bob Walsh of Chicago-based Quaker Oats Co., who finished in 17:09 to win among men 40 and over.
- Debby Christensen of Science Applications International Corp. in La Jolla, Calif., with a 22:56 time that won her the female-under-40 division.
- Joan Johnston of Allied Sources, who notched a 27:15 finish to win in the female-over-40 group.

In the service company/exhibitor category, the top male finisher under 40 was Bruce Mace of David Corp. with a time of 18:29. Tom Houldsworth of Adjusteo Inc. won the male-over-40 division with a 18:36 time, and Cathy Johnson of Conservco was clocked at 26:21 to take first among females older than 40 in this division.

Tsungo Endo of Tokio Marine & Fire Insurance Co., running in the male over-40 division, finished the race in 18:40 to capture top honors in the insurance company category. Also in the insurer category, Walter Luker II of Mead Loss Control Consultants crossed the finish line in 20:27, the best among men 40 and younger, while Laura Baedes of Travelers Corp. beat out her competitors in the female-under-40 group with a time of 22:56.

In the broker/consultant category, Doug Bennett of Morris & MacKenzie Ltd. out-strided entrants in the male-under-40 division with a 18:31 clocking. Among males over 40, Rene Gutierrez of Alexander & Alexander Inc. recorded a 19:44 finish to win that division, and Sara Sirotzlay of Johnson & Higgins was the best of females under 40 in the broker/consultant category with her 23:46 time.

The race was open to husbands and wives of conference registrants, and Jerry Winters was the fastest spouse on hand, breezing to a 20:33 finish among males 40 and over in that category. Charlotte McDermott outdistanced all female spouses under 40 with a 26:48 time, and Barbara Neyens posted a 28:17 finish that was the best among females above 40 in the category.

In the open category, the Bank of Bermuda ran away with top honors, with Jeff Conners's 19:30 time first among men under 40 and colleague Barry Shailer crossing the line in 22:52, tops among the men's over-40 division.

The race also was open to corporate teams of three to five runners, and awards were given to the winning teams.

Alexander & Alexander Services Inc. finished with the best time overall and in the brokers/consultants category. J.H. Minet Canada Inc. was second in the brokers/consultants category.

Blue Cross & Blue Shield Assn. finished first among insurance company teams, and American International Group Inc. was second in that category.

A team from *Business Insurance* topped the corporations category, followed by Risk Sciences Group Inc.

In the service companies/exhibitors category, David Corp. was first and Gallagher Risk Data was second.

A "special contributors award" was given to American International Group Inc. for entering the most teams. ■

Photos: Al Malecki

At left (from left), *Business Insurance* advertising sales representatives Martin J. Ross, Robert L. Niesse and Michael J. Sharpe relax after winning the team title in the corporations category. Mr. Sharpe finished 16th overall. Above, Simon Templeman, vp of marketing with Bermuda-based Freisenbruch-Meyer International Ltd., sprints to an eighth-place overall finish.

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Buyers must check insurer solvency: Panel

By KATHRYN J. McINTYRE

LAS VEGAS, Nev.—Risk managers who find their insurance companies have gone broke are to blame—not insurance brokers or insurance regulators.

That is the opinion of several panelists who discussed "U.S. and Foreign Insurer Solvency: Not Worth the Paper It's Written On?" during the 25th annual Risk & Insurance Management Society conference held earlier this month in Las Vegas.

"The broker is not a guarantor of insurance," said Thomas E. Vanneman, financial manager of Alexander & Alexander Services Inc. in Baltimore. "It is the responsibility of risk managers to understand the financial soundness of their insurance carriers."


Mr. Vanneman

"Anyone who has poor security, it is his fault," contended John Gardner, managing director of Insurance Solvency International Ltd. in London, which analyzes the financial security of insurance and reinsurance companies.

"No one need buy insurance or reinsurance from a company that is going to go down the tubes," he said.

"Do you know the security of all the companies insuring you?" Mr. Gardner asked. "If you don't, I suggest you redouble your efforts to have a look at them."

Richard J. Roth Jr., assistant insurance commissioner for the state of California, warned: "If you see you can purchase insurance at a very unreasonably low rate, it probably is a company that won't be around much longer."


Mr. Roth

And, S. David Childers, director of insurance for Arizona, advised: "We have virtually no regulatory authority over the reinsurance marketplace or the excess/surplus marketplace—two of the biggest contributors to the price and availability problems we have experienced over the last 2½ years."

Mr. Vanneman and Mr. Gardner offered advice to risk managers for analyzing the financial stability of insurance companies while Mr. Roth commented on the insolvency of Mission Insurance Co.

Mr. Childers and panelist Phillip Schwartz, vp-financial reporting and associate general counsel of the American Insurance Assn., discussed state insurance regulation for solvency of U.S. insurers (see story, page 20).

Since 1982, 97 companies have been liquidated, put into conservatorship or been issued cease and desist orders, the panelists pointed out.

Mr. Vanneman suggested that risk managers assess the financial stability of their insurers, using financial and non-financial analysis.

Basic financial analysis involves assessing an insurance company's data over the last three years, he said. The data that should be analyzed includes:

- Ratings from A.M. Best Co.

But, risk managers should not rely solely on an insurance company's rating, he said.

- The number of ratios outside the norms established by the Insurance Regulatory Information System as operated by the National Assn. of Insurance Commissioners.

These results are not available from the NAIC, but many brokers conduct the tests themselves based on publicly available data.

Whether the number of ratios failed is increasing or decreasing is important, but in any event, these ratios are only "an indication" that the insurer's financial status should be further considered, Mr. Vanneman stressed.

- Policyholder surplus.

The change from year to year in policyholder surplus and to what extent earnings or capital contributions have boosted surplus should be considered. Capital contributions could have been made to pass the IRIS test.

In addition, the average of policyholder surplus from the most recent two year-end reports should be used for determining certain ratios, Mr. Vanneman advised. These ratios, and the industry average for each of them in 1985, are: gross premiums written to policyholder surplus (4.1-to-1), net premiums written to policyholder surplus (2.4-to-1), loss and loss adjustment expense to policyholder surplus (2.5-to-1) and reinsurance recoverables to policyholder surplus (0.6-to-1).

If, for example, the ratio of loss and loss adjustment expenses to policyholder surplus were 4-to-1, that would indicate that loss and loss adjustment expenses were four times the amount of policyholder surplus, Mr. Vanneman explained.

"If the company were underreserved by 25%, that would indicate that it would take the entire policyholder surplus of the company to bring the reserves up to the required level."

In addition, the higher the ratio of reinsurance recoverables to policyholder surplus, "the more concerned you should be with the quality of the reinsurers," Mr. Vanneman said.

Reserve development, cash flow from operations and the combined ratio also are important statistics to analyze, Mr. Vanneman said.

"This is not an exhaustive list," he cautioned.

And, he advised that when comparing an insurer's results to industry statistics, "a carrier that specializes in one line of business can have very different ratios from a carrier specializing in another line of business."

Non-financial considerations that should be analyzed when assessing an insurer's financial strength are just as important as financial considerations, Mr. Vanneman suggested. These include:

- The number of years the insurer has been in business.
- The type of business written and how long it takes for claims to develop, known as the tail.
- The number of years of experience the insurer has in the business it is writing.
- The turnover among senior management and where new management has come from and their experience in the business being written.
- The quality of reinsurers.

Continued on next page

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- Whether letters of credit have been secured from unauthorized reinsurers for incurred-but-not-reported losses.
- The quality of investment portfolio.

"Do not hesitate to ask your broker for answers to these questions. If the broker can't answer these questions, I probably would get another broker," Mr. Vanneman said.

"A broker should have a process and minimum guidelines" that the risk manager can request to determine if the insurer meets these guidelines, he said.

Mr. Gardner of Insurance Solvency International suggested that risk managers can spot insurers heading for financial trouble if they watch for insurers that are operating under bad management and writing too much unprofitable business for too long in relation to the capital involved.

These problems often are compounded by bad reinsurance and underreserving for losses.

The "absolute killer is the shareholder who will not put up more capital," Mr. Gardner said.

To avoid doing business with a financially shaky company, clients should set their own standards governing such issues as country of domicile, minimum financial standards and performance, Mr. Gardner suggested.

Mr. Gardner likened buying insurance from a company with "poor security" to contracting asbestosis. "When you catch it, you don't know you've caught it. When you've bought poor security, you don't know you've caught it. Asbestosis takes a long time to emerge, while poor security can take a long time to emerge."

But, Mr. Gardner said, a person who contracted asbestosis is not responsible, unlike someone who buys insurance from a financially weak insurer.

Mr. Roth of the California Department of Insurance commented that Mission Insurance Co., which is in liquidation in California, is the largest single insolvency in the history of the property/casualty insurance industry.

"The final loss to the insurance industry will be hundreds of millions of dollars," Mr. Roth said. He added later that the most recent figures of the insolvency at Mission and its four subsidiary insurers—$520 million—are outdated and that the insolvency will prove to be larger.

"The reason it took the Department of Insurance so long to discover the extent of the problem was the volume of business increased so significantly in 1982, '83 and '84, and the percent retained by Mission in the beginning was very low and then it suddenly increased to 100%," Mr. Roth said.

Mission was one of the state's leading writers of workers compensation insurance, and the company earned profits on that business, Mr. Roth said. The loss-producing business was general liability insurance, excess coverages and reinsurance, he said.

"There may have been some business insured that never should have been insured, but mainly it was business sold at seriously inadequate rates. Agents and brokers said that $20,000 risks were often taken away from them for as low as $5,000 by Mission," Mr. Roth said.

"Mission wanted to have growth, with less than adequate regard for basic underwriting principles and basic ratemaking," Mr. Roth observed.

The California Department of Insurance negotiated with Mission from 1985, when its policyholder surplus dropped dramatically, until this year to try to avoid guaranty funds from being tapped by Mission policyholders, Mr. Roth noted.

"There was an implicit understanding that the Mission business would be run off without a hit to the guaranty association," Mr. Roth said, noting that an agreement had been negotiated with reinsurers to delay payment of claims to them.

"The Department of Insurance thought all was going well until it realized the agreement was falling apart. Also, American Financial had promised to put another $75 million in and that never materialized," Mr. Roth said, referring to American Financial Corp., which was Mission Insurance Group's largest shareholder.

"All insolvencies can be summarized in one word: greed," Mr. Roth observed. "You do get fraud once in a while and management incompetence. But far and away, the single source of insolvency is greed. One or two people at the top want to be the largest company and they want to grow. And they think they can expand rapidly and still maintain their loss ratios."

But, Mr. Roth suggested, "controlled growth is the only way a good company can grow."

While Integrity Insurance Co. is being liquidated in New Jersey as a result of not being able to recover large amounts of reinsurance payments from Mission, Mr. Roth said, "We do not anticipate any other companies will go down," as a result of Mission's inability to pay reinsurance claims.

Meanwhile, the Mission liquidators are having "a serious problem with reinsurers," Mr. Roth noted, adding that many fall into two classes: "those that won't pay and those that can't pay."

"The business is so large, it is becoming impersonal. And, companies are relying more on the wording of the contract and if they can get out of some of these contracts, they try to do it," Mr. Roth said.

As a result, "the regulation of reinsurance is increasing," and will continue to increase, he said.

There was not, however, unanimous opinion among the panelists as to what insurance buyers and regulators can do to spot insurance companies heading for financial disaster.

Mr. Roth observed that, "The public—the agents—knew what was going on before the Department of Insurance," regarding Mission's financial fate. "They knew there was going to be a problem," he said, referring to public perception that Mission was engaged in widespread rate-cutting.

But Mr. Schwartz of the AIA disagreed that knowledge of Mission's pending problems was widespread.

"Some of the best-managed and most-sophisticated insurance companies in the country were badly burned by Mission, having ceded business to Mission. These are companies with the best insurance analysts, in the best position to make determinations like this," Mr. Schwartz said.

"It is possible by examining financial statements to determine which are having financial difficulty—but not 100% of the time," he said.

Mr. Schwartz also pointed out that an unprofitable company can remain solvent for many years as long as its cash collections exceed required cash payments.

An AIA study has found that the single ratio that predicts an insolvency is the two-year operating ratio, Mr. Schwartz advised.

The panel was moderated by Hugo Hines, corporate risk manager of Texas Instruments Inc. in Dallas. ■

State regulation evolving: Commissioner

LAS VEGAS, Nev.—State insurance regulations will change as needed to better regulate insurers for solvency, one regulator says.

But, the current system is fairly effective now, he and an insurance trade association executive agreed during the 25th annual Risk & Insurance Management Society conference.

"The current system of state regulation is a dynamic system," which can change to meet the needs of consumers, legislatures, regulators and insurance companies, said S. David Childers, director of insurance for Arizona.

For example, "the backbone of state solvency regulation is the triennial examination," he said. "We see the possibility of going to more frequent examinations."

But, Arizona now examines about 300 companies annually to meet the triennial examination schedule of its 900 insurers, he noted. Even examining insurers once every three years is "a pretty solid technique to let the companies know they are going to be regulated and reviewed. And, it discourages improper reporting."

In addition to the triennial examination, regulators rely on the Insurance Regulatory Information System operated by the National Assn. of Insurance Commissioners to regulate insurers for solvency, Mr. Childers said.

Under the IRIS system, almost all U.S. insurers send their annual statements to the NAIC, he said. There, key statistical information is analyzed and certain financial ratios are calculated and compared with industry standards.


Mr. Childers

These ratios measure solvency, liquidity, profitability and other aspects of insurer operations.

If more than four of an insurer's ratios fall outside of the normal range, or fail certain other tests, the company's annual statement is examined by a team of financial experts. If the examiners decide there is not sufficient justification for the abnormalities, the examiners in the company's domiciliary state and NAIC zone examination coordinators are notified. A special exam can result.


Mr. Schwartz

In addition to the IRIS system, each state reviews all annual statements filed with it and conducts special examinations when justified.

"There is a high degree of predictability in this process," Mr. Childers said.

He also stressed the purpose of regulation not only is to provide financial security and solvency of insurers, but also "to protect the consumer from market abuses and other trade practices that ultimately could work to their detriment."

Phillip Schwartz, vp-financial reporting and associate general counsel of the American Insurance Assn. in New York, praised the current system of regulating insurers for solvency, stressing the "importance of the expert financial analysis to evaluate financial statements and to determine the accuracy of the underlying financial statements."

It has been suggested that the IRIS system would be improved if the method for determining the normal band for ratios were based on insurers' results each year rather than on fixed ranges, as is currently done. However, this would require that virtually all annual statements be processed before any analysis could take place, Mr. Schwartz said.

While the ratio test is not always effective in spotting troubled insurers, "the examiner team process is extremely effective," he stressed. He noted three other problems with IRIS: Not all insurers file annual statements with the NAIC; IRIS is only as effective as the team reviewing the results; and regulators cannot be forced to take proper action after receiving results.

Both Mr. Childers and Mr. Schwartz argued against public dissemination by the NAIC of IRIS results for individual companies, the subject of two pending lawsuits.

The insurance industry is "strongly opposed" to the NAIC releasing IRIS results because there is concern that "if the NAIC comes out and says, 'Here are the companies that failed four or more tests,' no one would place any business with those companies, and those companies would become a self-fulfilling prophecy and go out of business," Mr. Schwartz said.

Mr. Schwartz suggested insurance buyers ask insurers to provide them with the results of the IRIS tests.

Most brokers are calculating the IRIS ratios, noted Thomas E. Vanneman, financial manager of Alexander & Alexander Services Inc.

—By Kathryn J. McIntyre

Continued from previous page
able resource, but certainly a re-

'We all need to understand that if we don't

premium," he said.
Today, he noted, many are ex-

basis, excluding workers compensation risks.

At the casino

Casinos, like the one at the Las Vegas Hilton, provided a diversion for risk and benefit managers attending the 25th annual Risk and Insurance Management Society conference. Some risk managers tested their skill at blackjack tables, while others placed wagers on their favorite ponies at one of the city's many sports books. (Illustration by Roger Schillerstrom)

'Going bare'

Continued from previous page
gram.

"In this area of going bare, claims management has, and is and will continue to surface as one of my most important concerns of risk management," Mr. Krefall noted.

Mr. North highlighted some of the claims-handling components that companies that have just gone bare may have to face for the first time, including:

- Processing. Who will handle the plethora of correspondence that the insurer previously handled?
- Claim investigations. Can the employer perform these or should it seek help from outside firms?
- Litigation. In-house attorneys frequently are not skilled in all of the areas needed if a company suddenly assumes new liabilities, Mr. North notes.
- Medical facilities. "Evaluate, when it comes to medical control, the necessity of providing in-house first-aid, RN-type services. Evaluate the medical facilities that are available in your community," Mr. North suggested.

'The insurance community is becoming aware of you as a market force, says Mr. Beer.

Risk managers should consider visiting with directors of local clinics, he added.

Explain the situation, he advised: "That there is no insurance company, that this is our money, and yes we are committed to our program, and we want you part of our team as we manage this exposure."

- The employer will have to devote new attention to settlement management techniques, Mr. North said.

"You now don't have the buffer of having the insurance company to blame for settlements—you'll have to take that on yourself," Mr. North told risk managers.

Throughout the process of going bare, risk managers should continue to rely on support from their brokers, Mr. Gallagher said. The broker can assist in the decision-making process, during the transition, during presentations to management and after the change has been made.

At that point, for example, the broker can help the risk manager coordinate vendor services and also can help the risk manager maintain access to data on past claims experience, Mr. Gallagher pointed out. ■

Broker sees expansion of D&O market

By STEVE TARAVELLA

LAS VEGAS, Nev.—Risk managers in the market for directors and officers liability coverage are finally hearing some good news.

Well-managed companies now can assemble D&O coverage limits of $190 million or $200 million—and possibly more—if they tap new markets that have cropped up over the past year, says Roberta A. Davis, vp of Johnson & Higgins of California in Los Angeles.

That estimate is more than the $50 million or so that risk managers were able to arrange a year ago, but still less than the approximately $300 million they could find earlier in the decade.

"All of the underwriters say it isn't going to be good news in 1987, but I'm seeing something totally different in the marketplace," Ms. Davis says. "Quite frankly, it isn't going to be the 14-, 15- and 20-times increases in cost.

'I don't think you're going to find cheap, cheap premiums for broad, broad coverage, but I certainly do see an impact, particularly for well-managed companies with good track records,' says Roberta A. Davis.

"The market is starting to soften. I don't think you're going to find cheap, cheap premiums for broad, broad coverage, but I certainly do see an impact, particularly for well-managed companies with good track records," Ms. Davis told an audience at the 25th annual Risk & Insurance Management Society conference earlier this month in Las Vegas.

"I think for good, solid companies, you're going to see the underwriters looking for your business."

If D&O underwriters really want to write a particular risk, they will offer a reasonable rate and coverage terms, she said.

As an example of underwriters new-found eagerness for D&O insurance risks, she cited the recent D&O renewal of one California business. The company previously paid a $1 million premium for $10 million in D&O limits over a $1 million retention.

The insurer quoted a renewal premium that was only slightly higher than the $1 million, but the company was able to find renewal quotes from various other markets that ranged from $350,000 to $470,000, she says. It selected the coverage offered at $470,000 and kept the same limits.

According to Ms. Davis, and confirmed by *Business Insurance*, principal D&O markets now include:

- National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group Inc., which offers $25 million in limits.
- Lloyd's of London underwriters, which now will write up to $10 million in D&O limits for U.S. risks.

"Ten million dollars in London was hard to come by a few years ago," she noted.

- Harbor Insurance Co. in Los Angeles. Harbor, a Continental Corp. unit, recently increased its limits to $10 million from $5 million, which it writes both in primary and excess layers.
- St. Paul Surplus Lines Insurance Co., a unit of The St. Paul Cos. Inc. St. Paul, has $10 million in capacity.

- Federal Insurance Co., through parent Chubb Corp.'s executive protection unit, is able to write up to $25 million in limits, though it often writes lower limits.

Federal's D&O policy form is "one of the best forms on the street," Ms. Davis said.

- National Indemnity Co., part of Berkshire Hathaway Insurance Group. The insurer regularly writes limits of $10 million, but can offer up to $25 million in capacity for exceptional risks.
- Great American Insurance Co., a unit of American Financial Corp. in Cincinnati. Great American's Chicago office has recently increased its primary D&O capacity to $15 million from $10 million and its excess D&O capacity to $10 million from $5 million.

Great American is "very aggressive," she noted.

- Associated International Insurance Co., a unit of Lloyd's broker Stewart Wrightson Holdings P.L.C. Through surplus lines broker Stewart Smith East in New York, Associated now provides $5 million in D&O limits.
- CNA Insurance Cos. in Chicago. CNA will write up to $10 million, which it mainly uses in primary layers.
- Gulf Insurance Co., a Commercial Credit Corp. unit now under the direction of Joseph P. DeAlessandro, the D&O industry kingpin who was until recently president of National Union. Irving, Texas-based Gulf now offers $5 million in D&O limits and soon expects to write up to $10 million, she said.
- Old Republic Insurance Co., accessible through Chicago Underwriting Group. Old Republic now writes $3 million per risk.
- International Insurance Co., a Crum & Forster unit that now writes up to $5 million in primary and excess layers.
- The Home Insurance Co. of Indiana, which is based in New York. Home will write $1 million on a primary basis and $2.5 million on an excess basis.
- INAPRO, an affiliate of CIGNA Corp. This company now writes $5 million in D&O insurance limits and may expand to $10 million.

Taking some of the market pressure off of these companies has been the wave of new D&O facilities that has sprung up during the past 18 months or so, said Ms. Davis. These facilities include Corporate Officers & Directors Assurance Co. (CODA), Excess Risk Insurance Co. (ERIC), A.C.E. Insurance Co. Ltd. and X.L. Insurance Co. Ltd.

CODA, developed by J&H and

Continued on next page

Risk managers couldn't miss Aetna's billboard across from the RIMS conference headquarters at the Las Vegas Hilton.

D&O coverage

Continued from previous page

Chase Investment Bank, was designed mainly for Fortune 200 companies that wanted the insurance to attract outside directors, and therefore does not offer corporate reimbursement coverage.

CODA offers $2.5 million in limits (*BI,* March 30).

About 53 companies belong to the facility, each of which put up $2.75 million in capital, she said. To join today, though, a company would have to put up $3.75 million.

ERIC, one of the most recent D&C facilities to hit the market, was organized by Chase and Aetna Life & Casualty Co. (*BI,* Aug. 11, 1986).

ERIC underwriters have $25 million in D&O capacity, but usually only commit about $15 million, Ms. Davis said.

"Today that facility is up and running and very successful," she observes. "I think they're in it for the long haul."

'I think they're in it for the long haul,' says J&H's Roberta Davis of the ERIC facility.

A.C.E. and X.L. both offer D&O limits excess of $25 million of underlying coverage. A.C.E. provides limits of up to $50 million and X.L. writes limits of up to $25 million (*BI,* March 30).

Risk managers' success in securing D&O coverage may depend on the approach they take in doing business with the insurers, Ms. Davis said, and she offered risk managers some advice on securing the best possible response from insurers.

When submitting an application, supply "a good quality submission," she advised.

This should include a recent 10-K form, any recent prospectuses filed with the Securities and Exchange Commission, a list of subsidiaries, copies of pertinent news releases and a certified copy of the company's bylaws and articles of incorporation.

"An underwriter is impressed with that. They're not too impressed with somebody who gives them an annual report, a list of directors and officers and then asks for a quote. That, quite frankly, isn't going to cut it," she said.

The risk manager should also try to meet with the D&O underwriter personally at least once a year, she advised.

The risk manager should be accompanied by the company's chief financial officer, chairman, president and perhaps even corporate counsel, she said.

"If you take the time and effort to really sit down and have a candid conversation with your underwriter, I think you'll end up with a better quotation in the long run" she said.

In these discussions, risk managers shouldn't let the underwriter perceive they are trying to "get the last dime and absolutely everything you can get," Ms. Davis said.

"I think there's a balance in negotiating with underwriters," she said. "The worst thing you can do is ask for everything under the sun. You need to identify those things you feel are really important to you and zero in on those. In the long run, you'll end up with a better product."

Some questions that risk managers should expect their D&O underwriter to ask, she said, include:

- What are the company's plans for the future?
- Is it expanding into too many areas?
- Does the company anticipate any mergers or acquisitions during the coming year?
- What has been its merger activity in the past?
- What's the quality of the company's board; of the directors' reputation?
- What does the investment community think about the company?
- What litigation has the company been involved in?
- What special exposures does the company face?

The underwriter also will examine the company's financial statements, comparing its performance with others in its industry.

Risk managers should turn to their brokers for help in finding D&O coverage, as well as in handling D&O claims, Ms. Davis said.

"It's important that you let your broker help you. You pay your broker, and quite frankly, you ought to get the value of the expertise," she said.

Too often, risk managers rely on corporate counsel to handle D&O claims.

"It's interesting how many counsels don't understand the pragmatic implications of the D&O policy," she noted.

Ms. Davis doesn't observe recent changes in state tort law as having much of an effect on D&O insurance rates.

"All we seem to do is talk about it; nothing seems to be done," she said.

Another panelist, Kevin L. Mitchell, regional manager for National Union in Los Angeles, suggested tort reform is not having an impact because D&O insurers still are receiving claims from policies written before tort reforms were enacted.

John G. Pinner, assistant treasurer at Mattel Inc. in Hawthorne, Calif., moderated the session. ■

Don't choose insurers only on price: Panel

By JUDY GREENWALD

LAS VEGAS, Nev.—Risk managers cannot select insurers on the basis of low price and still expect good service, according to industry experts.

Risk managers must educate top management on the value of building a long-term relationship with an underwriter instead of regarding insurance as a commodity, asserted panelists at a seminar titled "Improving Your Relationship with Your Underwriter" at the 25th annual Risk & Insurance Management Society conference earlier this month.

"As a buyer, you have the right to expect high quality services from the underwriter—if you pay for it," said Corbette S. Doyle, senior vp at Corroon & Black Corp. Advanced Risk Management Services in Nashville, Tenn. On the other hand, if you go for the "cheapest on the street," you cannot expect good service.

Furthermore, if risk managers take the approach of selling top management on their value to the company on the basis of the premium reductions, "you'll never get top management to stick by you" on building long-term with relationships with underwriters.

This problem is compounded because, in many companies, risk managers report to a financial vp who has a "short-term orientation" toward the bottom line, she said.

Ms. Doyle also suggested risk managers select insurance companies that value underwriters' talents. For example, Aetna Life & Casualty Co., she noted, has underwriting personnel in senior management positions.

While risk managers should work to improve their relationship with their underwriters, they must also realize insurers are in the business of making money.

"Insurance is not a social service," she said.

Ms. Doyle and other panelists also offered the following tips for risk mangers:

- Risk managers should communicate everything they can about their company to the underwriter and, in turn, risk managers should expect good communications from the underwriter.
- Risk managers should take an active role in the coverage submission process.
- Risk managers should be sure underwriting submissions are professionally done.

"Communications is an absolutely vital ingredient in the international marketplace," said Richard J.W. Titley, chairman of Sedgwick International Ltd. of London.

"A visit to the underwriter, with or without a broker, goes a long way to creating a long-term relationship," he added.

Charles H. Dangelo, assistant vp-national accounts division at CNA Insurance Cos. in Chicago, noted an underwriter has the right to expect "open, prompt communication" on a company's operation, including the sale or acquisition of subsidiaries, a change in financial status, or the completion of a leveraged buyout.

"Don't wait to the renewals to tell the underwriter S&P downgraded your rating," said Ms. Doyle, referring to New York-based Standard & Poor's Corp., which evaluates companies' financial strength.

Many risk managers do not offer this type of information in the hope "they're just going to let it sneak by," she said.

Risk managers also should take an active role in underwriting their account, Ms. Doyle said, "rather than just dumping information" on the broker or underwriter.

It is important to control the information going into the underwriting submission, she said.

"You should not allow an underwriting submission to be released before you have viewed it," Ms. Doyle said. "You deserve the right to participate in the underwriting process."

In addition, Ms. Doyle stressed risk managers' submissions should be professional. "It really is crucial," Ms. Doyle, a former underwriter, said. "You can't believe the garbage we received from brokers." During a hard market, she added, this garbage will "sit on the bottom of the stack."

A well-organized submission, with a table of contents, is "going to go a long way" toward helping the company, she said.

Possible questions should be answered within the submission, rather than waiting for the underwriter to ask, said Ms. Doyle. "You're going to get a much better response if all those questions are answered up front."

The renewal process should be started at least 120 days before the renewal date, said Ms. Doyle. "If you start after that time frame, don't expect anything more than you'll get," she said.

While risk managers should do a professional job of dealing with their underwriters, risk managers also have the right to expect fair dealings from their underwriters in turn, Ms. Doyle said. Once a quote is made, she said, it should be firm.

"You should not have to be concerned about midterm changes," she said.

Ms. Doyle added underwriters, as well as risk managers, should view the relationship between them as a long-term one. The risk manager shouldn't have to worry about one bad loss or incident, she said.

Communications also should be a two-way street, noted Mr. Dangelo. Insurers, for instance, should immediately advise their policyholders on any changes in their philosophy, such as modifications in policy form, pricing, capacity, or limits. "There's no need to wait," he said.

The speakers warned, however, there is a dark side to risk managers getting to know their underwriters well. "Familiarity can breed contempt," said Mr. Titley. "There has to be a balance between the two parties."

Mr. Titley noted there are arrogant "prima donnas" on both sides of the underwriting process. But there is "no doubt," that the advantages of a long-term relationship "enormously outweigh" the disadvantages, he said.

Moderating the session was Henry J. Guidry, risk manager of Cajun Electric Power Cooperative Inc., based in Baton Rouge, La. ■

Preparation needed to handle catastrophes

By DEBORAH SHALOWITZ

LAS VEGAS, Nev.—Preparation is the key to crisis control and an effective communications policy is a key aspect of good preparation, loss control experts say.

"When a crisis happens is no time to make decisions" about how to handle the situation or who should answer questions, said Donald Wilderoter, vp and coordinator of Frank B. Hall & Co. Inc.'s technical services division in Briarcliff Manor, N.Y.

"Do it beforehand" or you'll be "in deep trouble," Mr. Wilderoter warned an audience of risk managers at the 25th annual Risk & Insurance Management Society conference held earlier this month in Las Vegas.

"One mistake can mean the failure of even the largest enterprise," he pointed out.

One of the most important things a company can do during a crisis is have one person handle all communications, agreed members of a panel discussing "Crisis Communications: How to Defuse Disaster Through Smart Public Relations."

Consolidating the source of information will prevent the dissemination of different and sometimes conflicting stories, the panelists agreed, adding that such a policy will lead the press and public to have trust in what the company says.

"One of the worst crisis management cases" resulting from too many people handling communications occurred following the 1979 accident at the Three Mile Island nuclear power plant in Middletown, Pa., Mr. Wilderoter said.

He noted that spokesmen from five different government agencies and additional spokesmen for the utilities that owned the plant gave numerous descriptions of events that were not coordinated.

The public relations mess following the Three Mile Island disaster was largely the result of many different people telling many different stories, he said.

"Finally, after a near, absolute panic," one person was appointed to direct communications but "the damage was already done," Mr. Wilderoter said.

He added that even today, eight years after the accident, many people still don't know what really happened at the facility and do not trust the nuclear energy industry because of the incident.

However, a team approach to handling crisis communications can be effective, said James G. McMullen, director of risk management for The Lubrizol Corp., a chemical manufacturer based in Wickliffe, Ohio.

Lubrizol created a crisis management task force in the early 1980s to direct company actions in the event of a disaster, Mr. McMullen said. This group would act as a liaison with employees, management, the community and the press.

"The task force provides a single, consolidated position" for both internal and external communications, Mr. McMullen said.

The task force also would ensure that all inquiries are directed to the company's legal department, Mr. McMullen related. This might help establish the information as privileged between an attorney and his client, which could help the company if it becomes a defendant in a lawsuit.

Mr. McMullen emphasized that "you must follow the same procedure each time, with every situation, no matter how small, so that the court cannot say that you did it differently at one point to make" the information privileged.

And, "people at the plants have to understand the ramifications resulting from not following these procedures," he added.

Whether this tactic "will work in a major disaster is questionable," but it is worth a try, Mr. McMullen said.

Hall's Mr. Wilderoter advised the group that being open with the media can work to a company's advantage.

He pointed out that when seven people died in the Chicago area in 1982 after taking Tylenol capsules laced with cyanide, Johnson & Johnson, manufacturer of the pain remedy, was candid with the media.

Eventually, Johnson & Johnson won back consumers and Tylenol sales reached record levels.

This is an example of "taking the bull by the horns and doing it right," Mr. Wilderoter said.

Companies should be aware that reacting to a disaster quickly can backfire, however.

Mr. Wilderoter related that in 1932, when a housewife said she found a razor blade in a hot dog, the company recalled the product, at a cost of about $1 million. Two days later, however, the company discovered that the whole incident was a fraud—the woman herself had placed the razor in the frankfurter.

'They made a decision before they thought," Mr. Wilderoter stated.

Companies also should be careful with investigative broadcast reporting, Mr. Wilderoter pointed out.

"If you're going to permit an interview by a television investigative reporter, have your own video cameras going" so that if the producer "does a hatchet job," you have a rebuttal, Mr. Wilderoter advised.

For example, he said one corporate executive complained to him that although he had been interviewed by a television reporter for an hour, only a few minutes were broadcast.

This can distort a story, Mr. Wilderoter pointed out.

But, if a company has recorded the whole interview on videotape, it can produce its own version of the interview, he said.

The panelists agreed it can be difficult for a risk manager to convince management to act before a crisis, instead of only reacting afterward.

Douglas A. Barlow, a retired past president of RIMS and moderator of the panel, advised risk managers to get an example of an accident that could happen within their company and "send it upstairs with a headline that gets attention."

If upper management is aware of potential crises, they might be more inclined to build a foundation to handle the situation, Mr. Barlow said.

Also participating at the panel discussionwas Gerard P. O'Rourke, vp in the legal and claims department at Frank B. Hall's International Aviation Division in New York. ■

Risk retention groups could fail: Regulator

By JERRY GEISEL

LAS VEGAS, Nev.—Many of the risk retention groups that are expected to be organized during the next few years could fail, a state regulator warns.

"I'm afraid that a number of risk retention groups could be future insolvencies," said David Grubb, special deputy commissioner at the New Jersey Insurance Department.

Speaking at the annual Risk & Insurance Management Society conference earlier this month, Mr. Grubb said, "States may not act fast enough to prevent" risk retention groups from failing.

The staying power of risk retentions groups and pools "could be weak," Mr. Grubb said.

Mr. Grubb's warnings at the session entitled "Utilizing the Risk Retention Act: Pitfalls and Practical Issues," come at a time of great buyer enthusiasm over the newly expanded Risk Retention Act.

Under the original 1981 Risk Retention Act, manufacturers and other employers could band together to form risk retention groups—special multiple owner captives—with minimal interference from state regulators. These risk retention groups could only be used to cover product liability and completed operations exposures.

After a risk retention group met the insurance requirements of one state, it could operate nationwide without having to meet the separate licensing requirements of each state in which it provided coverage to policyholders-owners. That streamlined licensing procedure meant, among other things, that a risk retention group did not have to purchase a fronting policy from a commercial insurer.

The 1986 amendments to the Risk Retention Act continued this one-stop licensing procedure, but dramatically expanded coverage that could be provided by risk retention groups to include all commercial liability risks except workers compensation.

In addition, the 1986 amendments allow employers to band together as "purchasing groups" to buy liability coverage—except workers compensation—from commercial insurers on a group basis.

While employers are welcoming the new alternative risk financing vehicles offered by the act, Mr. Grubb worries that unsuspecting companies could be lured into unsound risk retention groups and risk purchasing groups.

"When I see some of the risk retention and purchasing group applications, I have a tendency to shake my head in dismay," Mr. Grubb said.

He said he was especially concerned about the soundness of purchasing groups, noting that some managing general agents might organize groups and then place the risks with weak insurers.

"We will see agents and brokers selling coverage to people who don't have the sophistication to assess the risks," Mr. Grubb said.

The failure of some risk retention groups and risk purchasing groups, which Mr. Grubb believes is likely, could sully the entire alternative risk financing movement.

"If there are horror stories three or four years down the road . . . it will give the whole alternative risk financing movement a bad name."

State regulators in Vermont and Delaware also warned employers to check the credentials of those forming risk retention groups.

"Watch out for whom you are dealing with. Keep your eyes open. Watch out for exploitive entrepreneurs," advises Daniel Koch, company admissions officer with the Delaware Insurance Department.

In Vermont, Department of Banking and Insurance Chief Insurance Examiner Edward Meehan doubts whether more than one of every 10 risk retention groups being organized will be licensed or get off the ground.

Still, state regulators acknowledge that there was a congressional need to expand the Risk Retention Act.

In addition, regulators say they will welcome what they call "quality risk retention groups." In Vermont, for example, three groups already have been licensed with several more applications now pending, Mr. Meehan said.

"If you think a risk retention group is the appropriate way to go. . .we would be happy to work with you," said Delaware's Mr. Koch.

Mr. Koch defines a quality risk retention group as one that is financially strong and can pay claims down the road. "You want insurance, not the illusion of insurance," he says.

In addition, a risk retention group, like any insurance arrangement, must have strong, professional management, he says.

Before employers explore the risk retention group option, a sense of urgency should unite the companies, notes Brady Young, a consultant with the Tillinghast Division of Towers, Perrin, Forster & Crosby in Darien, Conn. "Don't waste your time unless your group has a real problem."

Such urgency could include inadequate limits, excessive premiums and significant coverage restrictions, Mr. Young said.

He noted that prospective risk retention group members should have similar objectives and goals.

For example, members should envision the risk retention group as a long-term alternative risk-financing mechanism that will provide stable coverage during soft and tight markets.

To prevent companies from pulling out when the market softens, Mr. Young said the risk retention group could issue multiple-year policies or place restrictions on the withdrawal of capital.

Mr. Young noted that well-run risk retention groups not only can provide stable coverage, but also may be profitable for members. For example, because risk retention groups will buy only the services they need, overhead expenses could be held to about 15% of premiums. In addition, members will recapture investment income.

Other speakers included Michael Cohen, vp-marketing in the Washington office of American International Underwriters Inc., and James McIntyre, a partner with the law firm of Hansell & Post in Washington.

The session was moderated by P. Richard Hackenburg, staff vp and assistant treasurer with Allegheny International Inc. in Pittsburgh. ■

Pools help captive insurers transfer risks

By MICHAEL BRADFORD

LAS VEGAS, Nev.—Insurance buyers attempting to insulate themselves from the recurring market cycles by forming captives must structure those companies in a way that guarantees an adequate spread of risk, experts say.

At the 25th annual Risk & Insurance Management Society conference earlier this month, speakers at a panel discussion entitled "Profitable Risk Transfer Process for Captives" discussed ways captives can transfer risk.

William G. Watson, vp of American Risk Management Inc. of Fort Lee, N.J., a Reiss Organization unit, explained that a Bermuda-based pool owned by Reiss clients has been successfully transferring risk since its formation in 1972.

Hopewell International Insurance Ltd., a property and marine hull and cargo insurer owned by 36 shareholders that are single-parent captives, typically reinsures 99% of a risk ceded by a Hopewell affiliate, he said.

In turn, Hopewell places 30% of the risk into a "retrocession pool," which is a group of shareholder captives that share that portion of the risk, said Mr. Watson. The remaining 70% of the risk goes to professional reinsurers, he said.

"Roughly $100 million is passing through in premium," Mr. Watson noted. "And there are 55 insureds using this vehicle."

From a "paper standpoint," Hopewell is a very efficient way to structure a reinsurance treaty, said Mr. Watson. The makeup of the company is such that every policyholder has coverage with the same reinsurers. "If we go to a client and put them into Hopewell, it's an automatic facility. One piece of paper and we bind over 100 reinsurance companies."

Hopewell's success can be measured by the fact that the company has never shown a loss in its 15 years of operation. Mr. Watson noted that the facility's capital stood at $16.8 million as of June 30, 1986. An investment of $150,000 by a shareholder in 1972 is now worth just more than $1 million, he said.

The company is managed by another Reiss facility: International Risk Management Ltd. in Bermuda.

P. Richard Hackenburg, staff vp and assistant treasurer at Allegheny International Inc. in Pittsburgh, explained a different approach to transferring risk by Corporate Insurance & Reinsurance Co. Ltd.

Mr. Hackenburg, whose company has a captive that participates in CIRCL, pointed out that the Bermuda-based facility was "originally formed by Fortune 500-type companies that had identified problems in the excess casualty area emanating from the tight market."

The hardening of the market in the mid 1970s caused the group of insurance buyers that eventually formed CIRCL to "suggest to themselves that never again did they want to be at the mercy of the traditional marketplace in the area of their buffer-layer coverages and their first-layer excesses. They wanted to figure out a way among themselves to generate a stable, long-term relationship which would in effect allow them to handle their own risks," he explained.

The result was the 1978 formation of CIRCL, Mr. Hackenburg said.

CIRCL participants are required to first insure a risk with their own captive. In turn, those policies are reinsured into the CIRCL, he explained.

CIRCL retains 10% of the pooled exposures and reinsures the remainder "back out to the various affiliated insurers," on a percentage basis calculated according to the amount of business the participants have in the pool, he said.

The method, Mr. Hackenburg remarked, gives each participant "a mix of business and a spread of risk which you would not have had had you simply insured your own risks in your own captive."

Richard S. Johnson, an officer with the Bermuda-based Risk Exchange Assn., pointed to another way that captives can achieve a spread of risk.

Mr. Johnson explained that the Risk Exchange provides a method of "exchanging risks among captives."

The Risk Exchange is not an underwriter, he noted, but was formed by risk managers and began operating in 1984 as a way to meet several objectives, including:

- Providing participants with profitable, non-related business.
- Increasing capacity for insuring risks of participants.
- Eliminating unnecessary transaction costs.
- Providing flexibility in underwriting.

Mr. Johnson described the facility as "a two-way street. When you put business in, you're expected to take business out."

The structure of the association is set up so that its 29 members submit risks to Hudson Underwriting Ltd., the company providing underwriting services.

And, said Mr. Johnson, "Hudson will put their wallet where their mouth is," by retaining 10% of a risk it approves for participation.

"Then the majority of the members follow Hudson," by having previously given Hudson underwriting authority to choose which property, casualty and marine risks to write, he explained. "Some of the members want to see each and every submission. . .anyone can do that if they want. Many of them will set up pre-screening requirements."

Mr. Johnson called the facility "a facultative arrangement. It's not a pool, you don't have to take every thing that comes in. You can pick and choose in advance or pick and choose as each piece comes in."

The arrangement allows access to around $300 million in aggregate capital held by the members, he said. "We are using that capital rather than trying to capitalize a new company."

Altogether, the facility writes limits up to $3.3 million on property risks, $2.5 million on marine risks and up to $2.2 million for casualty exposures.

The panel discussion was moderated by Timothy H. Hoffman, executive vp and general manager of the insurance services division of M.A. Hanna Co. in Cleveland. ■

Risk retention groups can learn from pools

By MEG FLETCHER

LAS VEGAS, Nev.—Private companies interested in forming risk retention groups have a lot to learn from public entities' pool operations, just as pools should learn from insurers' mistakes, experts agree.

However, they disagree how the anticipated softening of the insurance marketplace will affect self-insurance pooling mechanisms.

Nearly 60,000 public entities in the United States are members of pools, estimated David McGurn, division vp with broker Arthur J. Gallagher & Co. in Rolling Meadows, Ill.

"A pool is a group of individual risks, each potentially too small to effectively self-insure on their own, which together create a legal body to make self-insurance a cost-effective (risk) transfer mechanism," he explained during a panel discussion at the 25th annual Risk & Insurance Management Society conference earlier this month.

The number of pools has grown rapidly primarily because public entities became disgruntled with many commercial insurers that stopped writing public entity risks or made the coverage prohibitively expensive, he said.

This was especially true for liability coverages, where insurers felt public entities were perceived as being a good source of recovery because of their "deep pockets," sources say.

As pools sprang up, traditional insurance markets lost significant premium dollars while providers of unbundled technical services gained many new clients, Mr. McGurn said.

"I believe pooling will have a dramatic impact on turning the marketplace around much more quickly than might have happened without the loss in premium dollars," he predicted.

With a market change will come increased competition between pooling-type mechanisms and insurers, said Stephen M. Satler, vp and underwriter of major accounts with American Re-Insurance Co. in New York.

Mr. Satler predicts, "If you wait six more months to open a risk retention group (or pool), half of your members can get insurance in the marketplace. When that happens, what are you going to do?"

However, pooling supporters say the effect of a general market revival on public entities remains unclear, because many insurers said they would never write public entity risks again.

In addition, pooling supporters appreciate the long-term advantages of pooling, said panel moderator Allen F. Hyman, director of insurance services for the Austin, Texas-based Texas Municipal League's large statewide pool.

Mr. Satler presented statistics emphasizing leading insurers' generally poor loss history in most lines of insurance, except workers compensation, from 1978 to 1984. "It's scary," he said.

"You as risk retention groups (or pools) have to look on yourselves as insurance companies," he said. "I hope you do it better, I just don't know if you will."

He said any entity considering a pool-type alternative—regardless of whether it is public or private—should emphasize the long-term stabilization of costs, and not better prices, as the primary goal. However, a lot of people considering that approach are too price-conscious, he said.

JoAnn Koster, an assistant vp in the American Re's Chicago office, suggested that purchasing groups are a better alternative. Such a group purchases commercial insurance and does no underwriting of risks itself.

However, if a risk retention group itself is established, American Re would be much more comfortable if a fronting insurer participated, at least for the excess portion of the program, she said.

Stewart Diamond, an attorney with Ancel, Glink, Diamond, Murphy & Cope P.C. in Chicago, urged pools to emphasize loss control, open their books to scrutiny and regulate themselves before others try to regulate them.

In addition, pools should work with reinsurers to solve a "terrible" problem caused by reinsurers' fears that their excess-type insurance may be interpreted as providing primary coverage, Mr. Diamond said.

"Foolproof" policy language is needed to allay this fear and thereby stop reinsurers from charging a premium that reflects the possibility that this might happen, he added.

"I think the advantages of pools far outweigh the disadvantages," said Steven P. Kahn, principal with the risk management consulting firm of Advanced Risk Management Techniques in Laguna Hills, Calif.

The advantages of pools include stabilization and reduction of insurance costs, the ability to tailor forms for members' needs, increased control over claims and increased sensitivity to losses, Mr. Kahn said.

"Pooling has introduced what I call the peer-pressure alternative to motivating people," Mr. McGurn said. He said he is amazed every time he goes to a meeting of a pooling board of directors and hears how a little jovial comment from a fellow pool member who works for another city or agency can motivate more good loss prevention and claims reporting than any insurer's loss reports were ever able to do. "Nobody wants to be looked upon by their peers as a failure," he said.

However, Mr. Kahn said, "I think there are problem spots that need to be addressed so they don't sink the pool and cause problems in the long run."

Some panel members criticized public entities' tendency to use their bonding powers unnecessarily to capitalize pools and thus put a burden on taxpayers.

"In my opinion as a public administrator. . .I think it is imprudent public policy to sequester that kind of money with the overwhelming likelihood that that money will never be expended for major losses, Mr. Hyman said.

However, Mr. McGurn said, "The biggest fear I have in the back of my mind is that. . .there are going to be those instances where large D&O (directors and officers) or E&O (errors and omissions) claims are going to be presented to the board of directors of these pools because somebody sold them what they perceived as an insurance policy and it was really not an insurance policy." ■

Employers facing more mental stress claims

By MEG FLETCHER

LAS VEGAS, Nev.—One type of employee stress claim is not only increasing employers' workers compensation costs, but also may have an impact on the tort system, experts say.

Mental-mental claims, in which a worker alleges that mental stress such as verbal harassment caused a mental problem such as a nervous breakdown, have increased significantly in recent years, said Robert Dorsey, director of claims for the National Council on Compensation Insurance in New York.

However, such claims were virtually unheard of 10 years ago, he said during a panel discussion on job injuries at the 25th annual Risk & Insurance Management Society conference earlier this month.

Increases in stress claims are due, in part, to greater complexity in the workplace and heightened employee awareness in the wake of media reports on the subject, said panelist Russell A. Drake Jr., an attorney and vp-risk management services for Insurance-Ohio, a subsidiary of The Ohio Co. in Columbus, Ohio.

Following court decisions favoring employees who sought damages for stress-induced illness, most states have decided to treat mental-mental cases the same as physical injury cases, generally as long as the stress is unusual, Mr. Dorsey said.

Even liberal states are looking for ways to protect employers from being held liable for stress claims triggered not by any workplace reality, such as harassment, but by employees' personal subjective orientation, he said.

Legislation governing treatment of workplace stress claims has been introduced and adopted in a few states, he said.

An Ohio statute, for example, says that "injury. . .does not include psychiatric conditions except where the conditions have arisen from an injury or occupational disease."

"The increasing recognition of 'mental-mentals' also has implications beyond workers compensation," Mr. Dorsey said. When the workers compensation system was designed, employers agreed to compensate employees injured on the job, in return for employees giving up their right to seek recovery through the tort system.

However, "the exclusive remedy doctrine of workers compensation, under traditional analysis, does not bar tort recovery for non-physical torts," he said.

"But with the increasing recognition of purely mental injuries, this maxim may no longer apply. If a mental injury is potentially compensable, then logically, the corresponding tort action should be barred even though it is a non-physical tort," he suggested.

Exclusivity is particularly important in mental-mental claims because many of the common sources of stress—supervisory harassment, co-worker harassment, criticism, terminations, demotions—form the basis for claims of sex, racial or age discrimination or other actions founded upon harassment or violations of civil rights, Mr. Dorsey said.

To employers and insurers, the results in cases involving adverse personnel actions are "a mixed bag," Mr. Dorsey said. "On the one hand, some tort suits involving alleged discrimination or harassment may now be barred by the exclusive remedy.

"But, on the other hand, in terminations which are not even alleged to invoke any discrimination or other factor to justify an exception to the doctrine of termination-at-will, employees may now have a new right to recover in workers compensation for the injury caused by an employer's exercise of its discretion," he said.

"Since the right to fire and to otherwise control the conditions of employment are a great concern to many, if not all employers, this area of claims should prompt significant attention in the future," he said.

Non-physical torts are only one of many challenges to the exclusive remedy doctrine, Mr. Dorsey said. Other challenges include claiming that the employer acted willfully and wantonly or suing the employers' workers compensation insurer, he said.

An employer may be liable for damages under the "dual-capacity doctrine," which applies, for example, when a truck driver for a tire manufacturer tries to recover from collision injuries in part by suing his employer in its "dual capacity" as a manufacturer of allegedly defective truck tires that the employee contends contributed to the accident.

An employer also may be held liable for damages through "recovery over," in which, for example, a punch press operator who smashes his hand in a press because of a missing machine guard sues the press manufacturer, who then sues the operator's employer for contribution.

Employers also may be concerned about employees suing co-employees, which is "a matter of major and increasing concern around the country," he said.

About six states generally allow most fellow-employee suits. Meanwhile, the remaining states, the District of Columbia and Puerto Rico are nearly equally split between those that do not allow suits at all and those that generally do not allow them unless the case involves situations such as intentional torts, willful and wanton acts, gross negligence or negligent operation of a motor vehicle.

Injured employees have an incentive to file these lawsuits because "in certain jurisdictions, it is sometimes possible to recover amounts greater than those provided under the workers compensation program by suing fellow employees," he said.

Executive officers seeking protection from some types of fellow employee lawsuits may look to their employers' new commercial general liability policy, Mr. Dorsey said.

Meanwhile, depending on state laws, some low-level employees may want to have their homeowners insurance policies endorsed to protect them from suits by co-workers, he said.

The panel was moderated by Maureen Ramert, the NCCI's assistant director-national affairs in New York. ■

Insurer advocates arbitration, mediation

By JERRY GEISEL

LAS VEGAS, Nev.—Employers should consider mediation and arbitration as alternatives to the nation's overburdened and underfunded civil justice system, an insurer says.

"Why not bring in an impartial third party? It is a win-win situation," says Kathleen M. Cullen, director of the alternative dispute resolution department at Travelers Corp. in Hartford, Conn.

Speaking earlier this month at the 25th annual Risk & Insurance Management Society conference in Las Vegas, Ms. Cullen described the courts as often unsatisfactory to both the plaintiff and the defendant.

Both parties have to contend with lengthy delays, with billions of dollars being chewed up by legal fees and administrative expenses, she noted at a seminar titled "Alternate Dispute Resolution—How to Use It to Your Advantage."

"Litigation takes on a life of its own. . .with motions and briefs being filed," Ms. Cullen said.

But alternative resolution procedures, such as mediation and arbitration, can cut costs and speed up settlements, she said.

Since 1983, Travelers alone has settled some 2,500 cases through alternative dispute procedures, saving the insurer several million dollars, she said.

The two major alternative dispute procedures—mediation and arbitration—differ substantially in their application, Ms. Cullen explained.

In mediation, an independent third party—known as the mediator—discusses the issues with the two opposing parties and helps the parties come up with a solution.

As a example of mediation, Ms. Cullen described a situation in which two men were in a library. One wanted a window open for fresh air. A second man complained that an open window would create a draft.

A mediator might suggest opening a window in an adjacent room to bring in fresh air without creating a draft.

"Mediation is a way of moving the parties to the real issues," Ms. Cullen said.

However, in mediation, the final decision rests with the parties, not with the mediator.

By contrast, in arbitration, both parties not only agree on an independent third party, but also agree to follow his findings, Ms. Cullen said.

Currently, arbitration is being used to resolve a wide variety of disputes, noted Robert Coulson, president of the New York-based American Arbitration Assn., a non-profit organization whose offices handled about 47,000 cases last year.

Arbitration frequently is used in disputes involving wages, construction contracts and termination of employment, Mr. Coulson noted.

In a typical situation, battling parties first will agree to submit to arbitration. After that, the AAA will send a letter to the parties with a list of names of potential arbitrators in the geographic area where the parties are. Arbitrators often are attorneys or retired judges; the AAA maintains a list of about 65,000 qualified arbitrators.

After the parties agree on an arbitrator, the parties present evidence in a streamlined meeting, which can take place in such settings as a hotel room.

Often, evidence can be presented within a day, Mr Coulson said, and a decision can be handed down within 30 days of the meeting.

"Arbitration is a modern system. . .it is a simplified procedure for getting a decision," Mr. Coulson said.

Alan Robbins, a senior partner with the law firm of Morrison, Mahoney & Miller in Boston, noted that both plaintiffs' and defense attorneys may feel threatened by alternative dispute resolution mechanisms.

For example, a plaintiffs' attorney may be concerned that if a case is settled early, he could have difficulty collecting his full contingency fee.

"That is our system's fault. The going rate (for a contingency fee), at least in Massachusetts, is 33.3% before trial and 40% if the case goes to trial," Mr. Robbins observed.

"Let's give the lawyer 40% if he settles the case, 33.3% if the case goes to trial. In addition, let's give him a premium if he settles within three months after a claim letter goes out," Mr. Robbins suggested.

On the defense side, compensation could be tied to the length of proceedings. For example, if the defense attorney spends 100 hours on a case, "give him $200 a hour. If he spends over 200 hours, give him $100 per hour," Mr. Robbins said.

Alternative dispute resolution methods work especially well in business disputes where both sides want to maintain a relationship and are eager for the dispute to be settled without the glare of a public trial, Mr. Robbins said.

For example, in a recent Massachusetts case, a large, unnamed employer sued its workers compensation insurer charging that the company did not properly investigate disability claims, inflating its premiums.

The employer charged that the insurer had overpaid or even double-paid on many claims, Mr. Robbins said.

The insurer feared the negative publicity possible during a trial and agreed, along with the employer, to abide by the decision handed down by a neutral third-party.

Instead of waiting years for the case to be heard in the courts, the dispute was resolved in just six months, with the insurer paying less than what the employer sought, but the employer receiving a more favorable workers compensation program for future claims, Mr. Robbins said.

"Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser in fees, expenses and waste of time," Mr. Robbins said.

Not all disputes, though, should be resolved through alternative dispute resolution.

"Although mediation, mini-trials and so forth may be viewed as more flexible and efficient, some disputes need to aired publicly in order to develop precedent or public standards on emerging issues," Mr. Robbins said.

The session was moderated by H. Brown Baldwin, vp-insurance at Eastern Gas & Fuel Associates in Boston. ■

Examine your risk retention capability: Broker

By JUDY GREENWALD

LAS VEGAS, Nev.—Companies may learn they can retain significantly more risk than they had previously thought if they follow a two-step exercise of forecasting expected losses, then analyzing the financial liquidity of their balance sheet, one broker suggests.

Richard B. Cantrell, senior vp of the Greater New York Region for broker Alexander & Alexander Inc. in Greenwich, Conn., described the technique at a session at the 25th Annual Risk & Insurance Management Society conference earlier this month.

The purpose of the technique, said Mr. Cantrell, is to enable large corporations to internally fund all losses except true catastrophes, which then would be insured in the commercial insurance market, said Mr. Cantrell.

"The large corporation is going to pay its own losses over time except for catastrophes" in any case, said Mr. Cantrell. They should therefore benefit from the less expensive approach of financing their risk internally to the greatest extent possible, rather than tapping commercial markets.

"Optimum internal financing is achieved when losses to the 95th percentile can be financed internally and losses above this amount transferred to the commercial insurance marketplace," said Mr. Cantrell.

"The key constraint is determining the corporation's financial capacity to retain risk," he added.

He noted corporations already have a predetermined level of expected losses. His technique focuses on how the risk between this level of risk and the "95th percentile" of risk—up to but not including true catastrophes—can be internally financed.

The risk management objective, according to Mr. Cantrell, is "the economical protection of the company's growth and profitability from impairment due to the hazard risks related to its operations." These hazard risks include fire and/or explosion, windstorm, vehicles, flood, sabotage and theft, he noted.

Mr. Cantrell noted risks can actually be broken down into four classifications. These are:

- Property, including fire, explosion, earthquake, machinery, transit and crime risks.
- Casualty, including operations, product, contractual, contractors, employees and automobile liability.
- Business interruption, including direct and consequential loss of income.
- Human resources risk, including the loss of income through disability.

Mr. Cantrell's loss funding technique can apply to all but the human resources category.

Risk management techniques, he noted, include risk inventory, risk analysis, risk control, risk retention, risk financing and risk administration.

Factors taken into account in risk analysis include loss location, description, cause, frequency, severity and an evaluation of the probable maximum loss.

Risk retention can be expressed as a fixed amount, a percentage of sales, on a per-share basis or on an aggregate basis.

Risk financing, he continued, can involve expenses, book reserves, funds, cash flow, insurance and captives. All but the latter two categories are considered with this technique, he indicated.

Risk analysis and risk retention capacity are the key elements used to determine how much risk can be internally financed, he said, demonstrating the technique with a risk analysis for all coverages combined developed for an actual company. The company, which had a $2.5 million per-loss retention, had expected losses of $14,368,000. In the 95th percentile—excluding a major catastrophe—the company judged it had potential losses totaling $19,429,000.

Key elements in the next step, which is determining corporate capacity to retain additional risk above the expected losses, are an evaluation of liquidity, financial strength and earnings, said Mr. Cantrell.

He noted the relative importance of each of these factors in determining the amount of risk the company can retain is dependent on the company's business. For instance, liquidity, which reflects how much ready cash a company has, would be relatively more important than financial strength or earnings for a company that has high-frequency, high-volume claims, such as a company reporting many work comp claims.

On the other hand, financial strength would be relatively more important for a company that faces product liability claims because of their long-tail nature.

In the case of the company Mr. Cantrell used to demonstrate the risk funding technique, it was decided that liquidity would be given a weight of 20%, financial strength would have a weight of 47% and earnings would have a 33% weight, for a total of 100%.

Each one of these categories must be individually analyzed, however, said Mr. Cantrell. He noted, for instance, liquidity measures can be looked at from the perspective of either working capital, free cash or lines of credit.

This particular company, for example, has $427,654,000 in working capital. After analysis, it is determined the minimum percentage of its working capital that could be devoted to losses is 1%, while the maximum is 5%.

It was decided to use an in-between weight of 2%, so that while the bare minimum is not used, there is a "comfort" or safety factor built in. Because 2% of $427,654,000 is $8,553,000, this means this portion of the company's working capital could be allocated as a net risk amount.

A similar exercise is then computed within the liquidity category for free cash and lines of credit. The total that emerges from an analysis of free cash is $4,386,0000, while for lines of credit, the total is $13,955,000.

The adjusted average for all three subcategories of liquidity, working capital, cash and lines of credit, is $7,659,000. Because liquidity measures overall had been given a category weight of 20%, this means the net risk amount for liquidity measures is $1,534,000.

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Risk financing

Continued from page 36

The same process is gone through for financial strength, which is examined from the perspective of net worth, total assets and total stock value. The net risk amount that emerges from this category for the company in the example is $8,394,000.

The net risk amount for earnings, which is locked at from the perspective of gross sales, projected pretax earnings and average three-year pretax earnings, is $1,687,000.

When the totals for all three categories are totaled, it emerges that the company has a total net risk retention of $11,616,000.

One way to evaluate this, Mr. Cantrell indicated, is that with expected losses of $14,366,000 and a 95th percentile level of $19,429,000, the company is at risk for $5,061,000. If this amount is then subtracted from the total corporate net risk retention of $11,616,000, the company actually has additional risk capacity totaling $6,555,000.

Yet another way to look at it, he said, is to say that with the expected losses of $14.3 million that already have been allocated by the firm, plus the $11.6 million in additional corporate net risk retention that emerges from the financial capacity analysis, the company actually has $25.9 million in total risk retention capacity.

Assisting Mr. Cantrell in answering questions on the technique were Richard B. Hall, executive vp at Amistics Inc., an A&A unit in New York, and T.A. Carragher, senior vp of A&A's Greater New York Region.

The session moderator was James J. Daly, manager-brokerage/risk management at General Electric Credit Corp.'s insurance operations in Stamford, Conn. ■

Insurance fraud not frivolous: Panel

By DEBORAH SHALOWITZ

LAS VEGAS, Nev.—Insurance fraud costs approximately 10 cents of every premium dollar, observers say, warning that insurance fraud and abuse are on the rise.

"The dollar loss" from fraud "is passed along to everyone no matter who was to blame," says Wendall C. Harness, director of the Insurance Crime Prevention Institute, a non-profit organization based in Westport, Conn., that investigates insurance fraud.

One of the major problems in dealing with insurance fraud is that many just don't regard it as a serious crime, agreed other panelists during a session entitled "The Changing Face of Insurance Fraud" at the 25th annual Risk & Insurance Management Society conference in Las Vegas earlier this month.

Insurance fraud is "just another way of being a thief," declared Joseph A. Murray, chief investigator of the insurance fraud section of the Nevada attorney general's office. Mr. Murray said that in some states, such as Nevada, making false statements on an insurance application is a felony, while in other states it would not be.

However, in all 50 states, attempts to obtain money by false pretenses is a felony, said Ann Perry, assistant U.S. attorney for the District of Nevada.

Ms. Perry added that people involved in a staged accident can be prosecuted under a charge of racketeering, which is defined as a group of people conspiring to commit certain kinds of crimes, including embezzlement.

One of the most prevalent kinds of insurance fraud that an employee benefit manager might encounter is inflated medical claims, said Ms. Perry. But "in this kind of crime, people don't think they're doing a darn thing wrong," she said.

Some states are making headway in fighting insurance fraud with special investigative units.

Nevada, New York, California, Florida, Idaho and North Carolina all have insurance fraud units that are part of the state's law enforcement apparatus, said Mr. Murray.

The two main areas of insurance fraud that are investigated in Nevada are false claims against an insurance policy and false applications, Mr. Murray said. Since the insurance fraud unit was created by the Nevada Legislature in 1983, 45 people have been convicted of insurance fraud. Another eight cases currently are being prosecuted, he added.

Nevada's insurance fraud unit is funded through an annual assessment of up to $500 from each agent or insurance company licensed in the state, according to Mr. Murray. Ms. Perry estimated that the unit's annual budget is about $250,000.

Much insurance fraud goes undiscovered for years, making prosecution less likely because of statutes of limitations, said Ms. Perry. In Nevada, for example, a lawsuit against a person for false statements on an application must be filed within three years of the submission of the application. For federal crimes, such as mail or wire fraud, there is a five-year statute of limitations, Ms. Perry added.

The ICPI's Mr. Harness said that if risk or benefit managers notice what they think is insurance fraud, they should report the incident to an in-house legal counsel or police.

Insurers can report suspicions of fraud and abuse to the ICPI, which will investigate the accusation and turn over relevant findings to appropriate law enforcement authorities, according to a spokeswoman for the organization. The ICPI was founded in 1971 and is supported by 420 property/casualty insurance company members that write approximately 80% of the premiums in force in the United States.

Although insurers may be reluctant to prosecute insurance fraud, everyone would be better off if they did, said Ms. Perry. She said prosecutions would teach people that insurance fraud and abuse are serious, punishable crimes.

Furthermore, companies can gain financially through restitution, which is the right of any victim, she pointed out.

Other kinds of fraud—besides insurance fraud—that companies may be subject to include embezzlement, theft of inventory and supplies, improper use of expense accounts and unnecessary travel, warned Lawton Swan III, president of Interisk Corp., a Tampa, Fla.-based risk management consulting firm.

"We're seeing an increase in these types of problems," Mr. Lawton commented. He said his company has been treating these issues as major liability exposures, even if actual losses have not occurred.

Risk managers may want to include these types of potential problems as part of their exposure assessment, suggested Mr. Swan. He advised risk managers to be "as thorough as the property exposure survey" when looking at these situations.

The panel was moderated by Samuel Y. Fisher Jr., insurance manager for Hamilton Brothers Oil Co. of Denver. ■

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Careful planning can prevent labor litigation

By DONNA DiBLASE

LAS VEGAS, Nev.—An increase in wrongful termination, discrimination and sexual harassment claims filed by employees pose growing liability risks to employers, experts say.

"The risk manager's knowledge of these legal liabilities is essential to controlling losses," noted Bruce M. Klein, corporate counsel and risk manager for New York-based textile manufacturer, Belding Heminway Co. Inc.

Risk management issues in labor and employment law were examined during a panel discussion at the 25th annual Risk & Insurance Management Society conference in Las Vegas earlier this month.

"There has been an increase in the number of wrongful termination suits brought by employees. The termination of any employee in today's litigious society is a big risk," observed Frank Cronin, an attorney in the Los Angeles office of Jackson, Lewis, Schnitzler & Krupman, a nationwide law firm that represents employers in employment litigation.

When terminating an employee for any reason, "you should not believe you can depend on the historical employment-at-will rule," as a legal defense, he said.

The employment-at-will rule says that in the absence of a state or federal statute, an individual employment contract or a collective bargaining restriction, every employment is an employment-at-will, meaning employment can be ended at any time, for any reason and without notice, he said.

However, the National Labor Relations Act, the Civil Rights Act and the Age Discrimination in Employment Act of 1967—have changed the way the employment-at-will rule is interpreted, Mr. Cronin noted.

The reasons for wrongful termination suits brought by employees and preventive action to be taken by employers include:

- Breach of implied contracts between employers and employees.

Discharged employees can sue on the grounds of a breach of oral and written promises—or "implied contracts"—of secure employment and certain employee benefits, he said.

"You can defeat a great number of implied employment contract claims if you clearly state in handbooks that the employee's employment is employment-at-will and can be terminated by you or any supervisor for any reason," he explained.

And, "if you have reason to believe an employee will sue you after termination, have the employee sign a release and give the employee an economic settlement in addition to any severance pay already promised" to avoid litigation, he said.

Also under the implied contracts theory, an employer can be sued for discharging an employee without following any published personnel policies and procedures detailing the course of action to be taken before an employee is terminated, he added.

"If you have employee termination procedures printed in books, make them seem optional and not mandatory procedures," Mr. Cronin advised.

- Contract damages.

Terminated employees sue for back pay, reinstatement and restitution of lost benefits, Mr. Cronin explained.

- Tort claims.

"The bad news is, along with contract suits, the area of tort and personal injury suits related to wrongful termination is growing," he noted. "Your exposure to punitive damages increases here because the tort claim is snuck in."

Among the grounds for a tort claim is the employer's violation of public policy in terminating an employee—such as firing an employee for exercising a statutory right or duty like filing a workers compensation claim or serving jury duty, he explained.

Employees can also sue if they believe they were terminated for filing a complaint about a product manufactured by the employer or about the safety of the workplace.

Other tort claims include intentional infliction of emotional distress by the employer, defamation of the employee's character by the employer's dissemination of false oral or written statements and negligent hiring or retention of employees who harass other employees.

Employers can limit their exposure to these claims by "meticulously reviewing all terminations before they occur. Look at whether the employee has filed a workers compensation or health and safety claim or if he has filed a product complaint," Mr. Cronin noted.

While the average cost of litigation and verdicts in wrongful termination suits varies. "the garden variety California-style case in which the employee has worked for six years and earns about $30,000 a year could cost between $40,000 and $80,000 through the trial," he observed.

There also has been an increase in the costs and numbers of sexual harassment and discrimination suits filed by employees against employers, noted Janie Mayeron, an attorney with the Minneapolis law firm of Popham, Haik, Schnobrich, Kaufman & Doty Ltd.

"The amount of damages in these cases is high because juries are very interested in punitive damage claims. And, the courts are very interested in hearing cases that involve unequal bargaining power between employees and employ-

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ers," Ms. Mayeron explained.

"There always will be discrimination claims and with the advent of AIDS in our society, I believe this will be a hot area," she predicted, referring to acquired immune deficiency syndrome.

Discrimination claims are filed on the basis of violation of an employee's civil rights, violation of the Age Discrimination in Employment Act or violation of any state or local acts. The objective of these laws is to prevent and redress discrimination in the workplace, she said.

Discrimination claims are filed on the basis of denied promotions of employees; demotions of employees; termination; compensation and benefits the employee feels he or she should have received but didn't; and harassment by another employee, manager or supervisor, she said.

These suits can charge the employer with discrimination by either disparate impact or disparate treatment, she explained.

Under the theory of disparate impact, the employee does not have to show that the employer intended to discriminate, but only that the employer introduced some type of policy that became discriminatory against a certain class of employees, she said. Most claims relate to this theory.

Under the disparate treatment theory, the employee must show that an employer intentionally chose an action or policy because it would discriminate against the employee or a group of employees.

Discrimination suits can be filed for the following reasons:

- Comparable worth.

In these cases, the employee charges that other employees doing comparable work are being paid or are receiving different treatment than he or she is, Ms. Mayeron noted.

"This is not the same as women saying they are not getting equal pay. That is supported by the Equal Pay Doctrine. Comparable worth is not supported by any federal statute."

- Sexual harassment.

There are two types of sexual harassment claims, she said.

Under the "quid pro quo theory," the employee charges that he or she was required to give a sexual favor to receive a promotion or raise. Or, an employee can charge that he or she had to put up with an overall hostile environment.

These claims have been filed not only by employees who were sexually harassed, but also by other employees who weren't harassed, but who feel they were overlooked for promotions or raises in favor of the employee who performed favors, she noted.

To limit exposure to these suits, "employers can't put blinders on. You have to make it known that you want to be aware of these incidents by developing a specific reporting procedure," she said.

The remedies employees can seek in discrimination or sexual harassment claims include back pay, front pay, punitive damages, pain and suffering and attorneys' fees, she noted. "These can be very expensive cases."

If a formal claim is filed against an employer, the employer should first notify its insurer, Ms. Mayeron noted.

"Then, immediately investigate and interview people who have a particular knowledge of discrimination or harassment claims and get in-house or outside counsel involved," she advised.

The employer also should consider settlement as opposed to litigation if possible, she said. There are settlement options besides money, she said. These include reinstatement if the employee desires; promotions; training; employment counseling if the employee is not to be reinstated; references; or a simple apology requested by the employee filing the claim.

Above all, the employer should cooperate fully with the Equal Employment Opportunity Commission, she said. "It does no good to dig your heels in because the EEOC has a long memory—not just for this claim but for others as well."

And, "it is important to get that claim to your broker and have him investigate the law relating to the claim," said Allen E. Peterman, a vp in the New York office of broker Alexander & Alexander Inc.

"If it's available, most of our clients have added a personal injury liability endorsement and a discrimination clause to their commercial general liability coverage," Mr. Peterman added.

Along with wrongful termination suits and discrimination claims, employers also must protect themselves against litigation over terminated retiree health care benefits, noted Nancy Platt Jones, a vp in the Boston office of benefit consultant Johnson & Higgins.

The best protection against these exposures is to avoid unintended benefits promises, she said.

"Review all plan documents and train supervisors not to answer benefits questions—let your benefits personnel handle questions," she advised.

Mr. Klein of Belding Heminway moderated the panel discussion. ■

Reduce the impact of worker injuries: Panel

By MEG FLETCHER

LAS VEGAS, Nev.—The next best thing to preventing employees from hurting themselves on the job is reducing the impact of the injury afterward, experts say.

Employers need to set policies and procedures designating medical providers, in-house claims handlers and a restricted duty program, they point out. A restricted duty program allows an employee to return to the workplace, although his temporary physical limitations require that he be assigned temporarily to a less demanding job.

Experts discussed workplace injuries from the perspective of both a large and small employer at a session at the Risk & Insurance Management Society's 25th annual conference in Las Vegas earlier this month.

An employer should designate one or more cooperative local doctors, clinics or hospitals to notify the employer or its company doctor when an employee is brought in for emergency treatment, said Pierrette E. Ray, risk management officer for Westminster, Colo. The city employs 525 persons full-time in addition to part-time employees.

However, employers must also take steps to give an employee some freedom of choice in receiving health care, she said.

This can be done by allowing them to choose from among designated health care providers, Ms. Ray said.

Or, an employee may be allowed to see his own doctor, but be required to visit the company's designated doctor when there is a question about the employee's doctor's recommendation, said Lucille A. Gallagher, vp-risk management for Monfort of Colorado Inc. in Greeley, Colo.

Monfort is a beef and lamb processing company that employs more than 3,000 of its 4,500 total employees in high-risk jobs related to butchering.

Monfort requires that a company representative make most medical appointments for an employee who was injured on the job and keeps written records of the employee's progress to ensure that his condition is monitored by the company's health services personnel and that they communicate with the employee's direct supervisor.

Hiring a physical therapist to supervise the treatment of injured employees at one Monfort plant site drastically reduced the number of claims, Ms. Gallagher said. Workplace injuries at Monfort typically include tendonitis, muscle strains, carpal tunnel syndrome as well as cuts, she said.

Ms. Ray recommended that even small employers like a municipality should have doctors send their bills for work-related injuries directly to the employer. By doing this, she said, "You are protecting your own interest. You are protecting your employee and you are protecting your company."

While a largely self-insured employer like Monfort has its own claims handlers, even a small employer should designate one staff member to be the contact person for claims relating to a workplace injury. Even if a third-party administrator is actually paying the claims, she said, "Someone must be put in charge of watching the store from the inside. . ."

A supportive attitude from an employee's direct supervisor is important in getting an employee back to work following a workplace injury, both speakers agreed. However, that is not always easy to accomplish, especially when the employee needs to be brought back on restricted duty because a doctor has certified that he is temporarily impaired physically.

"One of the most difficult things was getting the cooperation of supervisors," Ms. Gallagher said. Monfort supervisors are concerned about production quotas and only wanted workers under them who could perform at 100% of capacity. Consequently, they would refuse to take back temporarily impaired employees and Monfort had no choice but to put them in a general work pool, although it was hard to find enough tasks for them, Ms. Gallagher said.

She was able to change that attitude by charging the cost of each employee's disability back to the profit center where he worked. She charged both fixed costs, including a portion of administrative costs, and actual claims as they were incurred. A stop-loss cap prevented a small division from being unfairly affected by a catastrophic loss.

Overly aggressive supervisors who try to bring an ailing employee back to a full work schedule too soon are curbed by a tough, well-respected rehabilitation therapist, Ms. Gallagher said.

However, some employers have a problem with employees wanting to linger too long doing restricted duty because it is less physically demanding. Employers can prevent that by making the work boring, Ms. Ray said. For example, a casino operator some years ago had recuperating dealers wrap bars of guest soap, according to Ms. Ray, who used to be an Occupational Safety & Health Administration inspector in Nevada.

While employers should try to lessen the impact of an employee's workplace injury, it is even better if the accidents can be prevented, the speakers said. Preventing accidents saves not only medical and disability costs, but also indirect costs like lost productivity caused by a missing worker and supervisors' time spent explaining what happened.

Disability prevention can be practiced by small and large employers alike if they have a set of appropriate policies and procedures, speakers said.

They should include pre-employment physicals to screen out applicants who are physically unable to perform a job. The tests should be directly related to job requirements, to avoid unfairness and discrimination charges.

"You don't do anyone a favor by putting them in a job they are not able to do," Ms. Ray said.

Monfort's applicant screening is primarily done by nurses who use extensive checklists to make sure that employees can perform any job in the plant, including lifting 75 pounds, in both cool and temperate environments. The company had previously used doctors to routinely screen employees, but that was too costly. Doctor screening is now only done for a questionable applicant, like one who has a surgical scar on his back, Ms. Gallagher said.

In addition, applicants must pass drug tests before being placed on a 90-day probationary period, she said.

Employers may want to consider subscribing to a claim screening service, like The Index System in New York, which tracks the names of persons who file workers compensation, personal injury and automobile injury claims, Ms. Ray said. "There are people out there who are professional plaintiffs," she said, and they must be weeded out.

To prevent disability claims, an employer should also regularly inspect operations and talk with supervisors and workers about safety problems and potential solutions. In addition, appropriate safety equipment and training are essential, both speakers agreed.

An employer-sponsored first-aid course is a good means of increasing workers' awareness of the need for safety, Ms. Ray said. Meanwhile, employers also need to routinely review injury reports and loss runs to help them spot problem areas early, she pointed out.

Wellness programs, including pre-work warm-up exercises, can help reduce injuries among some types of employees, like those in maintenance departments, Ms. Ray added.

The session was moderated by Stella P. Alexis, insurance manager at Mountain States Telephone & Telegraph Co., a unit of US West Inc. of Englewood, Colo. ■

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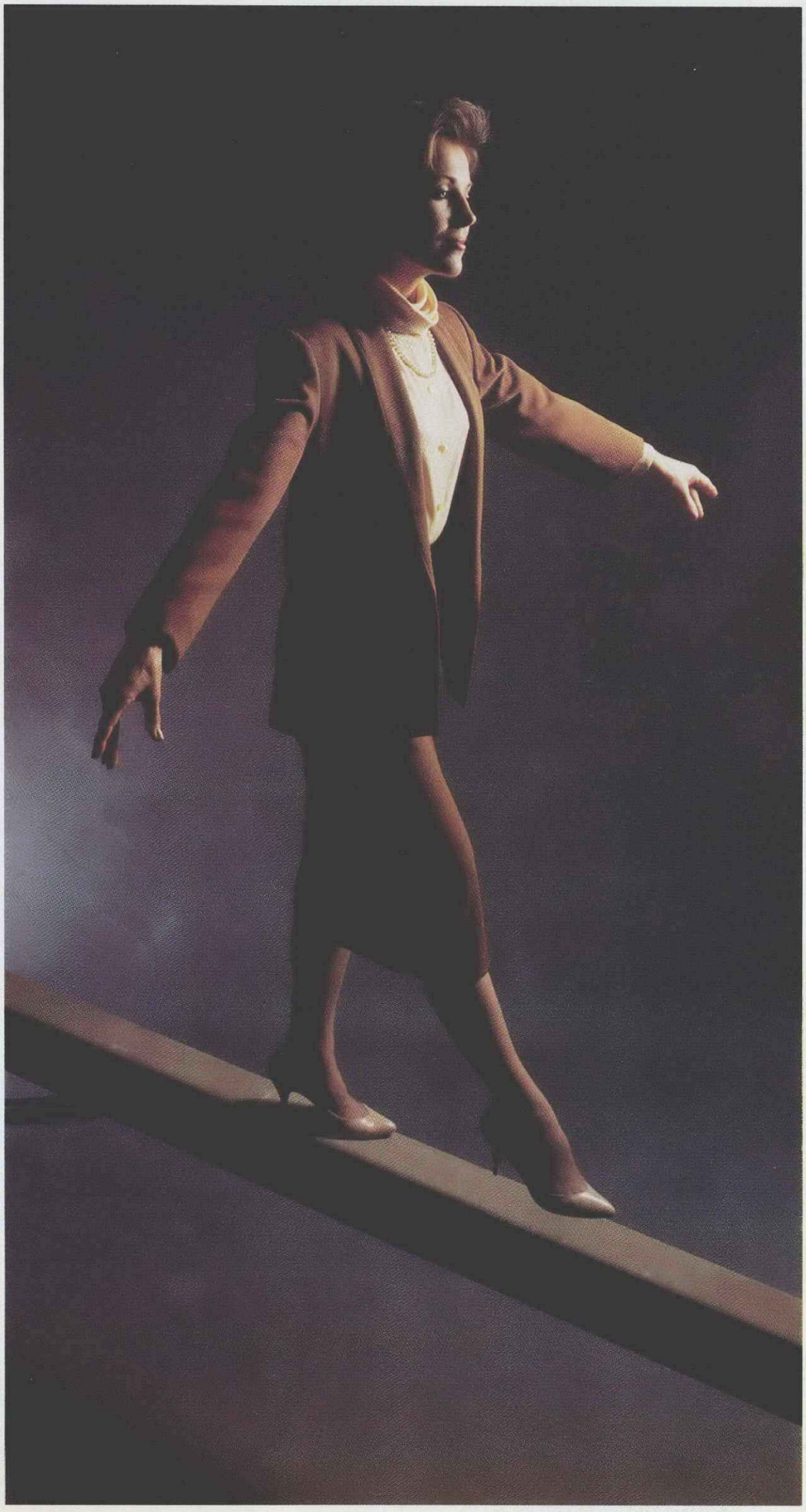

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Exhibits take on Vegas' glitter and glitz

By MICHAEL BRADFORD

LAS VEGAS, Nev.—In a city where glitter and glitz are a way of life, exhibitors at the 25th annual gathering of the Risk & Insurance Management Society earlier this month were faced with the formidable task of luring visitors to their booths.

Many of them proved they were up to the challenge.

Not to be outdone by the lure of a quick fortune, risk management exhibitors offered visitors everything from cheap sunglasses to slingshots that hurled marshmallows.

Gambling is nothing new to representatives of the Bahamas, but they were on hand at the RIMS conference to assure prospective clients that there is little risk in placing captive insurance companies in that domicile.

In fact, the Factory Mutual System took on the casinos head-first by touting its new risk management game.

The "learning kit," as Factory Mutual describes it, allows players to make decisions that affect the assets and earnings of the fictitious Easy Byte Corp.

Dice, a calculator and other materials needed to play the game are included.

While the game sells for $75 to Factory Mutual clients and for $95 to others, the wraparound sunglasses that the exhibitor was passing out were free. The dice imprinted on the shades easily identified the wearer as a hip Vegas veteran.

On a somewhat more serious note, it was apparent that the captive domiciles figured it was worth a gamble to make the trip to this year's conference.

The growing offshore captive industry and passage of amendments to the federal Risk Retention Act have heated up competition for clients among captive domiciles.

Setting up booths at this year's RIMS conference were representatives from the Bahamas, Barbados, Bermuda, Cayman Islands, Delaware and Vermont.

Of the offshore domiciles, Barbados is the old-timer among exhibitors. For the fourth year, the Caribbean domicile set up shop on the exhibit floor to discuss the advantages of locating an offshore insurance company on its shores.

Bermuda, the largest of the offshore domiciles, was making its third appearance at the RIMS conference.

According to Robin Spencer-Arscott, president of Frank B. Hall (Bermuda) Ltd. and president of the Bermuda Insurance Managers Assn., the domicile had about 40 representatives at the conference to tout the domicile's attractiveness.

Working from a booth where classical music soothed casino refugees, Mr. Spencer-Arscott and his associates talked of the stable financial infrastructure of Bermuda. "It's not that we're any smarter, but we've got the people," he explained.

"The booth is indicative of the way we all work together," said Mr. Spencer-Arscott, pointing out that management companies on the island keep in close touch with each other. "We sound things off each other."

Gambling is nothing new to representatives of the Bahamas, but they were on hand at the conference to assure prospective clients that there is little risk in placing captives in that domicile.

John Kitchen, a representative of the Bahamas Ministry of Finance, said the island's reputation as a leading banking center is strong incentive for forming a captive on the island.

He said that 50 to 60 of the around 400 banks licensed in the Bahamas are active. "The financial infrastructure is highly superior to the other domiciles," Mr. Kitchen remarked.

The island's close proximity to the United States also helps ensure political stability, he mentioned.

Like the Bahamas, the Cayman Islands were represented for the second time at the conference. This year's booth concentrated on selling the domicile as a business center, rather than the heavy emphasis on tourism that was apparent at last year's effort.

Representatives from Vermont were spread across two booths. Spurred into action by changes in the Risk Retention Act and its flourishing captive industry, Vermont descended on the conference with representatives from government and private industry.

William J. Cimonetti, special assistant for economic development in Vermont, said workers at the booths were "very, very busy" answering questions on setting up captives in the domicile.

"The state of Vermont is clearly

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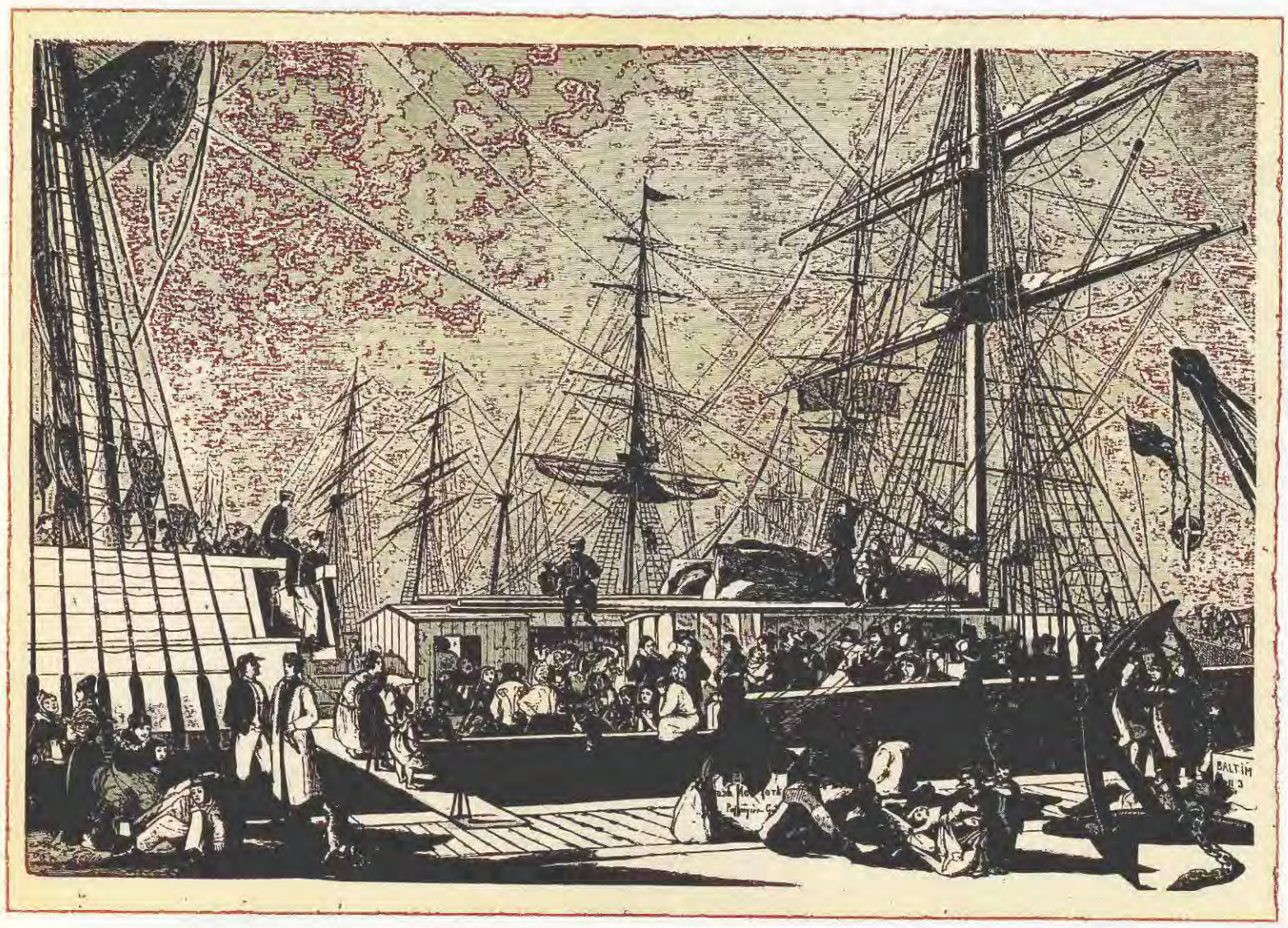

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Avoiding claims is best defense: Insurer

By JUDY GREENWALD

LAS VEGAS, Nev.—One way to hold down defense costs is to avoid them in the first place, advises one insurance executive.

"It's very easy to control legal expenses. The way you do it is, you don't get sued," said Raymond F. Luer, national accounts executive at Aetna Casualty & Surety Co. in Philadelphia during a seminar at the 25th annual Risk & Insurance Management Society conference earlier this month.

The key to keeping litigation costs down is to concentrate as much as possible on claim resolution, said Mary Breighner, risk management director at Columbia University in New York.

Among the situations to be avoided is regularly letting litigation go through two to three years of discovery, then reaching a settlement anyway, she said. Eighty percent of defense costs go toward pretrial discovery for cases that are ultimately settled, she said.

Fast and efficient settlement of a claim is probably the most important step that can be taken to save on legal costs, she noted.

Another way a risk manager can avoid the expense of going to court is to instruct the company's safety staff to identify and eliminate potential hazards, Mr. Luer suggested.

Risk managers also should be on the alert for ongoing cases in the same industry "that might give rise to claims in the future," recommended Ms. Breighner.

Arranging for a hold-harmless agreement that idemnifies a company not only for a loss, but also for legal expenses, is another way a company can avoid lawsuit expenses, Mr. Luer said.

Better yet, he added, is for a company to be named as an additional insured on another party's policy.

Mr. Luer also recommended that risk managers document everything—from the research and development stages of a product on through its production and release.

Ms. Breighner agreed that keeping records is important, suggesting that risk managers also obtain a statement describing an accident from the injured party or having that person sign an accident report filed by risk management personnel.

If a loss does occur, Mr. Luer advised, do what you can to prevent it from becoming a lawsuit. "Keep unnecessary litigation to a minimum," he suggested.

Prompt reporting, prompt investigations and early contact with the injured party can reduce the chances of a lawsuit, he said.

"Don't get angry in the face of a negative or unreasonable demand," he advised. He also recommended risk managers avoid being unreasonable themselves when it comes to a settlement.

"I think it's really important to try and maintain your objectivity," Ms. Breighner said.

During the investigation of a claim, the risk manager must review the circumstances of the case and objectively determine whether it is a case of clear negligence, Ms. Breighner said, adding there is a tendency for risk managers to become jaded and defensive.

The relationship between the risk manager and in-house counsel also should be considered, Ms. Breighner said. Often, there is a great deal of tension between them. "It's unfortunate, but it's a fact of life," she said.

The problem, she said, is "ego and power," with the risk manager and in-house counsel each regarding claims as his own bailiwick.

"I think it's important to do whatever you can to minimize that tension," she said, adding a company is best served if a good working relationship can be established between counsel and risk manager.

If that can be accomplished, she said, then in-house counsel can prove useful for the quick resolution of minor claims.

And, when choosing outside legal counsel, Mr. Luer advised risk managers to be selective. Among the criteria he suggested risk managers use in screening attorneys are experience and size of caseload.

"We want the right man for every case," Mr. Luer said. But neither is Perry Mason needed for a relatively minor case. "Let's get those cases to the right attorney."

The attorney's reputation and the law school he attended also should be considered, he said, as well as the size of his firm. If one attorney is not available, for instance, does he have some backup? Also, is the firm overloaded?

"We're concentrating more and more of our cases on fewer law firms," Mr. Luer said. This gives Aetna the clout it needs to request the firm's more experienced lawyers and to negotiate lower fees. In return, he said Aetna provides the firms it selects a steady flow of business.

Ms. Breighner said, however, "It's probably not smart to give all your defense work to one firm." If more than one firm is used, each will be aware of the others, and encouraging competition is good, she said. "It keeps people honest."

Once an outside attorney is selected, a face-to-face meeting to determine defense strategy is crucial, Mr. Luer said.

"We like to retain overall control" of the defense, Mr. Luer said.

Legal fees should be determined at the beginning of the case, Mr. Luer said. Rates should be lower if the work is being handled by a clerk or associate, he said. And, Mr. Luer says risk managers shouldn't hesitate to ask for a reduction if they suspect a mistake in the bill, or for an explanation if the bill is vague.

For example, a bill should not reflect a charge for eight hours of research on a simple "slip and fall" case, he said.

Ms. Breighner, however, said she does not believe hourly fees should be negotiated. "If you feel that they're overcharging you, then they're not the right firm for you."

The risk manager should ask the law firm to estimate total legal fees, she said, and if it looks like it amounts to at least 15% to 20% more than estimated, the parties involved should talk.

Because attorneys are paid by the hour, risk managers should request as much information as possible from the insurance company, Mr. Luer said. As a premium-pay-

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ing policyholder, he noted, the company already has paid for this service.

He also suggested that attorneys negotiating settlements be invited to use the experience of claims adjusters, who have settled hundreds of cases and know opposing counsel's weaknesses.

If there is a need to call counsel, the risk manager should be as brief as possible because many firms link up their telephones to computer systems that record the length of phone consultations and then bill accordingly, he noted.

And often, they will bill for a minimum of 15 minutes, even if the call lasted two or three minutes long.

Another way Aetna has reduced its legal expenses is to pay only $20 an hour for attorney travel time, as opposed to the customary $75 to $80 hourly fee for time spent doing legal work.

For further savings, Aetna occasionally does not require the presence of Aetna's defense attorneys at depositions being taken by the plaintiff's attorney, Mr. Luer said.

He also recommended that companies avoid useless status reports or legal opinions because they add unnecessary expenses to the bill.

While Ms. Breighner agreed that useless status reports should not be requested, she said some reports may be necessary.

She recommended a fairly lengthy initial report, to be submitted 120 days after litigation begins. In addition to basic information such as the names of the insured and plaintiff, this report should include a description of the plaintiffs' attorney's track record, provide a summary of the facts of the case, list the names of any co-defendants and their insurers, specify the witnesses and discuss the evidence.

This initial report also should provide an analysis of the case that includes information on the strengths and weaknesses of both sides and an estimation of the chances of a successful defense if the case goes to a jury.

If an expert review of the case is unfavorable, do not permit the attorney to shop around for a favorable one, Ms. Breighner said. "There's a message there," she said.

Once litigation begins, it is important to establish procedures for outside attorneys, Ms. Breighner said. She said she believes risk managers should be consulted before depositions.

But at the same time, listen to what the attorney has to say, she said. "If you're going to take the time to seek out a good law firm, then don't disregard their advice either."

Mr. Luer concurred. If a case does go to trial, he advised that the risk manager attend to demonstrate interest, "but don't interfere with (the attorneys) handling during the trial."

After a settlement or verdict has been reached "the case does not necessarily end," Ms. Breighner said.

After a settlement is reached, evaluate the performance of the defense counsel, Ms. Breighner recommended. If it repeatedly does not meet expectations; "then you have something to think about."

The risk manager should also be concerned, she said, if cases are settled at 25% to 30% of the attorney's estimate.

She noted even before the case ends, legal bills should be studied and periodically checked for instances of double billing. This should not be delayed until the case's resolution, because then the volume of bills will be so great that these problems will be difficult to uncover.

Travel expenses also should be questioned, she said, adding this will help create an atmosphere where the attorney knows an interest is being taken in these matters.

If a decision must be made about whether to appeal, then study the trial judge's record in these matters, evaluate the potential for a sustainable jury verdict and estimate how much interest an eventual award may accrue in the interim as well as how much the appeal will cost.

After a case is settled, she noted, it is important to review the case for future implications for risk managers. Figure out what have you learned from this case that will enable you to put into practice procedures to avoid similar cases in the future, Ms. Breighner said.

Also speaking at the seminar was James R. Kniffen, an attorney with Barnett & Alagia in Nashville, Tenn. The session was moderated by William R. Boston, risk management director at Dairymen in Louisville, Ky. ■

Study rent-a-captives before committing

By JUDY GREENWALD

LAS VEGAS, Nev.—Capital contributions and methods for receiving investment income and underwriting profit are among the considerations of a company deciding to participate in a rent-a-captive, says a risk manager.

Donald E. McGuffey, assistant vp-risk management for Equifax, Inc., based in Atlanta, discussed the advantages and disadvantages of rent-a-captive programs at the 25th annual Risk & Insurance Management Society conference in Las Vegas earlier this month.

Mr. McGuffey said in addition to asking about capital contributions and how investment income and underwriting profit is received, other questions that should be considered include:

- "What assurances do I have of getting the investment income back?"
- Will the participant be adversely affected by other rent-a-captive participants' underwriting experience?
- What is the rent-a-captive's investment philosophy?
- What kind of financial reporting is provided?
- Who runs and controls the rent-a-captive? "What kind of track record do these people have?" asked Mr. McGuffey.

Among the advantages of using a rent-a-captive is that the participant is retaining its risk, the program can be designed with flexibility, it gives a policyholder access to the reinsurance market and it can offer tax advantages compared with using a single-parent captive or self-insuring.

Mr. McGuffey, whose company has used rent-a-captives, also noted some of the weaknesses of rent-a-captive programs, including the fact that their complexity requires more technical support from insurers and brokers than would normally be required. In addition, rent-a-captive programs are difficult to communicate to management, he said.

Robert A. Mulderig, executive vp at Mutual Indemnity Ltd., a Bermuda rent-a-captive manager, said a rent-a-captive can be defined as an insurance or reinsurance company organized to insure or reinsure the risks of several unrelated shareholder participants.

The rent-a-captive program can be controlled either by an organization seeking to profit from fees paid by shareholder/participants, an insurer that wants to enhance its products or a broker seeking to enhance its services.

Mr. Mulderig noted rent-a-captives began to be established in the late 1970s by captive managers seeking to lend out the use of their captive to others. These programs were "very ill-structured and very loose," he said.

In 1979, however, formal rent-a-captive programs—both broker-sponsored and independent—began to spring up.

Mr. Mulderig now estimates there are a total of 24 rent-a-captives, of which 12 are independent, seven are insurance-company sponsored and five are broker sponsored.

Rent-a-captives can also be distinguished by whether or not they share risk, said Mr. Mulderig. At issue is whether the loss experience of one program can adversely affect other programs, he said.

Rent-a-captives can also be distinguished by whether they are foreign or domestic-based, said Mr. Mulderig. While he does not actually know of any domestic rent-a-captives, "there likely is," he said.

Reinsurance is one "crucial" element in the structuring of a rent-a-captive program, he noted. As a risk-financing alternative, he said, the client wants to use the rent-a-captive to fund predictable losses, but transfer the risk of unpredictable losses through the use of reinsurance as well.

However, obtaining reinsurance is "extremely difficult" in today's market, he noted.

In addition, while companies willing to front for rent-a-captives are not plentiful, there are some insurers that are willing to consider fronting for good risks.

Leslie Cohen, vp and manager of property/casualty services at Marsh & McLennan Inc. in Atlanta, noted the characteristics of likely candidates for rent-a-captive programs. These companies include:

- Cash-rich firms that are looking for attractive investments.

"Companies that have a surplus operating capital may be attracted to the high net investment yield of some rent-a-captives," said Mr. Cohen.

- Tax-paying companies that may be interested in the potential for accelerating tax deductions.
- "Closely or privately held companies that can have their owners buy stock in the rent-a-captive and thereby directly benefit from dividends and bypass the payment of corporate tax."
- Foreign-based parent companies that can purchase stock in an offshore rent-a-captive and avoid the taxation on profits generated by the insurance program of their U.S.-based subsidiary.
- Companies formed though leveraged buyouts that can meet the security and collateral requirements of fronting insurers.

And, "Where needed coverages are unavailable or unaffordable in the insurance marketplace, rent-a-captives can provide a cost-effective way to provide an insurance solution," said Mr. Cohen.

Beverly H. Patrick, president and chief executive officer of Professional Risk Management Services Inc. in Washington, described how one organization decided on a rent-a-captive program.

Between 1972 and 1984, the American Psychiatric Assn. sponsored a medical malpractice program for its members written by a commercial insurer, explained Ms. Patrick, who serves as the association's risk manager. But, the association wanted to have a greater involvement in the program.

"They also felt their loss experience was excellent," she added.

However, because only half of its membership participated in the insurance program, the association was reluctant to commit the capital to create a captive. Instead, it chose to participate in Mutual Indemnity's rent-a-captive.

Last year, however, the association decided to create its own captive, said Ms. Patrick. ■

New laws won't hurt offshore captives: Panel

By CAROLYN ALDRED

LAS VEGAS, Nev.—The dramatic growth of offshore captives in the last decade will not come to a halt with the new tax law and the expansion of the Risk Retention Act, three captive specialists contend.

Speaking during the 25th annual Risk & Insurance Management Society conference in Las Vegas at a seminar entitled "An Introduction to Captives," Simon Everett, president of H&H Re-insurance Brokers Ltd. of Bermuda, told his audience that if a risk manager had been worried about the tax treatment of offshore captives, "it would have been the last of his worries as he was getting his renewals."

Ian Kilpatrick, managing director of Johnson & Higgins (Cayman Islands) Ltd. agreed.

After insurance regulations were introduced on the Cayman Islands in 1980, only about 25% of the 500 exempt insurance companies on the islands chose to remain there, Mr. Kilpatrick said. Now the island is host to some 300 licensed insurance companies, none of which has been set up purely for tax considerations, he said.

There are many reasons for companies to establish offshore captive insurance companies and taxation is not the most important, said Donn McVeigh, chairman and chief executive officer of Creative Risk Concepts International in San Francisco.

"In all the 30 captives I have been involved in setting up, cost stabilization has been the major reason," he said.

Other reasons for setting up a captive, according to Mr. McVeigh, include:

- Long-term cost reduction.
- Profits. Underwriting income is maintained within the company and capital can be accumulated.
- More control by the parent of its insurance arrangements.
- Better service for the policyholder's needs.

Corporate America's acceptance of the offshore insurance industry was summed up by Mr. Everett.

"We have witnessed a major phenomenon in the last year or so with the establishment of group captives such as A.C.E. (Insurance Co. Ltd.) and X.L. (Insurance Co. Ltd.) as corporations' answer to the lack of capacity in the (traditional) insurance industry," he said. "Two or three years ago we would have had to apologize for being offshore. Now there is no need to apologize."

Seminar moderator Christina Haley, director of risk and insurance management at Levi Strauss & Co. of San Francisco, pointed to cost stability as the most important reason for setting up Levi's Bermuda captive, Zenith International Insurance Ltd.

"We saw cost stability as the most critical factor, as well as cost reduction over time. We did not go into the project for tax advantage reasons—which is just as well now that's disappeared," Ms. Haley explained.

The captive originally was established to write the company's property risks, which could be more easily assessed than liability risks, she explained.

"This way we could convince senior management that a captive would be an effective way (of dealing with our insurance)," Ms. Haley said.

Now, she plans to expand the captive to write casualty risks.

However, there are several things to remember before starting a captive, she warned:

- Do not start a captive with just the minimum capital required by the chosen domicile.
- The initial years are the most difficult.

"Your loss control procedures may not be completely in force and you need to get sufficient investment income before you can sustain many losses. You cannot go into your initial years with underwriting losses," she warned.

- Pricing is a critical matter in justifying the captive within your own company, she said.

"You need to maintain contact with the market and keep constantly in touch with market prices to make sure your captive pricing is in the right ball park," she explained.

- Balanced regulation is important in the choice of captive domicile, she added.

Factors affecting the choice of a suitable captive domicile were also outlined by Mr. McVeigh. These include:

- Freedom from income tax in that domicile.
- Capitalization requirements.
- Insurance regulations.

"Choose somewhere with limited—but some—regulations," he advised. Domiciles with no regulations are "tarred with a brush," whereas too many regulations can make the procedure as bureaucratic as onshore, he noted.

- The stability of the domicile's currency.

"Constant fluctuation with the dollar will make life difficult," he said.

- Political and socio-economic stability.
- Financial infrastructure, communications and transportation.

Tips for setting up association captives and risk retention groups were offered by Mr. Everett.

"Try to find a third-party underwriter. You need someone who can throw the bad apples out of the captive if necessary," he warned.

In addition, the credibility of the management company is going to be the major factor in determining whether you will obtain adequate reinsurance, he noted.

However, Mr. Everett predicted problems for the industry with the introduction of risk retention groups.

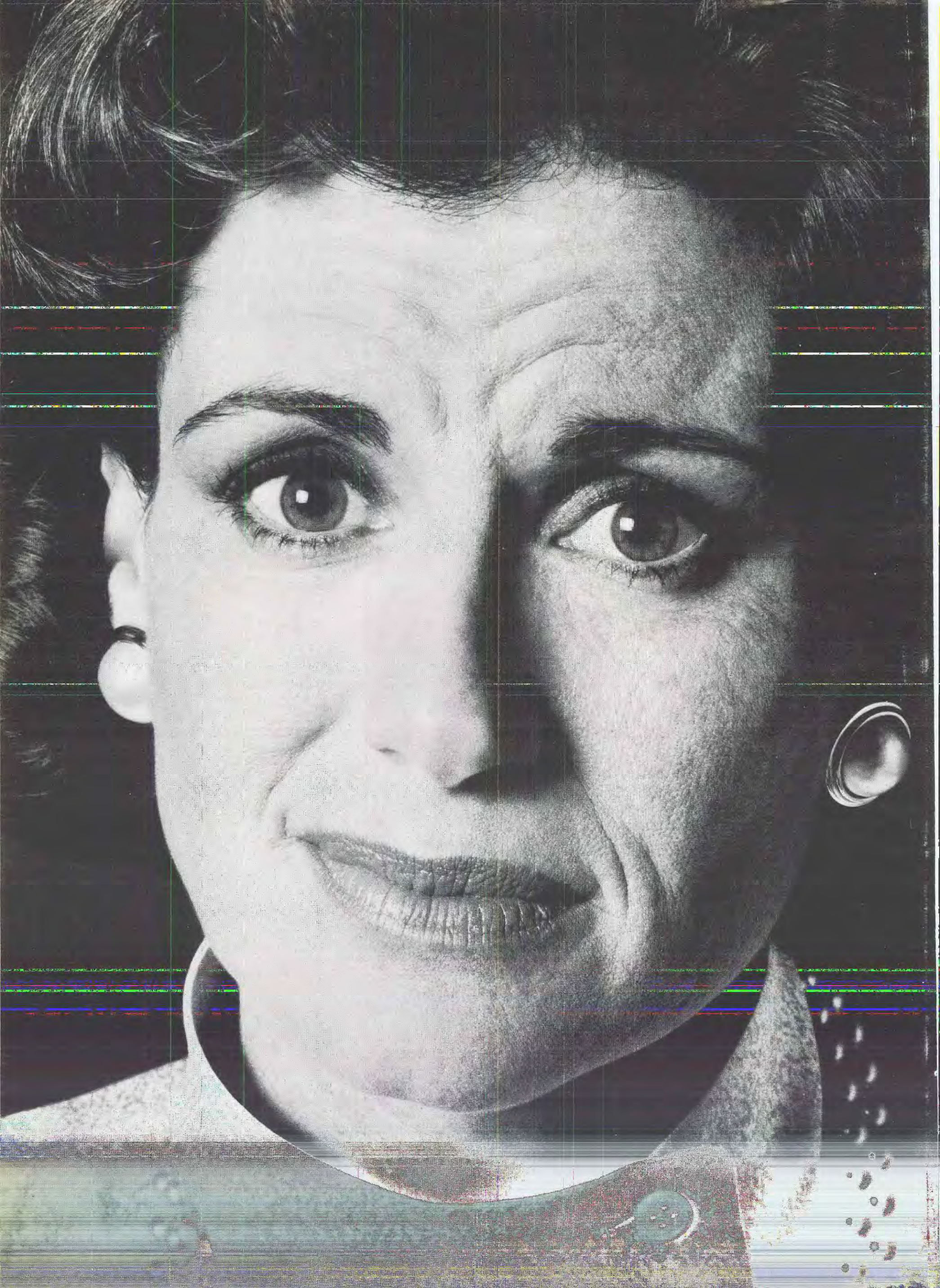
"Insurers and reinsurers and regulators are concerned that risk retention groups will be abused, and I have no doubt that they will be," he said. "But well-run RRG's and captives can be very effective."

However, Mr. McVeigh pointed to purchasing groups set up under the Risk Retention Act as the main potential trouble spot.

"Purchasing groups are where we're going to see the most abuse," he warned.

And, he added, some states with captive regulations are likely to be very choosy in chartering risk retention groups.

Under the act if a risk retention group is chartered in a state with no captive insurance regulations the group will have to abide by the state's insurance laws, making the process of incorporation more complex and bureaucratic, said Mr. McVeigh. ■



'Wrap-up' programs

Consolidating construction coverages provides big savings

By L.T. Braucht

Risk managers for construction firms can provide greater safety at construction sites—while trimming costs—by combining contractors' general liability and workers compensation policies into one centrally controlled "wrap-up" insurance program.

DURING THE PAST five years, liability insurance costs have skyrocketed across the board. For the risk manager, this has significantly increased the price tag for building a new commercial complex or retrofitting an existing plant.

On a large construction project, casualty and workers compensation insurance can account for as much as 10% to 12% of total construction costs—often millions of dollars.

Thus, the cost of insurance coverage on the construction site has become an increasingly important factor, putting new pressures on the risk manager.

Most of the time, casualty insurance costs are incorporated into the individual bids of each contractor on the job site. When totaled, the price of all these different insurance policies can be unnecessarily high. And, with all the different insurance companies and contractors involved, the coverage provided can be uneven.

The risk manager should be aware that less expensive and more effective insurance alternatives are available. He can trim costs significantly—while also reducing claims and eliminating gaps in coverage—by combining all contractors into one insurance program under his control.

On a $100 million construction project, this could mean substantial up-front savings, followed by equally attractive retrospective and/or dividend returns. With traditional programs, any savings from a strong safety record benefit the individual contractors—no benefits are returned to the project manager or owner.

Centrally controlled insurance programs—or "wrap-ups," as they are sometimes called—are not new, but they are becoming increasingly popular as construction insurance costs rise. For construction projects costing $100 million or more, they are usually the most cost-effective method of casualty insurance.

Quite simply, a wrap-up insurance program allows the risk manager or project manager to wrap all contractors working on a project into one comprehensive insurance program for general liability and workers compensation. The program also enables the risk manager to install a strong, centralized safety program on the work site to better control accident and injury claims.

Conventional practice requires the general contractor and each subcontractor to make his own arrangements for casualty insurance coverages. Contractors will then include the premium and costs for administering the policy in their initial bids. With more than a dozen contractors on a typical project, the risk manager or project manager must pay for many distinct policies and their administrative charges. Because the individual policies are smaller, they may be more expensive. Most importantly, there is no direct financial incentive for the project manager to improve safety at the work site.

One of the most important ways a wrap-up insurance program generates savings is through stronger loss control—or the greater ability to reduce claims costs. Because control is centralized, the risk manager can more easily institute a coordinated safety program to limit on-the-job accidents and, thus, reduce claims.

On a typical work site, with conventional insurance in place, many subcontractors are in charge of their own safety programs. The resulting network of safety plans is inconsistent and sometimes ineffective. A centralized, coordinated safety program on a wrap-up project can provide stronger loss control throughout the work site by holding all contractors to a single set of strict, well-monitored safety standards and instituting one person who is accountable for project safety.

Success of the centralized safety program depends, to a large extent, on the insurer's background in construction loss control. An experienced insurer—with a proven construction loss control track record—will help institute a more effective safety plan and, ultimately, save the risk manager more money.

Our experience shows that a strong centrally controlled safety program will involve everyone on the project, from the risk manager and insurer to the smallest subcontractor. The scope of the project will determine the specific characteristics of the safety plan, but responsibility for establishing the program remains concentrated in the hands of the risk manager.

Under conventional coverage, the average loss expectancy on a large construction project is about 70%.

With an effective wrap-up program, a 20% savings in loss dollars is not unusual. And, when losses are reduced under a loss-sensitive rating plan, as is typically the case in a wrap-up program, the risk manager will gain significant savings on his net casualty insurance costs and secure a lower total project cost.

This can amount to 15% to 25%—sometimes even 30%—of insurance costs on a project. Thus, on a $100 million project, the risk manager may receive back $1 million or more on his casualty insurance costs.

A 1979 U.S. Department of Transportation study of four major mass transit projects—Bay Area Rapid Transit, Metropolitan Atlanta Rapid Transit Authority, Mass Transit Administration (Baltimore) and the Washington (D.C.) Metropolitan Transit Authority—found that under centrally controlled insurance programs, these projects were able to realize a projected average annual savings of about 37% over conventional casualty insurance coverage.

Another problem that a wrap-up program addresses is the inconsistent coverage in a conventional insurance program among subcontractor policies. This is an increasing problem because of new sublimits included in many general liability policies today. A subcontractor may have an insurance certificate and still not have appropriate insurance protection available.

And, with several policies in force on a project—for everyone from roofers to steel erectors—many gaps and overlaps in coverages may surface.

A centrally controlled program solves the problem of inconsistent coverage by placing all contractors under a single workers compensation and general liability insurance program, as well as one comprehensive general liability policy providing uniform coverage and policy limits.

A wrap-up program offers the risk manager a number of other advantages, among them:

- The project buyer can frequently obtain broader coverage than individual contractors.
- All contractors have the required insurance for the duration of their contracts.
- Claims handling is smoother and administrative paperwork greatly reduced.

Regulations in most states allow the purchase of a centrally controlled insurance program. There are some exceptions, however.

The risk manager should check with his state insurance department for any local restrictions.

While a centrally controlled insurance program may not be suitable for developments of less than $100 million in value, for larger projects the wrap-up program can provide a lower total net cost, more comprehensive coverage and the liability to reduce on-the-job accidents though a strong on-site safety program.

L.T. Braucht is vp in charge of the construction insurance division for Argonaut Insurance Co. of Menlo Park, Calif.

ASK A RISK MANAGER

E&O exposures loom for many risk managers

Q **Did you buy errors and omissions insurance for the risk management department when it was available a few years ago? If not, why not, and what concerns do you have about the coverage or lack of it today?**

A No, I did not buy coverage in the past for our department. Like others, I hid under our corporate veil and our broker's E&O policy.

In answer to the second part of the question, I do have substantial concerns about errors and omissions, particularly in handling our *insured* coverage. Let me outline a few of them for you:

- Form incompatibilities.
- Market form inconsistencies.
- Inexperienced personnel.
- Your own corporate employees' naivete.
- Interpretation/communication of underwriting information.
- Insurance applications part of insurance contracts.
- Attaching insurance specifications to cover notes.
- Importance of *broad* catastrophe coverage to your company.

Excess programs are layered with insurance companies' participation on their own form vs. following the leader's form. This results in form inconsistencies that can be understood if everyone takes the time to evaluate and communicate these inconsistencies to management.

Too many times the contracts are received well after renewal date and well after you have paid the premium. There is no real sense of urgency on the part of the company or the broker to get the product to the customer—everyone's been paid.

The effort and ability to commit the coverage you understood you bought into a written contract is not easy and many times is done in such a poor fashion that weeks and months (would you believe years?) go by before corrections are made. Some say, "If you have no losses, why worry?"

Many of the insurance personnel, in companies and brokerage/agency offices (as well as risk management departments), have not lived through chaotic insurance marketing times. The complexities of form exceptions provide a good mine field for even the most experienced technical insurance analyst to navigate. Relating the coverage and exclusions to the corporate risk at hand adds another dimension to the problem—along with your management's naive belief that insurance can take care of everything.

We have found that communication of underwriting information can be misinterpreted; the volume of telexes and telephone communications that follow the submission of specifications confirms this.

The insurance company's desire to make an application part of the insurance contract adds to my concern. Adding original specifications to cover notes is a new procedure to us, which in some ways narrows an understanding and interpretation of the extent of risk-taking on the part of the underwriter.

Broad catastrophe coverage that provided for even remote exposures at risk was the available protection in the past, but not so today.

Errors and omissions insurance has always been a major concern to brokers and agents, along with other insurance service providers. The need for risk managers to have the same concern about the subject in the way they conduct their business activities is needed if they expect to protect their jobs.

Change is continuous and adjustment to that change may require a need to document a greater number of activities, phone conversations, your understanding of the exposures at risk and coverage afforded than ever before. Historical track records are always beneficial as you develop an expanded risk management program. They can be invaluable after a loss and when coverage is questioned. I personally have a concern about documenting details and agreements that would affect our company's coverage if not put in writing and if I was not available the next day to confirm the agreement.

Documentation of coverage and interpretation of understandings need to be in policy files, correspondent files and your daily "chron" files. This should leave a good track record.

To be thorough in your documentation and errors and omissions protection, you might be best advised to set forth written objectives for the risk management department's use. I would suggest these would address those communication documents that go to outsiders and those that should be used internally. You may want to document communications with your superiors and those with your brokerage house—to keep everyone informed.

I have always found an abstract analysis of policy coverage provides both internal and external understanding of what was purchased—or what was not. A coverage check list helps here, too.

Project lists are a favorite tool used by our broker. We find it invaluable in keeping us on track and everyone working together.

We have a weekly risk management department meeting. This is a good way to keep information flowing, tie in claim activity and communicate the need to keep everyone informed.

Try taking a leaf out of your broker's procedure for protecting themselves against errors and omissions. This will help you do the same, and the broker may appreciate it as well.

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four features in the Perspective section of Business Insurance *can give you some answers.*

Ask A Risk Manager, Ask A Benefit Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefits management issues and actuarial problems.

Mr. Perry

This month's column, on risk management issues, is written by Ralph F. Perry Jr., vp and director of risk management at Amfac Inc. in San Francisco. Joseph W. Duva, director of employee benefits at Allied-Signal Inc. in Morristown, N.J., answers benefits management questions. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions on benefits issues. And, Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco, answers actuarial questions in the casualty field.

Mr. Duva's and Mr. Perry's columns appear alternately on the second Monday of each month. Mr. Miner's and Mr. Sherman's columns appear alternately on the first Monday of each month. Mr. Perry's next column will appear in June.

Address your questions to ASK, Business Insurance, *740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.*

Court rejects injury from tying a shoe

Is a back injury arising from a worker bending over to tie his shoe compensable?

Not according to the Supreme Court of Virginia, which ruled that the act of bending over was unrelated to any hazard common to the workplace.

Randall F. Fetterman, an employee of United Parcel Service of America, sustained an injury by straining his back while bending over to tie his shoe.

While unloading packages from his truck, Mr. Fetterman noticed that his right shoe was untied. He raised his foot to the back of the truck, bent over to tie his shoe and felt acute pain in his lower back.

Mr. Fetterman filed for and was awarded workers compensation benefits.

The appellate court said that an injury that comes from a hazard to which the employee would have been equally exposed apart from his employment was not one that arises "out of employment."

The court said that the causative danger must be peculiar to the work, incidental to the character of the business and not independent of the master-servant relationship. Here the court said that nothing in the work environment contributed to Mr. Fetterman's injury. His compensation was reversed.

United Parcel Service of America vs. Fetterman, Supreme Court of Virginia, Nov. 27, 1985 (*BI*/02/D.-$10).

These abstracts were prepared by Cases Unlimited Inc. Copies of these decisions are available by sending a $10 check payable to Cases Unlimited to Business Insurance, *740 N. Rush St., Chicago, Ill. 60611. List the number for each opinion.*

legal briefs

Incontestability clause

In a case of first impression, an Alabama appellate court ruled that a group life insurer's contest of the policyholder as an employee within the terms of a policy was contest of coverage, not validity, and thus was not barred by an incontestability clause.

Following the death of an employee, his wife filed a claim for group life insurance proceeds under the employee's policy issued to the employer.

The insurer filed a suit seeking a determination that it was not liable on the wife's claim because the employee was not covered by the group life insurance policy.

The group policy provided that its validity could not be contested, except for non-payment of premiums, after it had been in force from the effective date.

It was stipulated that from the time the group policy was issued through the date of his death, the deceased had worked less than 30 hours per week.

The trial court ruled for the insurer.

The appellate court concluded that the clause did not prevent the insurer from contesting the coverage of the decedent.

"The incontestability clause," the court said, "by its own terms prevents only contests as to the validity of the policy."

The court said that the insurer here was contesting the policy's coverage, not its validity and was, thus, not barred by the clause.

Miller vs. Protective Life Insurance Co., Court of Civil Appeals of Louisiana, Jan. 15, 1986 (*BI*/03/D.-$10).

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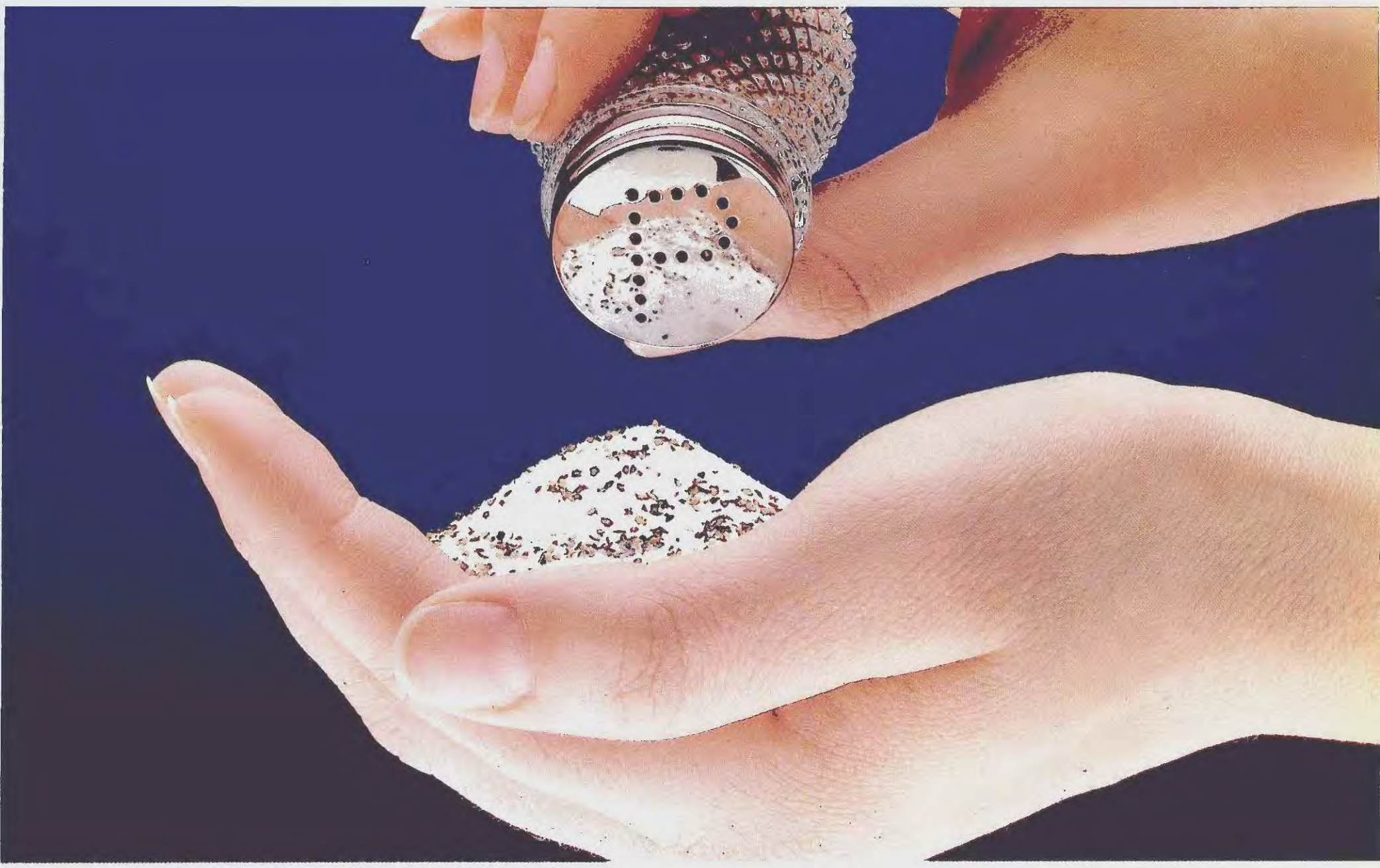

How do you separate the pepper from the salt?

Actually it's as easy as choosing First State, New England Insurance and New England Re for your Special Purpose Insurance and Reinsurance needs. We've emerged from the industry shakeout by sticking to the basics of underwriting–being responsive yet responsible.

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Firms make workers accountable for accidents

By DEBORAH SHALOWITZ

LAS VEGAS, Nev.—Employee accountability can reduce vehicle accidents and, thus, lower an employer's costs, according to two California safety experts.

For example, the number of accidents per year involving vehicles owned by the city of San Diego has dropped more than 10% since the city instituted an employee accountability program, said Pamela Hoover, a safety representative in the risk management department.

Adela C. Anderson, a safety administrator for Pacific Bell Telephone Co. in San Diego, noted that even though employee accountability for accidents is very important, it "is something that is frequently left out or forgotten" when a safety program is designed.

Ms. Hoover and Ms. Anderson were members of a panel that discussed "Accountability Reduces Liability: Vehicle Accident Safety" at the 25th annual Risk & Insurance Management Society conference earlier this month.

San Diego's safety program "tries to keep the number of preventable accidents down" by determining the cause and possible preventability of each accident and taking punitive or corrective action afterward, Ms. Hoover said.

The procedures to be followed in San Diego's safety program are substantial.

An employee must report every accident, no matter how minor, to his supervisor. All damage to a vehicle, even that resulting from vandalism, also must be reported.

Detailed forms must be completed by both an employee and his supervisor. These reports are reviewed by supervisors, department heads and a safety committee. And, top city officials receive a quarterly summary of all incidents involving city vehicles.

But Ms. Hoover emphasized that San Diego's program is flexible, which she says accounts for its success. If a safety program is not flexible, "it won't work" because employees will fight it, she said.

Under San Diego's safety program, city employees are offered choices of how to deal with an accident, Ms. Hoover explained.

For example, after a minor accident, an employee can choose to accept a written warning, which will become part of his record for three years, or he can attend a two-hour driving class during his free time, she said. If he chooses to attend the class, the warning is not recorded on his work record.

Penalties are more severe for more serious accidents. For instance, the penalty for a first-time offender involved in an accident with a medium degree of severity involve either a reprimand, which is more serious than a warning, or an eight-hour defensive driving course.

If an employee has more than one accident in a three-year period, he can be suspended. And, if an employee "flagrantly" violates city safety rules, the employee may be dismissed, Ms. Hoover said.

She noted that because of the flexibility in penalties, though, the safety program has been endorsed by the city's unions and embraced by most of the workforce.

San Diego's safety program also levies penalties on a supervisor if he does not properly train an employee when he is hired to use a city-owned vehicle, investigate an accident or report damage.

Pacific Bell's safety program emphasizes training rather than penalties.

"If an employee is going to drive any company vehicle, he must take a basic eight-hour defensive driving course" that consists of both classroom work and behind-the-wheel training, Ms. Anderson said. Then, an employee is trained to operate specialized vehicles, such as light and heavy trucks, vans and aerial lifts.

In addition Pacific Bell requires ongoing driver training. Each employee who drives on the job must be tested at least once a year, driving the vehicles he normally operates for at least 30 minutes. Supervisors also must study defensive driving and take refresher courses.

Pacific Bell differentiates between accidents that must be reported and those that are "measured" and dealt with as safety violations.

Any accident that results in death, personal injury or property damage must be reported. But accidents that occurred while an employee was driving the vehicle are measured in terms of company safety standards and recorded as part of an employee's work history.

For example if an accident occurs while a vehicle is being used as a tool, such as an aerial extension unit or a digging device, the employee would not be investigated for violating a driving safety standard. Similarly, if damage occurs to a vehicle while it is parked or being used as a barricade, an employee is not held accountable, Ms. Anderson said.

A committee, including the employee, his supervisor, witnesses and a few peers of the employee, investigates accidents that might have resulted from violations of company safety procedures.

If an employee flagrantly violated company rules, disciplinary action must be taken by the supervisor. But the supervisor ultimately is accountable.

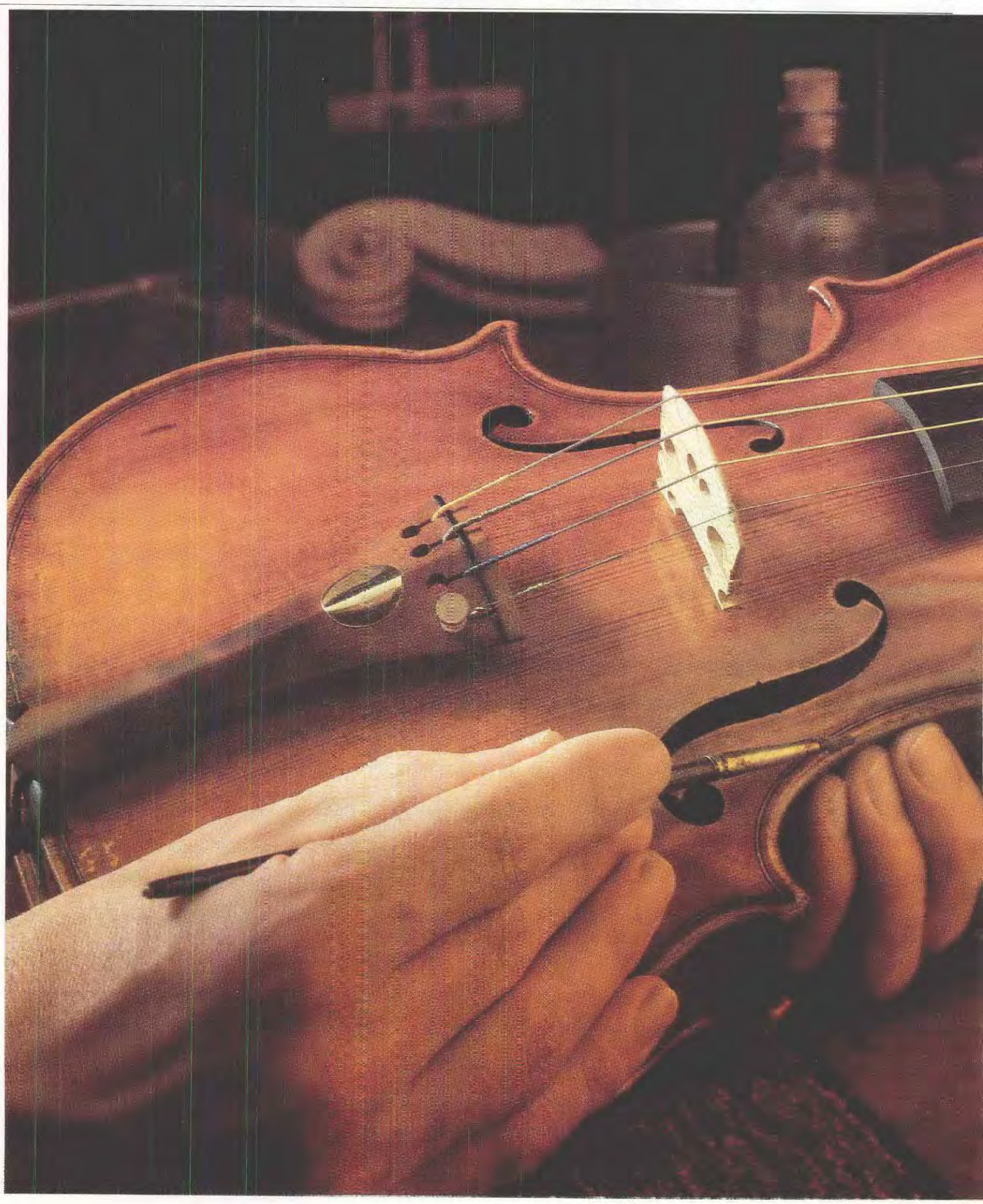
Both Ms. Anderson and Ms. Hoover agreed that the difficulty in starting and managing an effective vehicle safety program is getting top management's support.

"Top management has to get involved' or the program won't accomplish anything, said Ms. Hoover.

She noted that about the same time that a city safety committee realized that a vehicle safety program must be instituted, the mayor of San Diego and the city council had decided to take action to reduce the number of accidents involving city vehicles. Without the support of the mayor and city council, Ms. Hoover speculated, San Diego's safety program might not have been instituted.

Ms. Anderson noted that one of the hardest things for a risk manager to do is convince management that the cost of a safety program will actually save the company money. She suggested that managers present the costs of an accident to management in terms of "direct and indirect costs."

Direct costs include medical and legal fees and vehicle repairs, which are immediately quantifiable. Indirect costs include down time of equipment, lost employee and supervisor time and decreased output. ■



EIL claims call for company involvement

By MICHAEL BRADFORD

LAS VEGAS, Nev.—A business faced with an environmental impairment liability claim should get involved early in efforts to determine the extent of its exposure, according to a panel of experts.

In a panel discussion at the 25th annual Risk & Insurance Management Society conference earlier this month, speakers stressed the importance of taking an active role in managing EIL claims.

Floyd H. Knowlton, vp of claims at Travelers Indemnity Co. in Hartford, Conn., told risk managers that "after the initial investigation is done, I think the keys are to get involved early and play a role in the cleanup. Don't let the government come up with a remedy; come up with it yourself."

Robert Mason, chief of the guidance and policy section of the Environmental Protection Agency in Washington, said that when the government does become involved in a claim under its authority granted by the Superfund Act, there are two ways a company responsible for environmental damage can react.

They can "sit back in a vacuum" and "let us select the remedy, undertake the remedy, then get that money" from other responsible parties, he explained, or they can get involved. Mr. Mason said a company that becomes actively involved has the opportunity to influence the type of remedy the EPA decides to enforce in a cleanup.

Although Superfund calls for settlements to be assessed under the doctrine of strict joint and several liability, a company participating with the EPA in an investigation will find the agency is receptive to offers of "settlements based on equity determinations," said Mr. Mason.

Scott K. Lange, corporate insurance liability administrator for The Boeing Co. in Seattle, described how his company became involved early in the management of an environmental claim.

Mr. Lange said Boeing received notification in 1983 that it was a "potentially responsible party" for pollution attributed to Western Processing Co. in Kent, Wash.

He explained that Boeing brought wastes from its metal processing operations to the facility from 1964 to 1977, where it was reprocessed into fertilizer, paint pigments and other materials. In turn, Western disposed of byproducts of its operations nearby.

During the years Boeing contracted with Western, the reprocessing operation was monitored by state authorities and approved as "state-of-the-art," Mr. Lange said. As an investigation began to determine that Western was responsible for polluting the environment, "it began to look bad" for Boeing, he said.

Estimates were that the cleanup could cost as much as $100 million and, according to all available records, Boeing had contributed as much as 50% of the waste materials reprocessed at the facility.

Partly because the EPA indicated that failure to cooperate in an investigation and cleanup could cost Boeing money and perhaps even standing in the world economic community, the aircraft manufacturer decided to "go forward" with a plan to remedy the pollution damage, said Mr. Lange.

Boeing's legal, waste management and risk management personnel were mobilized to review the processing operations of Western, and assess legal positions and strategies for handling claims if Boeing was found liable.

Mr. Lange said Boeing's risk management department advised the company's insurers that claims might be forthcoming in relation to the Western site. Boeing also hired outside consultants to assess the extent of the pollution and propose cleanup remedies, he said.

Mr. Lange said Boeing's decision to participate in the cleanup rather than defend claims by the EPA did not draw a lot of resistance from the company's insurers.

Still, Mr. Lange noted, "we had bought a hell of a lot of insurance to cover this kind of thing." When insurers said coverage did not apply to the cleanup, Boeing's management "couldn't accept this."

Boeing is now litigating the claim with its insurers, he said.

Panel members agreed that hiring an outside consultant, as Boeing did, should be a consideration for a company facing an environmental liability claim.

Howard P. Epstein, an attorney with the New York law firm of Levy, Bivona & Cohen, said a company facing an EIL claim should consider the following when hiring an outside consultant:

- Whether there are in-house personnel that could supply the technical needs for investigating a pollution incident.
- If the consultant should have a particular type of expertise.
- How much experience the consultant has in a courtroom setting. "You need someone with testimonial experience" in case the incident is litigated, he said.
- Whether a local consultant would be more suitable than someone from another part of the country. A local consultant's contacts could be valuable, Mr. Epstein pointed out.
- What the cost of the consultant's services would amount to.

And there are "pitfalls to avoid" in managing an environmental liability claim, said Lynne Miller, president of Environmental Strategies Corp. in Vienna, Va.

Ms. Miller said a company investigating a pollution incident should keep track of costs related to experts it has hired.

She noted consultants often rent equipment to use in an investigation and these charges can pile up. She said in some cases it can be less expensive to purchase the equipment rather than rent it.

And, Ms. Miller advised risk managers to have consultants "standing by," so they can be called in to investigate any claims that may arise.

Other panel participants were C. Clarke Imbler, senior vp and treasurer of the Alliance of American Insurers in Schaumburg, Ill., and Edward A. Kurent, an attorney with the Washington law firm of Pepper, Hamilton & Scheetz. The seminar was coordinated by Michael J. Murphy, chairman and chief executive officer of Environmental Strategies. ■

Support services can cut claims costs

By CAROLYN ALDRED

LAS VEGAS, Nev.—Claims costs can be greatly reduced if risk managers learn to maximize their support services, according to a panel of experts.

By making the most of claims handling personnel, defense attorneys, information systems and structured settlements, risk mangers have the power to reduce claims costs, they say.

"The methods you employ in handling claims can have a dramatic effect in the costs you incur," Richard A. Koop, insurance manager at The Hahn Co. in San Diego, told attendees at the 25th annual Risk & Insurance Management Society conference in Las Vegas last month.

This is especially true in the area of claims personnel.

"The processing of claims is now a major part of any insurance process, but the industry has generally taken a sideline look at claims people," said John Penick Jr., assistant vp at Crawford & Co. in Atlanta.

It is important to select a claims administrator who is suitable to the company's needs, Mr. Penick said.

"You can't expect a claims administrator to respond to your needs without them knowing what you think is the most important factor in your operation," he added.

"The quality of the product has deteriorated to a certain degree as loss adjusters have become further removed from the claim," Mr. Penick said.

"In the old days, any claim 'with blood on it' and I would get into my car and go to the scene. That is now considered too time-consuming and we have moved to the concept of the telephone adjuster, which some adjusters have taken to the extreme," he added.

In choosing a loss adjuster, it is important to hire someone who "will get out of his chair and get control of the claim," Mr. Penick stressed.

In addition, the claims process is not strictly awarding the account to a particular loss adjuster and then leaving it, he said.

"Some companies have never been into their claims administrator's office. Believe me, it's awfully nice having a client coming by and checking up on you," Mr. Penick said.

Likewise, another panel member stressed the importance of risk managers being involved with their defense attorneys.

"You can be sure you're going to be sued, that's unfortunately a part of your business now. Consequently the selection of your defense counsel is very important," said attorney Charles T. Kessler, senior partner with Pyszka, Kessler, Massey, Weldon, Catri, Holton & Doubertey in Fort Lauderdale, Fla.

Risk managers can reduce their legal costs by helping their lawyers and maintaining close contact throughout litigation, he said.

"You have got to arm the defense counsel with a good quality file. That will serve you in the long term and help you win the cases you have to fight," suggested Mr. Kessler.

"If the risk manager takes an active part in working with his defense lawyer (he can) reduce legal expenses," Mr. Kessler said. "Legal expenses are not going to be reduced significantly unless you or someone else does something about it."

It may be useful to watch lawyers in practice before making the final choice, added moderator Mr. Koop.

"I have read lots of reports written by lawyers that look good, but how a lawyer performs in front of a judge and jury is the real test," he noted.

Risk managers can also use structured settlements to reduce claims costs, according to Dan Durbin, vp of Galaher Settlements & Insurance Services Co. Inc. in Chicago.

Structured settlements are becoming an increasingly used alternative to lump-sum settlements to the advantage of both the policyholder and the claimant, said Mr. Durbin.

"The annuity contract has become an important weapon in your arsenal to settle claims faster and more cost effectively," he noted.

He said the increasing size of awards is spurring structured settlements.

"Structured settlements first started in the late 1960s with the influx of claims from thalidomide cases. That was the first time someone thought of paying out claims over time to meet future medical costs," Mr. Durbin noted. Thalidomide was used as a sedative until it was found to cause severe birth defects.

Claims costs can be reduced using structured settlements because of the tax-free nature of the benefits to plaintiffs, explained Mr. Durbin.

"I cannot promise you 20%, 10% or even 1% savings, but I can promise you that it's a cost-effective alternative and it's another weapon in your arsenal to reduce claims costs," he said.

Structured settlements are also beneficial to the claimant, he added.

"According to a survey published by the University of Michigan on windfall settlements, in a five-year period 90% of people had dissipated their funds," he said.

New computer services also are making inroads at reducing claims costs.

"Information systems themselves can't reduce costs—but if the insured knows how to use his tools they can," said Thomas W. Knaup, vp at Anistics Inc. in Los Angeles.

"The insured has to make the final decision in how claims are handled," he added.

Mr. Knaup said it is imperative risk managers choose information systems that are right for their company.

"It's no good choosing a very sophisticated on-line interactive system giving details about every claim for an understaffed risk management department," he said.

However, "by and large, especially for larger companies, investing in information systems pays for itself by some order of magnitude," he concluded. ■

Tighter regulations on carcinogenic risks likely, experts predict

By MEG FLETCHER

LAS VEGAS, Nev.—Experts predict tighter federal regulation of carcinogenic risks in the workplace, which may give risk managers more incentive to limit workers' exposures to the burgeoning number of cancer-causing chemicals.

The Democratic majority in each house of Congress makes it likely that at least some portion of the proposed High Risk Disease Notification Act of 1987 will be enacted, predicts Jaswant Singh, senior vp and technical director with Clayton Environmental Consultants in Novi, Mich., a unit of Marsh & McLennan Cos. Inc.

The proposal is contained in H.B. 162, a bill reintroduced this year by Rep. Joseph Gaydos, D-Pa., after the bill did not come up for a vote before the 99th Congress, Mr. Singh said.

A similar bill, S. 79, also is pending in the Senate.

"The bill would require that a federal program be established to notify employees of increased risks to occupational disease due to exposure to hazardous chemicals," Mr. Singh said in a paper presented at the 25th annual Risk & Insurance Management Society conference in Las Vegas earlier this month.

The thrust of the bill is to identify workers who incur a higher incidence of contracting a disease from exposure to a toxic chemical than the non-exposed general public. The bill then calls for the workers to be notified with a personal letter, Mr. Singh said.

Panel moderator Arthur E. Wheatley, vp-director risk management for The Pittston Co. in Greenwich, Conn., said that the bill has the potential of being "the most sweeping" of any federal regulation regarding workplace safety, including the Occupational Safety and Health Administration's "right-to-know" law.

In addition, OSHA is expected to propose a new policy on carcinogens in the workplace within the next two months, Mr. Singh said. The original 1980 policy establishes guidelines for identifying, classifying and regulating physical substances that pose potential occupational risks to humans, including defining the scientific evidence necessary for regulatory decision-making, Mr. Wheatley said.

Finally, the Environmental Protection Agency is expected within the next two years to extend its asbestos abatement efforts from schools to commercial buildings, Mr. Singh predicted.

"Regulation of carcinogens is fraught with many difficulties," Mr. Singh said. It is a time-consuming process that is often hampered by unavailable human epidemiological data, limited data from animal studies and indefinite short-term tests, he said.

Of the more than 200 chemical carcinogens to which humans are exposed, about 43 are regulated as carcinogens by the different federal governmental agencies, including OSHA, the EPA and the Consumer Product Safety Commission, Mr. Singh said.

"To some people, the area of carcinogenics is overregulated, and to others, not enough is being done," Mr. Wheatley said. "I am sure this debate will continue."

Yet the number of occupational-related cancer deaths is "a very serious problem," Mr. Singh said. Occupational-related cancers cause more than 40,000 to 45,000 deaths each year, or about 5% of all cancer-related deaths, Mr. Singh said.

"One in four Americans are exposed to some hazardous substances while at work," Mr. Wheatley said. "They are your employees. So reflect for a moment on the long term—both direct costs and indirect costs—of workers compensation or occupational disease claims," he urged.

In addition, companies should consider the liability potential

Continued on next page

Carcinogens

Continued from previous page

created by factory wastes endangering the food, air and water in surrounding communities.

There are more carcinogens in our environment because of our desire for synthetic chemicals, Mr. Wheatley said. More than 80,000 chemicals are now made and 700 new ones are developed annually, he added. Most are not tested for cancer-causing properties before being manufactured or marketed.

"Unfortunately, our nation's ability to produce carcinogens far outweighs our ability to control them," Mr. Wheatley said.

"Whenever additional regulations are suggested, commercial enterprises always threaten that they will cost money and jobs, which may be true," Mr. Wheatley said. "Somewhere in between there must be a compromise."

"Society will have to determine —industry included—whether exposure to carcinogens must be eliminated or reduced when possible regardless of the cost in dollars," Mr. Wheatley said. "Monitoring work health hazards and providing medical tests and counseling could cost as much as $2 billion. But if you compare that to the between $3 billion to $5 billion that is being spent in treating cancer, and add to that the loss of earnings and productivity, that bill is annually $12 billion," he said.

However, American industry may not want to pay for health problems when scientists cannot agree on whether there is a safe-level of exposure to toxins. Industry executives may also be reluctant to pay for an employee's entire health bill when a non-work-related habit, like smoking, increases an asbestos worker's mortality rate five-fold, he said.

Yet, more than 200 years after a British surgeon found that chimney sweeps who were exposed to soot were likely to develop cancer, coke oven operators in steel plants —who are exposed to the products of combustion—are dying of cancer at a rate 10 times greater than other steel workers, he said.

'Our ability to produce carcinogens outweighs our ability to control them,' Mr. Wheatley said.

As a result, some workers and their families are turning to the courts.

In one case now being appealed, a jury awarded the family of a chemical processor $108 million—including $100 million in punitive damages—from Monsanto Co. after the worker contracted leukemia six years after he was exposed to benzene at his job (*BI*, Dec. 22, 1986).

About 20 industrial chemicals and/or chemical processes are associated with increased carcinogenic risks in workers by the International Agency for Research on Cancer, Mr. Singh said. In addition, the following workers have an "excess" incidence of cancer:

- Coal miners have an excess incidence of stomach cancer.
- Chemists have an excess incidence of pancreas and lymph cancer.
- Foundry workers and metal miners have an excess incidence of lung cancer.
- Textile workers and printing pressmen have an excess incidence of mouth and pharynx cancer.
- Coke byproduct workers have an excess incidence of large intestine and pancreas cancer.
- Cadmium production workers have an excess incidence of lung and prostate cancer.
- Rubber processing workers have an excess incidence of stomach and blood.
- Rubber tire building workers have an excess incidence of bladder and brain cancer, while rubber tire curing workers have an excess incidence of lung cancer.
- Furniture workers have an excess incidence of nasal cavity and sinus cancer.
- Shoe workers have an excess incidence of nasal cavity, sinus and blood cancer.
- Shipyard workers, insulation workers, some miners and painters have an excess incidence of lung cancer and mesothelioma.

Mr. Singh said some carcinogens occur naturally in the environment, including aflatoxins, which can be produced by molds in foods like peanuts. Others include betel nuts, bracken fern, cycad nuts and natural estrogens.

Common toxins in the workplace include: aflatoxins, arsenic, asbestos, benzene, benzidine, bischloromethyl ether, B-naphthylamine, chromium (vi), coal tar products, nitrosamines, radon and vinyl chloride, he said.

While most occupational cancers cannot be cured, they can be controlled, Mr. Singh said. Industries can do a lot to control toxic chemicals and carcinogens in the workplace through good management awareness and good proven industrial techniques, Mr. Singh said.

Controlling expected losses can be done by assessing the risk, and considering acceptable levels of exposure, if any. However, public perception of a problem may tend to override medical evidence, Mr. Singh said.

Proven industrial techniques include employee indoctrination and training, and monitoring employee exposure levels through air and possibly blood and urine samples. Medical surveillance may also be necessary.

Employers should also be concerned about providing employees with suitable personal protection like individually fitted respirators. It may also be necessary to require them to shower before leaving the plant, Mr. Singh said.

While good housekeeping measures are important, they may not eliminate the need to establish a closed or isolated area for some processes. Such an area needs to have controlled access to ensure that as few persons as possible enter it, he added.

A manufacturer of new products may want to consider animal tests and avoiding the production of products that are chemically similar to known carcinogens, the speakers suggested.

Mr. Wheatley said risk managers will have to consider whether to adopt or support recommendations by OSHA and the National Academy of Sciences, he said. However, he pointed out, "To support these recommendations from a risk management standpoint may put you at odds with the marketing and/or business philosophy of your company."

The recommendations include:

- Testing all chemicals suspected as potential cancer-causing agents before marketing.
- Licensing and periodically inspecting all producers and users of carcinogens.
- Providing workers with information so they can decide whether to continue working in high risk areas and, if so, how to reduce the hazards.
- Identifying carcinogens by generic as well as trade names and providing easy-to-understand data concerning related risks and diseases.
- Establishing a central national source of information about hazards and specific solutions.

Also speaking was William A. Mahoney, vp of Marsh & McLennan Inc. in Tampa, Fla. ■

Market cycles force risk managers to view size of risks retained

By MICHAEL BRADFORD

'When insurance is cheap, we forget to identify our risks of loss,' says Robert Wilkinson.

LAS VEGAS, Nev.—The volatility of insurance prices and availability is changing the criteria risk managers use to decide how much risk to accept and how much to transfer, according to an expert.

The cyclical nature of the insurance market has caused "a dramatic increase for many of you in risk retention," Robert Wilkinson, vp of Warren, McVeigh & Griffin Inc., told a group of risk managers during a panel discussion at the 25th annual Risk & Insurance Management Society conference in Las Vegas earlier this month.

Prices for coverage during hard market cycles have been so high that many entities "elected for self-insurance or, in some cases, just plain 'no insurance.' They went bare in other words," said the vp of the Newport Beach, Calif.-based consulting firm.

While the current crisis has not fully passed, Mr. Wilkinson said there are certain lessons that can be learned from this latest round of tight market problems.

Mr. Wilkinson said that when insurance was readily available during soft market conditions, some of the "very basic precepts" of risk management were pushed aside as unnecessary. "When insurance is cheap, we often forget that basically we're supposed to identify what our risks of loss are."

tOnce those risks are identified, they have to be quantified and solutions must be developed, he said.

"And insurance is supposed to be only one alternative," Mr. Wilkinson remarked. "When insurance became so cheap, it became the alternative. I think a lot of us overlooked the very basics of risk identification."

Once a risk manager has identified and "somehow quantified," the risk of his company, the problem he faces is deciding how much risk to retain and how to transfer the remainder.

One question to consider when deciding how much risk to retain or transfer is: "What would our auditors say?," Mr. Wilkinson noted. Auditors are concerned with how much impact a loss might have on the company's bottom line, he explained.

"How material would it be? Would it cause a qualified financial statement? That's the last thing a publicly held company would want."

Some companies might take a look at their working capital and decide they could sustain losses up to a certain percentage of that amount, said Mr. Wilkinson. Other companies might use a percentage of earnings or revenue as the maximum they are willing to expose to retained risks, he added.

James F. Harrington, a partner with Coopers & Lybrand in Atlanta, agreed with Mr. Wilkinson that the auditor's reaction has to be considered when deciding how much risk to retain.

In the past, Mr. Harrington remarked, risk managers "probably had very little dealings with the outside independent auditor of the company. There are a lot of reasons for that. Insurance programs were fairly simple. They were generally on an occurrence basis, deductibles were fairly small" and an auditor needed only some idea of the overall insurance program so that he could say the risk to the financial statement was not that significant.

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Retaining risk

Continued from previous page

But, auditors are more interested in insurance now because of the current insurance environment, he added. Businesses are now "looking at maintaining more risk themselves rather than pushing it off on insurance companies."

Because of the tight market conditions of the past few years, "the risk manager within the company or the risk management consultant is becoming more and more important to the company in devising schemes and devising insurance products that are cost-effective and beneficial to the company," Mr. Harrington said.

Risk managers are more heavily involved in "assessing risks and assessing what risks the company can maintain on its books," he said.

'There's an awful lot more risk being retained by the companies. And that's where I have the problem, from a financial statement standpoint, of how do I assess that risk?' asks James F. Harrington.

"There's an awful lot more risk being retained by the companies. And that's where I have the problem, from a financial statement standpoint, of how do I assess that risk? And how are the financial statements presenting the appropriate liabilities?" Mr. Harrington asked.

"That's why I think you'll be hearing a lot more from your auditors in the future."

Mr. Harrington noted that a company's management has the responsibility for making sure that all liabilities, including exposures to loss, are properly outlined in the financial statement.

"It is management's responsibility to make sure that the financial statements accurately reflect the financial position of the company. That is not the auditor's responsibility."

Mr. Harrington noted that privately held companies as well as publicly held businesses have to be careful that appropriate liabilities are spelled out in financial statements. Privately held companies, for example, are required to produce their financial statements to banks or other lenders when seeking financing.

And banks, according to another panel member, are looking after their own exposures more carefully by tightening up lending requirements.

William J. Kelly, director of insurance and risk management at Morgan Guaranty Trust Co. in New York, told the audience that while "bankers do not believe that the mere existence of insurance can turn a firm which is a poor credit risk into a good one. . .insurance is a factor which banks cannot ignore" in today's insurance environment.

Mr. Kelly said that while his bank's requirements are stringent and extensive for secured transactions like mortgages or leases, "where the bank has a direct interest in particular real or personal property. . .our concerns are more general in nature."

On unsecured loans, "We worry that some unfunded loss may directly impact the general credit worthiness of our client. In this context, we look at insurance as just one additional source of funding which, depending upon the client, may or may not be critical."

Mr. Kelly said that one of the formulas Morgan Guaranty relies on when deciding whether to issue an unsecured loan states that "the importance of insurance as a source of funding varies in inverse proportion to the client's overall financial strength. In other words, the weaker the client's financial condition in terms of its reliance upon specific assets and cash flows, the more time the banker may wish to spend on insurance."

And because of the changes in the insurance marketplace in recent years, Morgan Guaranty is one of the banks that has changed the insurance covenant in its lending agreements.

The covenant has been re-written from a "quite simple" statement that made the borrower promise to maintain insurance equal to that "customarily maintained" by similar businesses in the same geographic area to a "fairly comprehensive and specific provision," noted Mr. Kelly.

The lengthy covenant now spells out, among other things, what types of insurance a borrower is required to maintain and at what minimum limits. The document also states that coverage has to be provided by insurers with A.M. Best Co. ratings of not lower than B-plus or "other such insurers as the bank may approve in writing."

While Mr. Kelly pointed out that "there are many acceptable variations" to the requirements spelled out in the standard covenant, "the bank wants to know the extent of these deviations up front."

In terms of minimum liability limits the bank requires before granting a loan, Mr. Kelly said, "This obviously depends on the nature of the client's operations and exposures."

"Given the nature of our client base, with certain exceptions, we tend to think in terms of $50 million as a base from which we work up or down. . .In some cases we will request far more than $50 million."

Mr. Kelly added that, "We have no problem with self-insurance, assuming this means that a firm has attempted to evaluate potential risks of loss, taken steps to mitigate exposure and provided adequate internal sources of funding for potential liabilities."

He said the self-funding "must appear sufficient to protect the firm's financial stability. All of which means there is a critical, qualitative distinction, which is sometimes not made, between being self-insured and uninsured."

Robert M. Couch, an attorney with the Birmingham, Ala., law firm of Bradley, Arant, Rose & White, was also on the panel. The discussion was moderated by Robert R. Duty, director of risk management at Blount Inc. of Montgomery, Ala. ■

EC product liability directive will increase costs: Insurers

By CAROLYN ALDRED

LAS VEGAS, Nev.—Product liability insurance rates for companies operating in Europe will increase following the introduction of the European Commission's product liability directive, two underwriters warn.

The directive, which is supposed to be incorporated into EC member nations' laws by July 30, 1988, imposes strict liability on consumer product manufacturers throughout the Common Market (*BI*, Jan. 20, 1986; Aug. 5, 1985).

"It is clear that there will be an increase in the number of settled claims and in the cost of investigating and defending unsuccessful actions," said Edward Hester, assistant manager (U.K. and Ireland) with Zurich Insurance Co. in London.

"There will undoubtedly be an increase in claims consciousness as a result of publicity given by consumer associations, the media and politicians," Mr. Hester said at a session on "Coping with Products Liability for Multinationals" at the 25th annual Risk & Insurance Management Society conference held earlier this month in Las Vegas.

'There will undoubtedly be an increase in claims consciousness,' says Mr. Hester.

Claude Gallello, president of the Global Accounts Department of American International Underwriters in New York, agreed with Mr. Hester.

"We are less concerned about the introduction of the directive than we were in the 1970s, but there is some cause of alarm for manufacturers. A lot of attention has been given to the directive by consumer groups," he said.

A more optimistic view was given by Dieter Spielberger, managing partner of broker Gradmann & Holler GmbH in Stuttgart, West Germany.

"When a new situation comes up, underwriters are usually inclined to exaggerate (the consequences)," he commented. "The number of product claims occurring in the EC will remain minimal compared to the situation in the U.S. . . .because the basis of the legal system in Europe is entirely different from the U.S."

However, Mr. Spielberger admitted that the directive will have "an impact on the economy of multinational companies" in several ways. For example, the EC directive will impose joint and several liability on "producers" of defective products.

Under the directive, producers include:

- The manufacturer of a finished product.
- The producer of any raw material used in the product.
- The manufacturer of any component part.
- Any person who imports the product into the European Community.

Also, in cases where the producer of a defective product cannot be identified, each supplier of the product can be considered a producer unless he informs the injured party in reasonable time of the identity of the producer and the company that originally supplied the product.

However, because the directive will be imposed in conjunction with each member state's existing laws, the effect of the directive will vary from state to state, noted Mr. Spielberger.

"Although the directive will be prominent in most respects, some areas, such as claims for pain and suffering which are not included in the directive will remain subject to individual laws of member states," he added.

In addition, each country has several options such as whether:

- To cap awards against defendants.
- To include within its laws the "state of the art" or "developmental risks" defense.

Continued on next page

Product liability

Continued from previous page

• To include primary agricultural products under the terms of the directive.

The "developmental risks" defense will absolve a defendant from liability if it can prove "that the state of scientific and technical knowledge at the time when the product was put into circulation was not such as to enable the existence of the defect to be discovered."

However, "it will not be an easy task for the defendant to prove," according to Mr. Hester. "He will need to have documentation and other proof of the tests undertaken."

In addition, "He will probably need to prove that no other producers of similar products discovered any defects," Mr. Hester pointed out.

Other components of the EC directive that risk managers must be aware of, according to Mr. Hester, include:

'Insurers need to reflect their increased liability in their rating structure now rather than endeavor to recoup their losses after the event and we shall therefore see a gradual and moderate rise in premiums,' Mr. Hester says.

• Strict liability under the EC directive applies only to products put into circulation after July 30, 1988.

"It will therefore be important to maintain accurate records in order to identify products which were in circulation before that date," he noted.

• Suits cannot be brought after 10 years from the date that the producer put into circulation the actual product that caused the damage.

"Clearly, this is another area where accurate records should be maintained. It will not be sufficient, however, to prove that particular products of that type, or a batch similar to that product, were put into circulation more than 10 years previously," Mr. Hester explained.

• Suppliers of components will not be liable if they can prove that the accident arose from the defective design of the product itself or was due to the instructions or manuals provided by the product manufacturer.

"They will not be liable if they produce such components strictly in accordance with the specification required by the manufacturer of the final product. . .therefore it is important that careful record is kept of all instructions," Mr. Hester noted.

For a multinational company with the resources to set up its manufacturing operations anywhere, it might be prudent for certain companies to transfer their activities to a country that adopts the developmental risk defense, Mr. Hester said.

"At present, the defense looks like being excluded in Belgium, France, Luxembourg and Greece," added Mr. Hester.

For retailers, it will be important to have the name or trademark of the manufacturer or importer shown on the products they sell or they will need to have adequate records to ensure they can identify the name of the manufacturer or importer, he said.

"Provided such action is taken, retailers are likely to be in a better position under the new legislation," noted Mr. Hester.

Special attention will need to be given to product descriptions, instructions or operating manuals, labeling, warning notices and packaging, he added.

"A product which is otherwise safe may be rendered unsafe if any of these is inadequate, misleading or inaccurate," he warned.

And, sufficient liaison must be maintained between the marketing department and the design, production and legal departments, he continued.

"If it could be shown that advertising or sales literature is misleading or that it promises more than the product delivers, this may be detrimental to the interests of the producer," said Mr. Hester.

Although Mr. Hester admitted that the directive would ultimately force up the cost of product liability insurance in Europe, he stressed that the increase would be moderate in most areas.

"Insurers need to reflect their increased liability in their rating structure now rather than endeavor to recoup their losses after the event and we shall therefore see a gradual and moderate rise in premiums over a period of about five years as the effects of legislation become more apparent," he said.

Despite the introduction of strict liability, there are several reasons why price increases and capacity reduction will not be as severe in Europe as it has been for U.S. liability coverages, noted Mr. Hester.

These include:

• European society is not as litigious as the United States, and the "deep-pocket" attitude does not prevail.

• There are no juries in civil cases except in Ireland, which plans to abolish them.

"For complex injury cases, juries are considered to be ultra-sympathetic to victims, to award very high damages and to be inconsistent in their verdicts," said Mr. Hester.

• The frequency and severity of punitive damage awards in the United States has not been duplicated in Europe.

• The contingency fee system is not used in Europe.

"It is not considered ethical for lawyers to have a direct financial interest in the level of damages awarded," he said.

• Attorneys have lower profiles in Europe. In many European countries, lawyers are not allowed to advertise.

• Policy conditions are interpreted by European courts in the way they were originally intended by the parties to the contract, said Mr. Hester.

• Most European countries have social security systems providing free hospital and other medical treatment.

However, "the implementation of the directive points to good times for lawyers and headaches for underwriters and claims officials," said Mr. Hester.

And, high-hazard companies—like pharmaceutical, chemical and aerospace manufacturers—are likely to be hit with higher than average rate increases, he pointed out.

The session was coordinated by Joseph Canna, senior vp of Marsh & McLennan Inc. in New York, and moderated by Donald Davignon, director of risk management of Joseph E. Seagram & Sons Inc. in New York. ■

Loss control survey helps ease renewals

By JUDY GREENWALD

LAS VEGAS, Nev.—Risk managers can help protect their companies from the vagaries of the property insurance market by preparing a fire protection and loss control survey, says a loss control expert.

Kenneth E. Berg, president of the FPE Group, a fire protection engineering and loss control consulting company based in Lafayette, Calif., counseled risk managers on how to prepare for property insurance renewals at the 25th annual Risk & Insurance Management Society conference earlier this month.

A self-evaluation of loss control steps, Mr. Berg said, "is the key to some independence" from the fluctuations between a hard and soft insurance market. A survey can help companies decide how much property insurance they require as well as assist them in obtaining the coverage they want, he said.

One of the main elements in a loss control survey, he said, is to quantify the company's risk. Factors to be evaluated include:

- Site. "Where is the site located?" Mr. Berg asked, adding its political jurisdiction can be important. "Political boundaries dictate fire protection," he said. They also can be determining factors in water supply and bond issues.

In addition, topography can be "extremely important" when it comes to insuring difference-in-condition perils, he said. The chance of earthquakes, he added, is closely tied to the site where the plant is located. What is the probability of a quake that is bad enough to damage the facility occurring in just the right spot? he asked.

"Pay a lot of attention to these issues," he advised.

- Construction. What is the facility built of? asked Mr. Berg. Is it made of combustible materials?

An issue of growing importance, he added, is code requirements. Because of changes in building codes, if the facility is destroyed, it may have to be rebuilt at half its original size or perhaps could not even be rebuilt at all, he pointed out.

- Utilities. "What makes your facility go?" asked Mr. Berg. The reliability, redundancy and availability of alternate sources of energy are among the factors that must be taken into account in the survey, he said.

The maintenance of utilities, as well as the exposures and hazards associated with them, should be explored, he indicated.

- Operations. "What the facility does" should be described in this section of the survey, said Mr. Berg. Sources of supplies and methods of distribution also should be listed. For instance, if there is only a single source of supply, this should be noted, he advised.
- Continuity of operations. In the event of a loss, he asked, can the facility keep doing what it has been doing? This section of the report should discuss production and personnel bottlenecks following a loss, he said.

After the risk is quantified, the next step is loss quantification, said Mr. Berg. This section should discuss the frequency and severity of expected losses, the maximum possible loss, the probable maximum loss and the normal loss expectancy.

Mr. Berg asked the audience if any of them knew their property insurers' estimate of their loss expectancy. When one or two hands went up, Mr. Berg commented, "You're the exception. This is not the norm."

Most policyholders, he added, do not do their own loss quantification. Instead, he said, they rely on their insurer to do it—"but don't have access to it."

Many underwriting decisions, however, are based on this information, and the loss control steps companies take at their facilities should be based on this data as well.

However, one problem in getting corporate management to institute needed loss control measures is the "time line" of the particular officials involved. For instance, he noted, a production manager tends to look only two or three years in advance, because that is the length of time he expects to be in his current job.

Some potential losses, he said, however, are likely to occur only once every 15 years. Should a manager "accept the risk of a 15-year event or spend money from the bottom line to mitigate exposure?" Mr. Berg asked. If he is production-oriented, he will be willing to accept the risk, Mr. Berg said.

A self-evaluation of loss control steps, Mr. Berg says, 'is the key to some independence.'

The higher up a risk manager goes in management, he added, the more likely he or she is to find someone willing to take a long-term view and decide how risk should be mitigated in the distant future.

A company also must examine each of its facilities and determine how important the facility is to its corporate division and to the corporation as a whole, he said.

For instance, if a building is one of 80 identical units, then it could be considered expendable, Mr. Berg noted. A company might base its loss control on fire extinguishers and employee training. If a problem arises, "you call the fire department and hope for the best," he said.

Other facilities, though, require more elaborate protection, he added.

The final step in the loss control survey process is deciding how to achieve the desired level of protection and how to maintain it, Mr. Berg said, adding that many companies use their own funds to develop these programs rather than relying on insurers.

Other speakers at the seminar included Robert F. Abrajano, vp at brokerage Danloe & Abrajano, based in Arlington Heights, Ill.; James W. Guilfoile, assistant vp and manager at the Constitution State Management Co. in Chicago; and William C. Reynolds, an account executive at Boockford & Co., a broker in Oakbrook Terrace Ill.

The seminar was moderated by Pierrette E. Ray, risk management officer for the city of Westminster Colo. ■

Beware the claims-made trap: Consultant

By CAROLYN ALDRED

LAS VEGAS, Nev.—Switching to a claims-made liability policy form is like developing a drug addiction, a consultant says.

"Once the pusher's got you, you're his forever," says Ronald Boggs, a risk management consultant with The Wyatt Co. in Chicago.

Mr. Boggs outlined some of the problems caused by the introduction of claims-made forms during a seminar entitled "Real World Solutions to Claims-Made Problems" at the 25th annual Risk & Insurance Management Society conference earlier this month.

"The claims-made form requires great diligence on the part of risk managers in order to analyze potential problems," he noted.

However, there is no formula to avoid all claims-made problems, he warned. "Gaps will happen; everybody will have them," he added. "Inconsistencies will develop both horizontally and vertically throughout a policy and they will remain there forever."

The issue of coverage gaps was also stressed by other panelists.

"There will be a lot of work involved in quantifying the risks that remain exposed. But as you put contingency funds into company statements because of gaps in cover you will be better off," noted Arthur Parry, a consultant with Wyatt in Dallas.

If turning to claims-made for the first time is traumatic, then the first renewal is even more traumatic, warned Rudd Marlowe, director of risk management with Tesoro Petroleum Corp. in San Antonio, Texas. "Every time an exclusion is introduced, you may get a gap," he pointed out.

"If you change carriers you will be faced with the option of changing the retroactive date or buying extended coverage," he noted.

Unless risk managers can obtain the same retroactive date for each and every renewal, they are going to be stuck with coverage gaps forever, he added.

According to all three speakers, many of problems arise from the diversity of claims-made policies available. For example, Mr. Boggs highlighted the differences in the discovery periods of widely used claims-made forms, including:

- The Insurance Services Office's form. If "occurrences" are reported during the policy term or within 60 days of policy expiration, the claim is covered if made within five years, he explained.
- The form used by H.S. Weavers (Underwriting) Agencies Ltd. If notice of "circumstance" is given during the policy term, any claim filed within three years is covered, said Mr. Boggs.
- The form used by American International Group Inc. This form is triggered only by the filing of claims, and no provision is made for discovery or notice, he said.
- The form used by A.C.E. Insurance Co. Ltd. This covers all occurrences of which notice is given during the policy term or the extended reporting period, he said.
- The American Excess Insurance Assn. form. Claims are covered if made within 10 years of the expiration or cancellation of the policy or the extended reporting period and if notice of occurrence is given during the policy term or the extended reporting period.

"There are too many policies still out there and there is still a big discrepancy in what is available," said Mr. Marlowe. "Most of the problems are created by having so many different forms."

For example, he outlined part of Tesoro's liability coverage. Although the primary layer and first excess layer are placed on occurrence forms, three high excess layers are written on claims-made forms, he said.

"All these claims-made forms have different reporting requirements and different definitions of 'accident' and 'occurrence,' " he noted.

The panelists offered risk managers a checklist so they could help avoid claims-made problems, including:

- Reporting incidents to insurers as soon as they happen.

"You are going to get a variety of reporting provisions according to your mix of claims-made policies and the most important thing to do is not to rely on your memory," said Mr. Marlowe. "Report to all your insurers on the basis of the earliest reporting period you have."

- Disclose all facts about an incident as soon as they are known.

"Because of the variations in the discovery/notice periods, it is best to disclose the facts as they become known, although this might create difficulties in obtaining the next policy," said Mr. Boggs.

- Include extended reporting periods as part of the initial policy negotiating process.
- Watch aggregate limits closely. "If a claim comes through —however small—which will take the aggregate figure close to the limit, report it immediately," advised Mr. Marlowe. "You have to err on the side of protecting your own management even if it creates big files at the underwriters."

However, the most important thing to remember is to treat the claims-made form as though it is something completely new, advised Mr. Marlowe.

Yet, despite the panelists' many warnings, Mr. Marlowe offered some words of encouragement: "When preparing this session last November, I considered claims-made to be one of the most critical issues facing us, but I think that has changed. Most people can now get some level of occurrence cover in their primary layers."

Occurrence forms also are probably available for excess layers, except for high-risk companies in the oil, energy and consumer products fields, he added.

"I've heard of people getting coverage limits of between $40 million to $50 million on occurrence forms. I think that's great if you can get it," he said.

However, for high-risk companies, the claims-made form is here to stay, he predicted.

"Even if you see some of the U.S. carriers loosening up, I don't believe we will ever see the high-risk exposures back on occurrence forms," he noted.

The London market also is firming up its commitment to the claims-made form, Mr. Marlowe said. ■

Drug, alcohol abuse policy necessary, panelists advise

By DONNA DiBLASE

LAS VEGAS, Nev.—Employers must develop a clear corporate drug and alcohol abuse policy to effectively implement a testing and treatment program, experts advise.

"Until you put a corporate policy in place, it is almost impossible to deal with drugs and alcohol in the workplace. You must have a specific policy to go with any testing program," said John M. Hermann, president of Costa Mesa, Calif.-based Total Employee Relations Services Inc., a labor relations consulting firm.

Risk managers received advice on implementing drug testing and treatment programs to manage the costs of substance abuse in the workplace during a panel discussion at the 25th annual Risk & Insurance Management Society conference earlier this month in Las Vegas.

"Alcohol and drug abuse costs America about $50.7 billion a year, and corporate America is paying this bill," said Edward J. Carels, a senior vp of Irvine, Calif.-based Comprehensive Care Corp.

He said corporations need to consider seven issues to deal with these costs. They are:

- Developing a written corporate drug and alcohol abuse policy.
- Training supervisors to be sensitive to substance abuse by employees.
- Testing or screening employees suspected to have substance abuse problems through employee assistance programs, drug tests or examining absenteeism records.
- Providing coverage for substance abuse treatment under the corporation's health insurance program.
- Offering employees referrals to rehabilitation and treatment programs.
- Implementing a utilization review program to manage the costs and quality of treatment programs.
- Deciding how to finance these programs and considering what the cost will be if the employer does nothing.

Before implementing a program to deal with substance abuse, "you must decide what your corporate philosophy is," advised Mr. Hermann.

"Ask, 'do we want to prevent ourselves from hiring problems into the workplace? If so, what do we do?' If you decide on pre-employment testing, you need to notify applicants that they will be tested," he said.

A pre-employment testing policy should state what the purpose of the test is and notify the applicant that he or she will be dropped from consideration if the test results are unacceptable, Mr. Hermann said.

Employers also must decide whether they will take corrective or punitive actions if a current employee is identified as having an abuse problem, he added. "You must be very careful here. Wrongful termination suits can cost over $400,000 in California," he noted.

He advised against random testing of current employees, explaining that "running helter-skelter is a disaster. You will spend years in court and hundreds of thousands of dollars."

But, "if you are going to require testing after accidents occur, you must give reasonable advance notice that if there is an accident, you will test," he said.

"You must also be uniform and consistent in your accident testing policy: If you test one employee, you must test all of them. If you are not consistent, you could have a disparate or discriminatory effect and you then could run into problems with the Equal Employment Opportunity Commission," he explained.

And, "select a quality, nationwide testing program. Mom-and-pop testing programs can get you into real trouble," he advised.

If employers decide to offer alcohol and drug abuse rehabilitation programs to employees, "select the best and brightest group to do this," Mr. Hermann added.

Selecting a testing program and the actual type of test to be used can be difficult, the experts noted.

"It's very obvious that the pressure is on drug testing companies to improve the quality of the tests used," said Rich Elderkin, a product manager for Abbott Diagnostics Division in Irving, Texas.

"There has been a perception by the public that these tests don't work or that there is a problem with false positive results. That's a myth. When we get a positive test result, we call it a presumptive positive and test the person again," he said.

"The real problem is with false negatives," which might not identify a person with a drug or alcohol abuse problem, Mr. Elderkin added.

Continued on next page

Vegas skyline

The dusty gray Sierra Nevada range is a contrasting backdrop to the gleaming high-rise hotels of Las Vegas' famous gambling "Strip."

Drug testing

Continued from previous page

One important aspect to consider in a test for the presence of drugs or alcohol is the quality of the chemistry involved, he noted.

"You have to consider the sensitivity of the test. For example, in urine tests, we measure the breakdown of the drugs. You have to determine how good your test is at detecting a small level of a drug in the system," he explained.

Another aspect to consider in drug testing is the specificity of the test used.

Specific chemicals that react with a specific drug or substance are used in the test to accurately detect the presence of a drug in the system, he said.

"You need to consider the quality of the test if you decide to implement a testing program," Mr. Elderkin advised.

And, "whatever chemical test system you use, you should try to cross-test it with another technology or methodology," he added.

'You have to consider the sensitivity of the test,' says Abbott's Rich Elderkin.

But, selecting a quality testing program is not the only consideration in developing a plan to deal with substance abuse, the experts noted.

Employers that decide to offer rehabilitation programs to employees with substance abuse problems also must consider the quality of the program chosen, they said.

"One of the myths of treatment for substance abuse is that a person has to hit bottom before they want treatment. Another myth is that anyone who gets treatment gets well," noted Robert R. Yost, a vp at Comprehensive Care Corp.

Comprehensive Care offers more than 200 inpatient and outpatient substance abuse treatment programs nationwide, he said.

These programs treat chemically dependent patients in a medically supervised environment. The programs also include counseling for the patient and his or her family and strong follow-up care to help the patient with ongoing recovery, he said.

Many individuals with abuse problems turn to treatment at the request of and with the support of their families and employers, rather than waiting to "hit bottom," he said.

And, "our results are showing that good treatment outcomes happen for patients who volunteer for treatment as well as for patients who are coerced into receiving treatment," Mr. Yost said.

Individualized treatment programs are important to assuring successful outcomes, he noted.

"Programs can be either outpatient or inpatient. If a person has the support of family and employer, they could respond to outpatient treatment," he said.

"But, the patient who comes in screaming and kicking and lacks family support may respond better to inpatient treatment," he explained.

"But, there is the cost containment aspect to consider because we all know the cost of health care is escalating. A good evaluation is probably the most cost-effective way for referring employees to treatment," he said.

To respond to employers' cost containment needs, Comprehensive Care is offering CarePromise, he said.

"What we're doing is saying we'll share the financial risk with the employer. Any person who goes through our treatment program and needs re-treatment can come back through the program two more times in the five years after the first treatment, at no cost," he explained.

"So, for companies that have a lifetime limit of 30 days of psychiatric and substance abuse treatment, they've just tripled their benefits for this treatment at no additional cost. We believe the treatment does work and we'll stand behind it," Mr. Yost added.

Mr. Hermann of Total Employee Relations Services noted that, "you have a great opportunity as an employer to come to the aid of your employees. If you can demonstrate you want to do this in a professional manner, that goes a long way to creating loyalty between you and your employees."

John Van Vliet, corporate benefits manager of Milwaukee-based Miller Brewing Co. moderated the panel discussion. ■

Overseas coverage complex: Underwriter

By CAROLYN ALDRED

'As U.S. companies become more international, insurance buyers must think more in terms of world insurance programs and face the problems of different languages, cultures and currencies,' says Continental's Bruce Hayden.

LAS VEGAS, Nev.—The complexities of risk protection increase dramatically as companies expand overseas, according to one international underwriter.

However, worldwide property or liability programs are generally regarded as good risks, said another underwriter at a seminar during the 25th annual Risk & Insurance Management Society conference earlier this month.

"As U.S. companies become more international, insurance buyers must think more in terms of world insurance programs and face the problems of different languages, cultures and currencies," said Bruce Hayden, president of the international affiliate of New York-based Continental Insurance Cos.

"However, if you're going outside the U.S. for commerce, it generally means you're forward-looking and the chances are you will continue to grow so (underwriters) will regard you as a good risk," added Vincent Masucci, president of the North American division of American International Underwriters in New York, a unit of American International Group Inc.

At a session titled "The Coordinated International Property/Casualty Program," a panel of speakers offered advice to risk managers about embarking on worldwide insurance programs.

A worldwide insurance program covers both the U.S. domestic and the international risks of a corporation. These worldwide programs gained popularity when the insurance market was competitive.

However, fewer multinational companies have developed worldwide insurance programs in the tight U.S. commercial market. Because international insurance rates have risen less than U.S. domestic insurance rates, many companies prefer to keep their international risks separate, either insured under one international program, or by purchasing insurance locally in foreign countries.

"Usually companies distinguish between the U.S. and the rest of the world, but as their economies become more internationally based, they must think in terms of worldwide insurance," said Mr. Hayden of Continental.

A major obstacle to placing the insurance of all foreign subsidiaries with one insurer is persuading the local plant managers to switch from their current insurers, observed moderator Bruce Brumbaugh, director of risk management with Penn Central Corp. in Greenwich, Conn.

"It's very difficult to persuade managers who have had the same policy for 10 years with a local insurer to suddenly become part of an international program," Mr. Brumbaugh explained.

In some cases, foreign plants may be partly financed through loans from their insurers, making that switch more difficult, he noted.

"However, most local treasurers will eventually go along with an international program if the support of senior management from the parent company is well communicated," added broker Michael Linde, vp of Johnson & Higgins in New York.

Other problems entailed in developing and implementing a worldwide property or liability insurance programs as highlighted by the panel include:

● Language. Compiling risk management data and underwriting information in several different languages can create great confusion, the panelists agreed.

For example, a Fortune 200 company currently trying to set up a worldwide program has sent broker survey forms to subsidiaries in 22 countries. "Of those 22 countries, only three of the financial controllers speak English and in three months only four survey forms have been returned," said Mr. Linde.

● Currency. Exchange rates might fluctuate rapidly, panelists noted.

For example, Mr. Linde said countries such as Brazil suffer from inflation of up to 150%, and there are also two exchange rates—the official rate and what is known as the "parallel" or black market rate.

● Culture. "The concept of risk insurance and management is well understood in the U.S. and western Europe, but not so in Latin America," Mr. Linde noted.

● Exchange control. Problems may arise is returning claims collected in the United States to the country where the loss occurred, said Mr. Linde.

"You may find yourself faced with paying capitalization taxes on insurance recovered from the loss of fixed assets," he noted.

● Legal environment. "Subsidiaries may be adequately dealing with insurance coverage in their own jurisdiction, according to what is required and what is available in that market," said Mr. Linde.

Also, as products themselves become more and more international, there are going to be complex legal and liability issues to resolve, added Mr. Hayden.

Mr. Crowley

However, after overcoming the initial problems involved in creating a worldwide coordinated insurance program, the advantages are numerous, said William Crowley, senior vp-international with Insurance Co. of North America in New York, a

Continued on next page

Overseas cover

Continued from previous page
CIGNA unit.

These advantages include:

- Reducing and stabilizing costs.

"Premium tends to find its own level and becomes more stable," he noted.

- Rewarding deductibles. Insurers from many countries offer no incentive for companies to take a deductible, which can be overcome with a coordinated program, he said.
- Reducing duplication and gaps. "A coordinated program helps reduce gaps in cover and overlapping insurance," said Mr. Crowley.

This can be particularly important for a multinational whose various units produce different components of a product finished by another corporate unit.

- Increasing security. "In the last few years, we have seen harrowing scenes of insurance companies going belly-up and the security of the carrier has become an important issue," noted Mr. Crowley.

'A coordinated program helps reduce gaps in cover and overlapping insurance' in an international program says William Crowley, senior vp-international with Insurance Co. of North America in New York.

Very few insurance companies are capable of putting together and maintaining worldwide insurance programs, and those that are tend to be secure, he added.

The largest underwriters of worldwide insurance programs are AIG and CIGNA Corp.

However, several other insurers are developing as viable international and global insurance underwriters, including: Chubb Corp., Continental, Kemper International Insurance Co., Royal Insurance Co. of America, Travelers Corp. and Zurich-American Insurance Cos. (*BI*, Nov. 24, 1986).

To put together a successfully coordinated worldwide property or liability program it is important to ask each subsidiary detailed and relevant questions, the panel stressed.

"It is very important that the underwriter has sufficient information to evaluate the risk of each particular plant in the program," noted Mr. Crowley.

Therefore, it is important to choose an underwriter and a broker with offices in most of the countries where subsidiaries are based, he added.

To put together an international property insurance program, the following information must be supplied for each company location, according to Mr. Masucci of AIU:

- A schedule of updated property values, dated and in the local currency.

"Underwriting is then focused on a few key-location buildings," he added.

- Up-to-date business interruption values.
- Ground plans for different locations.
- Details of construction and occupancy protection equipment.
- Catastrophe exposures.
- Loss history and value of the losses, together with the exchange rate at that time.
- Details of the existing insurance program.
- A copy of the annual report.

Similar details also are required to compile a worldwide liability insurance program, including:

- A description of the operations at each site.
- A list of countries where the products are sold.
- The total research and development expenditures of the company.
- Loss history.
- Exposure of each unit. For example, the life history of each product.
- Product brochures and specifications. ■

Planning can cut on-premises injuries

By STEVE TARAVELLA

LAS VEGAS, Nev.—Risk managers concerned about their companies' liability for incidents that occur on premises for which they are responsible sometimes overlook simple steps that might reduce their risk.

That's the message of Mark T. Luttier, a West Palm Beach, Fla., attorney who discussed premises liability at the 25th annual Risk & Insurance Management Society conference earlier this month.

Mr. Luttier offered risk managers several inexpensive but important ways in which they could minimize their exposure to lawsuits by people injured on their premises. These include:

- When opening up shop in a new part of town, introduce yourself to area police officers.

Tell the public safety or community relations officer who you are, what business your company is engaged in, why it selected that location, etc., he said.

Let law enforcement officials know you intend to run a law-abiding, safe business and that you'd like to be contacted if they receive any complaints, he advised. Follow up with a letter, keeping a copy for your own files.

"You're creating a witness for yourself at the trial," explains Mr. Luttier, with the firm of Gunster, Yoakley, Criser & Stewart. "Everybody loves a guy in a uniform."

- If the business you're opening up is a retail business that may draw itinerants, like a convenience store, post a "No Loitering" sign in the front window and inform the police of its existence.

Since you're conducting business on private property, most states require the business to request that police enforce this before they can do so, Mr. Luttier explains. So, first ask the police for help in enforcing the ban on loitering.

The sign should be posted below waist-level, so as not to obstruct a sales clerk's view of what's occurring on the premises outside.

- During peak business hours, retain an off-duty police officer to park in the parking lot in front of the store to serve as a deterrent to violence, loitering or alcohol-related incidents.

But certainly risk managers should continue to rely on the sophisticated as well as simple means of loss prevention to reduce the chances of being sued for accidents that occur on their employers' premises.

One Southern California risk manager at the session, for example, asked how she could determine if the security procedures she was arranging at her employer's property were "enough" to ward off any incidents on the premises that could spur lawsuits.

By building rapport with police 'you're creating a witness for yourself at the trial,' explains Mr. Luttier.

R. Keegan Federal Jr., a security law specialist and former Georgia Superior Court judge, suggested the business retain a security consulting firm to help evaluate the situation. This way, even if an incident occurs after implementing the consultant's recommendations, the business can show it was earnest in taking sufficient steps to maintain safe premises.

"Whether they are right or wrong is not as important as the fact that you recognize you didn't know," explained Mr. Federal, a senior partner with Dow, Lohnes & Albertson in Atlanta.

But Mr. Federal cautioned the risk manager to select a security consultant carefully. Since consultants themselves are worried about being held liable for overlooking something when making their recommendations, they may advise her to make numerous, costly and unnecessary changes.

If all of these recommendations are not all implemented, the businesses could easily appear remiss in a courtroom situation, he noted.

A third panelist, Joseph M. Ravich, senior vp and general counsel at Adjustco Inc. in Tarrytown, N.Y., suggested that the risk manager seek security advice from local police. Not only will doing so reflect favorably on the company, but it also may help nurture a positive, long-term relationship with law-enforcement officials, he pointed out.

The session, called "Unsafe Premises—A New Nemesis," was moderated by Jan Wilhelm, corporate risk manager at National Convenience Stores Inc. in Houston. ■

HMO forming to provide long-term care

markets

As Congress considers expansion of Medicare to cover long-term illnesses, two private-sector companies are launching a health maintenance organization to provide long-term health care to people over age 65.

Metropolitan Life Insurance Co. of Canton, Mass., and Group Health Cooperative of Puget Sound—a Seattle-based HMO—have joined to form Group Health Cooperative Security Care, one of the nation's first long-term health care plans.

"It's an innovative private-sector solution to a national health policy dilemma: how to protect older adults from the catastrophic effects of chronic illness," said John D. Moynahan Jr., Met Life executive vp.

For a monthly fee ranging between $26 per month and $245 per month—based on age—enrollees receive a wide range of services including: nursing home care, adult day care, respite care and assistance care in the home.

GHC Security Care will begin operating in May in the metropolitan Seattle area, pending approval by the Washington state insurance commissioner. Initially all GHC enrollees age 65 to 80 will be eligible to apply for the plan. Later this year enrollees age 55 to 65 will be eligible to apply.

GHC estimates that approximately 30,000 of its enrollees will be eligible.

GHC Security Care will offer:

- Easy access to care. Once it is determined that an enrollee needs help with three or more activities of daily living (bathing, eating, dressing, etc.), he or she is eligible for all of the benefits of the plan. There is no prior nursing home or hospital stay required.
- Case management. Professional care managers who are either trained social workers or geriatric nurses will plan, coordinate and monitor individualized programs for enrollees.
- Utilization review. The plan includes Met Life's utilization review program.

Under the joint arrangement, Met Life will determine eligibility for enrollment and benefits, perform actuarial pricing and calculations, manage the investment of funds generated by the plan and keep records on the group's experience.

GHC will market the plan, collect premiums, provide care management, contract for services with preferred providers and monitor quality.

"Legislators at both the federal and state level have been encouraging private industry to develop long-term care programs such as this, where no government funding or subsidies are involved," said James Weil, vp-senior services at Met Life.

New brokerage

A new insurance agency, Gow Coverage Corp., with facilities in New York, Buffalo and Denver, has been launched.

"Our main focus will be directed toward the writing of medium to large commercial risks, with a special emphasis on construction, industrial, institutional and retail business," said President Timothy Gow.

In addition, Gow & Hanna Inc., a New York-based excess/surplus brokerage, has been formed. Gow & Hanna is the result of a joint venture between M.A. Hanna Corp. and Gow Coverage Corp.

M.A. Hanna is an international natural resources firm involved in management services, iron ore, coal, nickel, silicon, oil and gas. Hanna's Insurance Services Division provides underwriting, risk management consulting, captive insurance company management and other insurance services to more than 80 companies in the United States, Europe and Canada.

Gow & Hanna will have facilities in Bermuda and London.

They are located at 100 Maiden Lane, New York, N.Y. 10038; 212-504-6511.

New legal consultant

Beth Kravetz, a veteran Washington attorney, has opened a law practice specializing in risk retention group consulting and insurance regulatory issues.

Ms. Kravetz most recently was associate counsel at HOW Insurance Co., the first major risk retention group organized under the 1981 Risk Retention Act.

Previously, she was the Washington representative for the National Assn. of Insurance Commissioners and counsel for the National Assn. of Insurance Brokers in Washington.

Ms. Kravetz's offices are located at 4226 40th St., N.W., Washington, D.C. 20016; 202-966-3934.

Flex plan specialist

CIGNA Corp. has spun off a new company that will assist employers with the development, design and implementation of flexible benefits programs.

The new company, CIGNA Employee Benefits Services Inc., offers benefit managers a variety of services including: plan modeling, credit methodology development, aggregate cost projections, payroll and human resources systems review, employee communications and enrollment support.

The services are available to companies with 200 employees or more on a fee-for-service basis. "Smaller companies interested in flexible benefits generally require less customization," according to CIGNA President Raymond C. Linstrum.

The fee-for-service structure enables benefit managers to know in advance exactly how much they will pay for consultations, says Mr. Linstrum. "Once we reach an agreement with the client company on the scope of advisory services, our fees are guaranteed," he says.

EBS has five consultants and a total extended staff of nine specialists. Formed in January, the company has more than 15 clients representing automotive, chemicals, consumer products, financial services, real estate development and retail industries.

Mr. Linstrum says, "To realize the potential of a flexible benefits program, employers need more advice and a more customized approach than in traditional benefits programs."

Mr. Linstrum can be reached at CIGNA, Station A-132, Hartford, Conn., 06152; 203-726-4170.

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Executive benefits

Towers, Perrin, Forster & Crosby has launched a new division that will help benefit managers design supplemental benefit plans for upper-level management.

Many of the changes in the Tax Reform Act of 1986 will cause a flurry of these unqualified plans to pop up, according to TPF&C's Gary McClung, director of the new division.

Executive Benefit Practice will help benefit managers design, fund and communicate a customized executive benefit plan. Consultants will analyze the effects of tax reform on existing plans and offer suggestions for improvement. The new division will work closely with TPF&C's Executive Compensation Practice to coordinate a total package.

"Under tax reform's lower rates, current cash may be more attractive for many executives than benefits," said Mr. McClung. "The result is going to be tremendous growth in supplemental plans."

The address of the new division is: Towers, Perrin, Forster & Crosby, Executive Compensation Division, 200 W. Madison St., Chicago, Ill. 60606; 312-781-0300.

Travelers PPOs

Travelers has launched two new PPOs in Phoenix, Ariz., and Richmond, Va.

Travelers Preferred-Phoenix has nine hospitals and 650 physicians in its provider network. Travelers Preferred-Richmond has six hospitals and more than 400 physicians in its provider network.

Both programs offer enrollees the Taking Care wellness program and the Patient Advocate utilization review program. Taking Care is available to employee groups of 150 workers or more. The Patient Advocate program is staffed by experienced registered nurses who conduct preadmission and concurrent reviews.

PHCS expansion

Private Healthcare Systems, a PPO organized by 18 insurers, is expanding its national network by contracting with hospitals in nine new cities.

PHCS already operates PPOs in 31 markets and hopes to be operating in 40 markets by July 1987.

The nine new cities involved in the final phase of expansion are: New Orleans; Seattle; Pittsburgh; Akron, Ohio; Austin, Texas; Richmond, Va.; Nashville, Tenn.; Dayton, Ohio; and Sacramento, Calif.

Benefits software

Spartin Computer Systems Inc. has spun off a new subsidiary—Spartin Preferred Benefit Administration Systems Inc.—to handle development, sales and marketing of insurance and employee benefit software products.

In addition the company has moved into larger offices at 14925A Memorial Drive, Houston, Texas, 77079; 713-496-0800.

National PPO network

Five of the nation's largest insurance companies have joined together to create a national preferred provider organization network.

Nationwide Corp. of Columbus, Ohio, Allstate Life Insurance Co. of Northbrook, Ill., American United Life Insurance Co. of Indianapolis, Home Life Insurance Co. of New York, and Provident Mutual of Philadelphia each paid $3 million in a private stock offering to expand CAPP CARE, a physician-run PPO, into 26 states by the end of 1988. CAPP CARE now operates in nine states with more than 25,000 physicians and 306 hospitals in its provider network.

In addition to their investments, the five companies have committed to use the CAPP CARE network.

The companies join Pacific Mutual of Fountain Valley, Calif., as equal shareholders in the new organization.

New E&O market

A new facility, William B. Turner & Associates, is now underwriting construction-related errors and omissions coverage.

The company writes limits of up to $1 million in 35 states for Homestead Insurance Co. of Philadelphia, Rockwood Insurance Co. of Rockwood, Pa., and Rockwood Insurance Co. of Indiana in Noblesville, Ind.

Specifically, the facility serves as a market for architects, engineers and construction contracts, according to Mr. Turner.

The facility is located at 35 E. Wacker Drive, Suite 1934, Chicago, Ill., 60601; 312-346-5116.

New surplus broker

John Schapperle, a veteran excess/surplus lines broker, has opened Great Southwestern Underwriters, a Plano, Texas-based agency.

Mr. Schapperle will market all types of excess/surplus insurance business including hard-to-insure property/casualty risks, professional liability and directors and officers liability.

He also markets umbrella policies. He has access to 15 domestic markets and Lloyd's of London.

The company is located at P.O. Box 750007, Plano, Texas, 75075; 214-423-5284.

New Tulsa agency

Two former top executives of of Bayly, Martin & Fay Inc. of Oklahoma have formed a new insurance agency handling all types of commercial property/casualty insurance.

Daniel D. Pickard, former president of BM&F of Oklahoma, and William P. Allen, former vp of the brokerage, now head the newly formed Pickard & Associates Inc.

The firm specializes in placing insurance for pipeline contractors nationwide.

Mr. Pickard is president and Mr. Allen is vp of the new agency, located at 7125 S. Braden, Tulsa, Okla. 74136; 918-492-7074.

Name changes

The Home Reinsurance Co. of New York has changed its named to **The U.S. International Reinsurance Co.**

Thomas Knox Associates, a Fort Washington, Pa.—based employee benefit consultant, has changed its name to **Preferred Benefits Corp.**

Hermitage Holding Corp., the holding company for Hermitage Insurance Co. of New York, has changed its name to **Hermitage Group.**

Dick Foster & Associates, a Dallas-based brokerage, has changed its name to **The Foster Group.**

Mergers/acquisitions

Affiliated Insurance Consultants Inc., a Western Springs, Ill.-based brokerage, has acquired the **Klehr Agency** in Arlington Heights, Ill.

Hilb, Rogal & Hamilton Co. of Richmond, Va., has merged with **Ellsworth, Crosby, Schexnaydre Inc.,** a New Orleans agency.

In addition, **Hilb, Rogal & Hamilton** has acquired the property/casualty division of **Alsop &**

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markets

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Elliot, also of Richmond, Va. Alsop & Elliot has merged into HRH's Richmond office.

MONY Financial Services of New York has acquired **United Administrators Inc.**, a Seattle-based employee benefits administrator. UAI will operate autonomously under its present management.

Frank B. Hall & Co. of Florida has acquired **Schoenberger Insurance Inc.**, a Jacksonville-based agency.

New York broker **Frenkel & Co.** has acquired **Joseph G. Gray & Co.** Gray & Co. will be merged with Frenkel, and Mr. Gray will become senior vp.

Corroon & Black of Michigan Inc. has acquired **Poggi-Harrison Agency Inc.** and **Risk Control Inc.** Poggi-Harrison is a retail property/casualty agency in Grand Rapids, Mich. It is the majority owner of Risk Control Inc., a third-party administrator also in Grand Rapids.

In addition, **Corroon & Black's Los Angeles division** has acquired **Rosskopf, Rapp Insurance Agency Inc.** and **John Z. Schmidt Insurance Agency**, which where operating as Rosskopf, Rapp & Schmidt Insurance Agency. A retail property/casualty agency with a specialization in the construction industry, Rosskopf, Rapp & Schmidt is located in El Monte, Calif., and will be merged with Corroon & Black's Los Angeles office.

The management consulting practices of **Risk Consulting Group**, Robert E. Ford principal, and **Jack & Levine Risk Management Inc.**, Arthur J. Levine principal, have merged. The general offices are located in Laguna Hills, Calif.

Hilb, Rogal & Hamilton Co. of Richmond, Va. has acquired **Albemarle Insurance Agency** of Charlottesville, Va. Albemarle, a general insurance agency, has merged with the HRH Charlottesville office.

Wellington Insurance Services of Los Angeles, a subsidiary of ABI Management Inc. has merged with **Patrick C. Ross & Associates** of Woodland Hills, Calif., also a subsidiary of ABI Management. The new company will be called Wellington-Ross Insurance Services and will be located in the Encino/Sherman Oaks area.

Softec Inc., a risk management information system software supplier based in Detroit, has merged with **Towers, Perrin, Forster & Crosby**. Under terms of the agreement, Softec will be consolidated with Tillinghast, the risk management consulting division of TPF&C. Mark Dorn, founder and president of Softec, will become a principal of TPF&C and will continue to manage the Softec operation.

New offices

RTZ Ltd. Risk Management Department has moved to P.O. Box 133, 6 St. James's Square, London, SW1Y 4LD; 01-930-2399.

Towers, Perrin, Forster & Crosby has opened several new international offices in Switzerland, Mexico and The Netherlands. The Swiss office is located at 80 Rue de Lausanne, 1202 Geneva, Switzerland; 22-32-07-09.

The Mexico office is located at TPF&C de Mexico, Bosques de Duraznos 65-401-A, Bosques de las Lomas, 11700 Mexico, D.F.; 905-596-75-31.

The Netherlands office is located at Smit & Bunschoten/TPF&C, Emmastraat 36, 1075 HW Amsterdam, The Netherlands; 20-76-36-46.

Karr Rehabilitation Services of Minneapolis has opened three new branch offices in the Chicago and Milwaukee areas and in Sioux Falls, S.D.

The Chicago-area office is located at 211 E. Lake St., Addison, Ill., 60101; 312-941-7394.

The Milwaukee-area office is located at 20720 Watertown Road, Suite 201, Waukesha, Wis., 53186; 414-784-9595.

The Sioux Falls office is located at 3105 Claudette, Sioux Falls, S.D., 57103; 605-332-7411. Karr provides rehabilitation and medical case management services.

Burns & Wilcox Ltd. has opened a district office at 8885 Rio San Diego Drive, Suite 335, San Diego, Calif., 92108; 619-294-4881.

Health Risk Management Inc. has opened new regional offices: 1740 Massachusetts Ave., Boxborough, Mass., 10719; 617-264-4663; and 377 E. Clearview Ave., Worthington, Ohio 43085; 614-888-0846.

Towers, Perrin, Forster & Crosby; the Tillinghast Division of TPF&C; and Cresap, McCormick & Paget are now located at 1200 Lakeside Square, 12377 Merit Drive, Dallas, Texas 75251-2223. TPF&C's phone number is 214-701-2600; Tillinghast's phone number is 214-363-2451; and Cresap's phone number is 214-239-1333.

Admar Corp. a national provider of alternative health care delivery systems, is expanding into new offices at 990 Washington St., Suite 329, Dedham, Mass., 02026; 617-461-4500. The new office will be the Eastern Operations Center for the HealthWatch Medical Review System, a nationwide hospital utilization review system.

Union Central Life Insurance Co. has moved its Chicago office to Suite 740, Columbia Centre, 5600 N. River Road, Rosemont, Ill., 60018; 312-823-8200.

The Beaven/InterAmerican Cos. have opened new offices at 901 W. Jackson Blvd., Chicago, Ill., 60607; 312-829-9600. ■

Tinley named first vp at Security Pacific

comings & goings: buyers

Michael E. Tinley, 42, has been named first vp and director of risk management at Security Pacific Corp. in Los Angeles. In this newly created position, he oversees risk management and property/casualty insurance for the bank holding company and its subsidiaries. He reports to Joseph A. Irwin, senior vp-tax and risk management departments. Previously, Mr. Tinley was senior vp and manager of client relations at Jardine Insurance Brokers in San Francisco. He also has worked at Fred S. James & Co. in Los Angeles and Aetna Life & Casualty Co. in Omaha, Neb., San Francisco and Los Angeles. Mr. Tinley received a bachelor of arts degree from Creighton University in Omaha, Neb. Mr. Tinley is a deputy member of the Risk & Insurance Management Society.

* * *

Caroline M. Cogtella has been appointed risk manager of New York City. In this position, Ms. Cogtella will be responsible for insurance policies and administration for 34 city agencies. She reports to Joel Copperman, assistant director of the mayor's office of operations. Previously, Ms. Cogtella served 12 years with Metra, the Northeast Illinois Railroad Corp., as division manager of risk management with responsibility for Metra's insurance and self-funding programs as well as the implementation of a risk management information system. Ms. Cogtella also participated in the formation and was a director of Railroad Assn. Insurance Ltd., an offshore captive insurer that provides liability insurance to the U.S. and Canadian freight and passenger rail industry. Ms. Cogtella holds a bachelor's degree in political science from the University of Connecticut at Storrs. In addition, she is a deputy member of the Risk & Insurance Management Society, as well as a member of the Public Risk & Insurance Management Assn., Railway Insurance Management Assn. and the National Assn. of Insurance Women.

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Merryrose Wurtz, 50, has been promoted to staff vp-risk management at Allied Products Corp. in Chicago. In this position she will oversee the integration and redesign of insurance programs, as well as increased duties with product liability management. She reports to David Corwine, general counsel and assistant secretary. Allied manufactures agricultural equipment, transportation and industrial products and chemical specialties. Prior to this promotion Ms. Wurtz, who has worked at Allied Products for 10 years, served as director of insurance. She holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

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Joseph E. Phillips, 38, has been promoted to manager of risk management, security and claims at Southern California Gas Co. in Los Angeles. In this position he will oversee the utility's risk management, claims and security departments. He replaces **Nancy I. Day**, who has assumed other responsibilities with the utility, and reports to Lee K. Harrington, vp-administrative services. Prior to this promotion, Mr. Phillips served as risk manager at Southern California Gas. He received a bachelor of science degree in mechanical engineering from the University of Utah in Salt Lake City. He holds the Associate in Risk Management and Chartered Property & Casualty Underwriter designations and is a registered Professional Engineer. Mr. Phillips is a deputy member of the Risk & Insurance Management Society. In addition, he serves on the underwriting committee of Associated Electric & Gas Insurance Services Ltd., a Bermuda-based utility mutual.

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Cheryl S. Pollack has been named corporate risk manager at Electronic Data Systems Corp. in Dallas. In this position she will manage all insured and retained risks. She replaces **James Dineen**, who left EDS to join Barnett Banks of Florida Inc. as vp-risk management, and reports to Darrell Johnson, assistant treasurer. Prior to this promotion Ms. Pollack served as risk analyst at EDS. She received a bachelor of arts degree in Spanish from the University of Minnesota in Minnesota-St. Paul and is working toward her master of business administration degree. In addition, Ms. Pollack holds the Associate in Risk Management designation and is treasurer of the Dallas/Fort Worth Chapter of the Risk & Insurance Management Society.

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Richard A. Williams, 39, has been named corporate risk manager at Malden Mills Industries Inc. in Lawrence, Mass. In this position he is responsible for risk management, property/casualty insurance programs, self-insurance activities, claims and employee benefits administration. He reports to Michael G. Reeve, assistant treasurer of Malden Mills. Previously, Mr. Williams served as risk manager for Algonquin Energy Inc. in Boston. He received a bachelor of arts degree in mathematics/business and a master of business administration degree from Suffolk University in Boston. In addition, Mr. Williams is a deputy member of the Risk & Insurance Management Society.

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Dave Mettler, 40, has been named director of risk management at the Hillhaven Corp. in Tacoma, Wash. In this position he will be responsible for developing, implementing and coordinating the company's risk management program. He replaces **Sharon Warning**, who left Hillhaven, and reports to Frank Ruffo, senior vp-administration. Hillhaven owns, operates and manages 571 acute, rehabilitative, psychiatric and long-term care facilities. Previously, Mr. Mettler served with Care Enterprises in Orange, Calif. He received a bachelor of science degree in aeronautical engineering from California State Polytechnic Institute in San Luis Obispo, Calif. He is a deputy member of the Risk & Insurance Management Society.

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We'd like to report on staff changes in your company's risk management, safety or employee benefits department. Just drop a note to Paul Winston, assistant copy editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5442. Please send a photograph, too.

Program offers pretax child care benefit

Employees can use pretax dollars to pay for child care services under a new program introduced by Voucher Corp.

Because the ChildCare Voucher plan operates through employee payroll deductions made on a pretax basis, the employee receives less taxable income and thus is able to pays lower payroll taxes, according to a spokeswoman for Voucher Corp.

The program was started in response to the growing need for child care services, explained Voucher Corp. President Jacques Simon.

"With the growing number of women entering the workforce, child care will be a major employee benefit concern of the 1990s," said Mr. Simon.

Currently, only 10% of all U.S. households fit the traditional mold in which the male breadwinner is the sole support of his at-home wife and children, Mr. Simon explained. In the next decade, an estimated 30 million children will have mothers who work outside the home.

products & services

Under the program, participating employees' payroll deductions are converted into vouchers, similar to traveler's checks, the spokeswoman explained. These vouchers are sent within five days after the deduction is made either directly to the employee or to the employer for insertion into employee paycheck envelopes, she said.

Employees then use the vouchers to pay their child care providers, which the providers redeem for cash from Voucher Corp.

Employees are free to choose any child care provider they want: licensed day-care facilities, family day-care homes or even individuals. Or, they can select a provider from the ChildCare Voucher Guide.

Voucher Corp. also provides all tax information required by the Internal Revenue Service for employees who take a deduction for child care.

Currently, the program is available in the Milwaukee, Boston and Minneapolis areas. However, Voucher Corp. will negotiate with companies in other areas of the country.

Voucher Corp. charges a start-up fee of between $300 and $950, depending on the number of employees in a company.

In addition, employers pay 7% of the total voucher amount for administrative costs.

However, employers' reduced FICA contributions as a result of employees' lower gross income often offset the fee for the program, the spokeswoman noted.

For more information, contact Voucher Corp., 2 Overhill Road, Scarsdale, N.Y. 10583; 914-725-5947.

HMO screening

HealthPlan Management Services is a new service designed by John Hancock Financial Services to help employers to select and monitor cost-effective, quality health maintenance organizations and preferred provider organizations.

The service helps reduce the cost of managed health care plans by requiring HMOs to base their premium rates on the actual claims experience of a specific employer group.

Usually, HMOs base premium rates on the average cost of providing health care for all persons enrolled in the plan, a practice called community rating. Community rating is required for all HMOs federally qualified under the federal HMO Act of 1973.

"As increasing numbers of healthy employees utilize HMOs, the broad community ratings can become more expensive to benefits plans than an employer's own indemnity coverage," said G. Alan Katz, regional vp of Hancock's Southern Group Operations in Atlanta.

HealthPlan Management evaluates HMOs and refers employers to those HMOs that have agreed to experience-rate rather than community rate.

Employers then agree to pay participating HMOs a premium based mainly on the cost of the health care services actually used by their own employee group, plus a reasonable amount for administrative expenses.

The service also helps employers to limit the total number of HMOs and PPOs they contract with to offer alternative health care delivery systems to their employees. Because the number of plans with which the employer maintains contracts is reduced, the health care providers are guaranteed a greater market share of patients, Mr. Katz said.

And, along with negotiating premiums, the service helps employers to negotiate quality standards with HMOs and PPOs. Patient satisfaction surveys, morbidity and mortality data analyses and periodic audits of HMO/PPO structure and provider credentials are used to monitor the HMOs and PPOs.

HealthPlan Management Services aids both employers and providers because, "it provides HMOs and PPOs with market share and the employer with a cost-effective health plan," Mr. Katz said.

For more information, contact Mr. Katz at Hancock's HealthPlan Management Services, Southern Group Operations, 200 Hannover Park Road, Dunwoody, Ga. 30338; 404-641-5700.

PPO blue book

The National Assn. of Employers on Health Care Alternatives has published its second annual edition of the "Blue Book Digest of PPOs."

The state-by-state directory lists 462 preferred provider organizations in 43 states, the District of Columbia and Puerto Rico.

The book includes information such as the sponsorship of the PPO, the number of hospitals and physicians contracting with the PPO and the date the PPO began operating.

The digest is available for $54.50 from NAEHCA, 104 Crandon Blvd., Suite 304, Key Biscayne, Fla. 33149; 305-361-2810.

NCCI cassettes

A recording of the Current Trends in the Legal Environment of Workers Compensation seminar, sponsored by the National Council on Compensation Insurance, is available in cassette form.

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"The purpose of these seminars is to share the latest thinking about workers compensation with the widest possible audience, and we believe that this recording, in cassette form, is an integral part of that process," said Michael Camilleri, the NCCI's senior vp and general counsel.

The cassette package includes the speeches of all seminar participants. Topics covered include: wrongful discharge trends in workers compensation; punitive damages and bad faith issues in workers compensation and employers liability; causation issues in occupational disease cases; cardiovascular accident trends in workers compensation; acquired immune deficiency syndrome in the workplace; cigarette smoking: workers compensation and liability issues; medical cost containment; federal and state legislative developments; and emotional stress in the workplace.

Cost for the entire seminar package of seven cassettes is $54.95; individual tapes may be purchased for $9.95 each. Shipping is $2 per cassette, up to a maximum of $10.

For more information, contact NCCI Marketing, National Council on Compensation Insurance, 750 Park of Commerce Drive, Boca Raton, Fla. 33431; 305-997-4564.

Legal guide

The American Bar Assn. is offering a guide to legal cases involving "Bad Faith & Punitive Damages."

The book provides summations and complete citations for all cases dealing with the insurer's duty to act in good faith and, where applicable, the resulting recovery of damages. Cases are organized by jurisdiction.

Also included are all relevant statutes and regulations. In addition, the National Assn. of Insurance Commissioners' model act relating to unfair claims settlement practices and a listing of state equivalents to the model act are included as appendices.

The book is available bound for $48.95 or unbound for $39.95. For more information contact: American Bar Assn., Order Fulfillment 519, 750 N. Lake Shore Drive, Chicago, Ill., 60611.

Ergonomics for VDTs

A new videocassette entitled "Ergonomics of the VDT Workstations" is designed to help managers and employees deal the with the fatigue, stress, discomfort, aches and pains often associated with working with computers.

Released by ENCO Performance Systems Inc., the program presents information on:

- How to deal with or prevent vision problems.
- What kind of lighting is optimal.
- How to eliminate glare.
- How chairs and work surfaces can make a difference.
- How accessories can prevent aches and pains.
- Why mobility is essential.

Produced in conjunction with the Center for Office Technology, the Computer & Business Equipment Manufacturers Assn. and the Business & Institutional Furniture Manufacturers Assn., the video presents techniques that can be used to solve many ergonomic problems. The program is 20 minutes long and is available in ¾-inch, VHS and Beta II formats. Purchase price is $239; $99 for a five-day rental; $40 for a two-day preview. For more information contact Enco Performance Systems Inc., 125 Ruthar Drive, Newark, Del., 19711; 302-366-8625.

Captive directory

The "1987 Captive Insurance Directory," which lists approximately 2,700 single-parent, group captives and credit insurance captives domiciled throughout the world, is now available.

Produced by the Tillinghast division of Towers, Perrin, Forster & Crosby and representing 13 years of research, the directory offers a worldwide listing of captive managers detailing the number of captives under management, office, staff and contact names and addresses. The alphabetical listing of captives is cross-indexed by parent or owner.

There is an introduction by D. Hugh Rosenbaum, editor of Captive Insurance Company Reports, which summarizes the state of the captive industry today and gives estimates of total captive premiums and capitalization.

The directory costs $100 for U.S. subscribers to Tillinghast/TPF&C's Captive Insurance Company Reports and $125 for all others. For more information contact: Captive Insurance Directory, Tillinghast/TPF&C, 722 Post Road, Darien, Conn., 06820; 203-655-9791.

Flex plan software

Additional modules for FLX Corp.'s flexible benefits administration software package are being released by the Springfield, Pa.-based company.

Continued on next page

products & services

Continued from previous page

Beginning May 1, FLX will market a module for administering continued employee health care coverage prescribed under provisions of the Consolidated Omnibus Budget Reconciliation Act, and a module for tracking employee enrollment in flexible benefit plans.

The modules can stand alone or be integrated with the company's "Recordkeeper" software, which is used to administer flexible benefit plans and flexible spending accounts. Introduced in 1985, the Recordkeeper also has the capability to track 401(k) investment allocations and produce employee benefit statements, according to FLX.

"Integrating the modules, record keepers and plan sponsors reduce administrative time substantially, maintain better control of the benefits package, drastically cut administrative expenses and lessen the opportunity for error," a company spokeswoman said.

The FLX Recordkeeper sells for $15,000. The "COBRA Administrator" and "The Enroller" modules are available for $1,500 each.

For more information, contact Karen Fitting at FLX Corp., 130 S. State Road, Suite 103, Springfield, Pa. 19064; 215-544-FLEX.

Cargo liability cover

Cargo liability insurance designed to complement the comprehensive physical damage coverage for truck owner-operators provided by Truck Owners Policies has been introduced by United Diversified Corp. of Des Plaines, Ill.

"The new T.O.P. Motor Truck Cargo Insurance Program represents an added dimension in our efforts to provide the broadest protection available to the trucking industry," commented Carmen F. Monaco, company president.

The program is being written in Illinois, Indiana and Texas by UDC subsidiary United Fire Insurance Co. The policy is written by Cadillac Insurance Co., a UDC affiliated company, in Arizona, California, Florida, Louisiana, Michigan, Mississippi, Nevada, North Carolina, Ohio, Georgia and Oklahoma.

The managing general agent and underwriter of the program is Andy Ahearn of Frank A. Cramsie Co. in Oakbrook Terrace, Ill. UDC, however, sets the underwriting guidelines, according to a company spokesman.

The UDC cargo program also simplifies rating and pricing structures to provide more rapid price quotations to trucking firms or their agents, Mr. Monaco said.

The new program offers truck owner-operators ranging from small independents to major fleet carriers broader coverage in the hard-to-obtain insurance areas by considering a wide range of commodities including liquor and frozen foods, Mr. Monaco said. For frozen food haulers, he noted, the program provides coverage for refrigeration failures on the road.

Another category frequently shunned by competitive cargo policies is household goods movers, he added. "We will consider these and other cargo categories on an individual basis by looking at each truck carrier's capabilities and merit," Mr. Monaco said.

The UDC program also offers named perils coverage including or excluding theft, as well as the standard broad perils policy, which is frequently the only coverage offered by cargo insurers.

Under the UDC program, cargo liability limits range from $25,000 to $200,000 per vehicle. Deductibles range from $1,000 to $10,000 per occurrence.

Premiums vary based on factors such as the annual gross receipts of the trucker, the type of cargo hauled and the region in which the trucker operates, a UDC spokesman explained.

For more information, contact the Frank A. Cramsie Co., 1 S. 450 Summit, Oakbrook Terrace, Ill. 60181; 312-620-0200.

Underwriting book

The American Institute for Property and Liability Underwriters has just published a new edition of "Commercial Liability Risk Management and Insurance."

The second edition, which represents an 80% revision of the first edition, deals with the "simplified" policies being adopted by many insurers during 1987.

The new text also includes two chapters on the 1986 commercial general liability form, the 1987 business auto form and other forms recently developed by the Insurance Services Office.

To order the two-volume book, at $22 per volume plus shipping and handling, contact the American Institute, Order Department, 720 Providence Road, Malvern, Pa., 19355-0770; 215-644-2100.

Work comp software

Weyerhaeuser Information Systems is marketing a software system that helps self-insured employers reduce costs and increase productivity in the administration of workers compensation claims.

"CompTrack" has helped Weyerhaeuser reduce costs by $2 million to $3 million without reducing the level of care injured workers receive, according to General Manager Frank Guthrie.

The software automates the daily activities of claims processors, examiners, risk management technicians and human resource specialists.

It has the following capabilities:

- On-line claims processing.
- Standard and ad hoc report capabilities that tell how each examiner is managing reserves.
- Allocation of reserves.
- Accident and injury analysis.
- Loss analysis.
- Medical bill audits.
- Diary system or tickler file that reminds examiners of important claim checkpoints.
- Letter and check writing.
- OSHA log reporting and generation of Form 1099 that gives safety personnel immediate access to information and eliminates the need for hand-written logs.

CompTrack is designed to operate on IBM System 38 minicomputers. A new version for DEC VAX computers is scheduled for delivery later this year.

For more information, contact Vicky Mast, Weyerhaeuser Information Systems, Tacoma, Wash. 98477; 206-924-4200.

Benefits planning

"Managing Employee Benefits," a guide to benefit planning and cost control, is now available from Prentice Hall Information Services.

The new looseleaf service features concise, non-technical analyses of benefits ranging from comprehensive plans to executive perks and provides explanations of the cost-effective options that are available.

Monthly newsletters and quarterly updates report the latest surveys, changes in laws or regulations, innovative programs and practices and other news that can be used when planning benefits.

Subscriptions are available for a 30-day trial examination period. The cost for a one-year subscription is $207, or $186 per year for a two-year subscription.

For more information, call Prentice Hall toll-free at 800-562-0245. ■

Employers split on HMO option: Survey

By ALISON KITTRELL

LINCOLNSHIRE, Ill.—Employers are nearly evenly split on whether health maintenance organizations are a positive addition to the health care delivery system, according to a recent survey.

And, they also are divided on whether HMOs save money, according to an informal telephone survey of 30 large employers nationwide, conducted by Lincolnshire, Ill.-based consultant Hewitt Associates.

Fifty percent of the employers contacted in the survey, "What Do Employers Think About HMOs?," said their overall perception of HMOs was positive.

"HMOs are very cost-effective for our employees," one of the respondents said.

Another commented, "Employees like the choice, first-dollar coverage and preventive care."

And, a third said, "For us, HMOs have provided adequate protection at a moderate cost. Quality hasn't been sacrificed."

But, 30% of the employers said their experience with HMOs had been negative.

One respondent explained, "We don't believe HMOs are the cost-saving vehicle they're supposed to be." Another complained, "It's an outsider's health plan—not ours."

Twenty percent of the respondents said they were neutral on HMOs. Some said they saw both advantages and disadvantages to the plans, and others said it was too early to tell whether HMOs were a worthwhile addition to the health care delivery system.

Employers also were evenly divided on how the cost of an HMO plan compared with traditional indemnity coverage.

One of the respondents whose HMO costs were lower reported, "We saw a $50,000 savings from HMOs last year."

But others were less enthusiastic, even if HMO costs were lower.

One said, "HMO costs are less, but they're not adjusted for age and sex." Another commented, "HMO costs are lower. However, the gap is closing."

Among those employers who said their HMO plans were more costly than their traditional indemnity plans, one respondent said, "The HMOs are twice as expensive as our regular health plan."

But, another said, "Our HMOs are about 10% higher."

Some 39% of the employers reported that their HMO yearly cost increases were lower than those of their traditional indemnity plan, but 31% said the HMO's annual cost hikes were greater than those of their traditional plan.

Fifteen percent said the increases were about the same for the two types of plans, and another 15% said the increases vary yearly.

However, by a 3-to-1 ratio, the employers said that they believed the rates charged by their HMOs were set fairly.

Some 43% of the companies said they had tried to negotiate rates with an HMO, and 85% of those said they had been successful.

Just over half—52%—of the employers surveyed said that implementation of an HMO had not caused their regular health care plan to experience adverse selection, as younger, healthier employees joined the HMO.

In fact, 15% said the HMO itself had experienced adverse selection. One respondent explained, "The HMO is more expensive, so those who need it have to pay for it."

Forty-eight percent of the companies said that their regular health care plan had experienced adverse selection because of the HMO. Of that 48%, 30% said they "thought" they had seen adverse selection; 11% said they "definitely" had experienced adverse selection; and the remaining 7% said that adverse selection had been "slight, but nothing significant."

Slightly more than half of the companies surveyed offer 10 or more HMOs to their employees, and one company offers 65 HMOs.

All but one of the 30 employers surveyed said they had increased the number of HMOs offered during the past five years.

All but three of the companies surveyed had offered an HMO for at least four years. Eleven companies had offered an HMO for 10 or more years.

Based on this experience, and despite doubts about cost savings, most of the companies surveyed believe that HMOs are in the health care delivery market for good.

"HMOs are here to stay. Employees are *very* content with HMOs. Retirees are also in HMOs, and many have switched," one respondent commented.

In fact, some of the respondents expressed concern about the future of their traditional indemnity health care plans because of the adverse selection they see resulting because of HMO alternatives.

"We think everyone will be HMO participants, but we are worried about 1987 and what's left in our indemnity plan," another employer said.

However, other respondents said HMOs face stiff competition, especially from preferred provider organizations.

"We see a decrease in enrollment because of PPO alternatives. HMOs will hold their own in the short run and decrease in popularity because they won't be able to compete with PPO alternatives, and because they will have to begin experience rating," one respondent predicted.

Another said, "Because of competition, only heavily financed HMOs will survive. We think PPOs will grow in popularity."

Many of the employers surveyed agreed that only the strongest of the HMOs will survive the increasing competition.

"Shakeouts in the market will occur. . . .HMOs will not look as attractive as their base expands," one employer said.

"Smaller HMOs will be eliminated. . . .We feel (HMOs) will remain a force and continue growing, mostly by larger HMOs eating smaller HMOs," a respondent said.

Two of the 30 employers surveyed said that to survive, HMOs will have to evolve into triple-option plans, comprised of HMO, PPO and traditional indemnity alternatives.

"HMOs are going to be part of a multiple package—triple option," one respondent said, adding, "We see insurance getting into health management. Corporations will start charging employees more if they take fee-for-service because PPOs and HMOs are much more cost-effective."

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Summaries of the survey, "What Do Employers Think About HMOs?," are available free from Cathy Schmidt, Hewitt Associates, 100 Half Day Road, Lincolnshire, Ill. 60015; 312-295-5000.

Lloyd's to revamp regulations for brokers

By STACY SHAPIRO

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LONDON—Lloyd's of London is working on new regulations for Lloyd's brokers, which were delayed during a government-ordered probe of Lloyd's self-regulation.

Lloyd's had hoped to enact new regulations before it was investigated by Sir Patrick Neill last year, but the Neill investigation delayed the regulations, noted Alan Parry, Lloyd's deputy chairman.

"Indeed, it is fair to say that the task might have been completed had it not been for the major distraction involved in giving evidence to Neill over a period of six to eight months," Mr. Parry told the British Insurance Brokers Assn. conference.

The Neill committee made 70 recommendations in January to improve Lloyd's self-regulation, including the improvement of Lloyd's broker regulations. So far, Lloyd's has adopted 15 of Neill's recommendations, according to Lloyd's Chief Executive Alan Lord.

Lloyd's has set up the Broker Regulation Committee, headed by Mr. Parry, to oversee the drafting of new Lloyd's broker rules.

Mr. Parry said the committee will:

- Review the current requirements for Lloyd's brokers and determine how to improve them.

At the moment, Lloyd's brokers must comply with the Insurance Brokers (Registration) Act 1977, except for filing accounts and the level of professional liability coverage, which is subject to Lloyd's rules.

Lloyd's Council also has the power to investigate and discipline Lloyd's brokers "to prevent serious damage to Lloyd's or its policyholders," said Mr. Parry.

Recently, Lloyd's also passed the general review powers bylaw to enable Lloyd's chief executive to order a review of the affairs of a Lloyd's broker (or underwriting agent) if necessary.

Lloyd's brokers also must sell all of their Lloyd's managing agencies by July of this year under Lloyd's Act of 1982.

- Consider what additional areas need to be covered by the rules. The broker regulation committee will look at the criteria the Neill committee used when it reviewed underwriting agents, said Mr. Parry. These are the composition of boards of directors; ownership; financial resources; the honesty and integrity of directors and senior personnel; the competence of the firms and its employees; the types of business carried on; and the firms' internal systems to comply with Lloyd's rules.

"The ownership of a Lloyd's broker has to be not only fit and proper but non-interfering," said Mr. Parry.

The committee will prepare broader financial rules than are already in force, said Mr. Parry, particularly for accounting records and systems of internal control, the use of auditors and their relationship with Lloyd's, capital adequacy and solvency margins.

A business plan also may have to be presented to Lloyd's.

- Set out the scope of Lloyd's regulation of brokers in bylaws, regulations and codes of practice as appropriate.

All brokers will have to be reregistered when the rules are finished, and even before they are reregistered, they must comply with a code of practice as well as the regulations.

Simon Arnold, past chairman of Lloyd's Insurance Brokers Committee and chairman of Bain Clarkson Ltd., welcomes the new regulations for Lloyd's brokers.

However, he added, "I will not be happy if they (Lloyd's) impose so much more red tape that will restrict us from looking after our clients' interests."

Hazell restriction

Lloyd's of London brokers and underwriters have different views on how the market's capacity for U.S. property risks will be affected by Lloyd's decision to restrict one of its largest writers of U.S. property insurance to 85% of its total premium income capacity this year.

Some believe that Lloyd's move will restrict capacity in the Lloyd's market for U.S. property risks, while others think that property insurance capacity still will be sufficient.

Last week, the Committee of Lloyd's announced that non-marine syndicate 190 can only write 85% of its total 148 million pounds ($236.8 million) gross premium income capacity this year. Syndicate 190, also called the F.R. White syndicate, is managed by Three Quays Underwriting Management Ltd. and underwritten by Richard Hazell, a Lloyd's Council member.

"If Dick (Hazell) has to restrain his income, we will have a tighter market in U.S. property," said Robin Jackson, Lloyd's underwriter for syndicate 799, managed by Merrett Underwriting Agency Management Ltd. "It is a pity," he added.

Mr. Jackson—who was told at the end of last year that he had to restrict his syndicate to 85% of its gross premium income capacity this year—criticizes Lloyd's for imposing the restriction. Lloyd's Chief Executive Alan Lord has said that the restriction gives the syndicate an "oops factor" of 15% before it overwrites its capacity.

But, says Mr. Jackson, "I think this is a lot of gobbledygook. We are either at 85% or 100%" when premium income is calculated. Mr. Jackson is now only writing to 80% of his capacity so he doesn't overshoot 85%. "The 85% rule is nonsense," he said.

However, Mr. Hazell does not believe the move will affect his syndicate's capacity much and will give him "elbow room" to maneuver within the syndicate's stamp capacity (*BI*, April 6).

Others agree with Mr. Hazell.

"I would say that any curtailment of a syndicate's underwriting by the Council of Lloyd's can only immure the security of Lloyd's policy for the Lloyd's policyholder," said Terry Mann, deputy chairman of the property division of Price Forbes Ltd.

Also, Lloyd's underwriters of U.S. property risks probably will not have to worry about writing to their stamp capacity because U.S. underwriters are undercutting property rates by 30% to 40%, said Mr. Mann.

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"The London market hasn't the appetite" to cut property rates, he said. "Some Lloyd's underwriters may not reach their premium income limits. They will find that they will not have as much (premium) as they like."

"There is quite a lot of U.S. property capacity," added Brian Hibbert, chairman of the non-marine division of C.T. Bowring & Co. Ltd.

So, as a result of Lloyd's restriction, "capacity probably will be OK. The problem may be on risks Mr. Hazell leads, where the restriction can affect the placements," he said.

Bain Clarkson

Two Lloyd's of London brokers, Bain Dawes P.L.C. and Clarkson Puckle Ltd., completed their merger last week, which may make them the third-largest broker in the United Kingdom.

Based on their individual 1986 revenues, the new group, to be known as Bain Clarkson Ltd., expects to have combined gross revenues at year-end 1987 of 95 million pounds ($153 million) and employ 3,500 people, said Bain Clarkson Managing Director Anthony Howland Jackson.

"We reckon we will be the third-largest U.K. retail broker and the 11th- or 12th-largest broker in the world," added Bain Clarkson Chairman Simon Arnold.

Last December, Bain Dawes announced that its parent company, Inchape P.L.C., was buying Clarkson Puckle from Clarkson's parent, Dalgety P.L.C., for 43.1 million pounds ($61.6 million at year-end rates). Last week, the groups announced that the purchase had been completed and the new group had been structured.

The new group will consist of the U.K. division and the overseas management division, to be chaired by Mr. Arnold; the international division, chaired by Mr. Howland Jackson; the finance division, chaired by Bain Dawes finance director J.O. Hagger; and the management services division, chaired by Mr. Arnold and Mr. Howland Jackson.

Derek Prince, deputy chairman of Bain Dawes, also becomes deputy chairman of the group and chairman of the hull, marine liability, cargo and energy & marine casualty departments under the international division. John Sawkins, now chairman of Bain Dawes' North American division, will be chairman of Bain Clarkson's North American department.

About 60% of the new group's brokerage will come from the United Kingdom, while 40% will come from overseas.

Clarkson brings more non-marine business to the group, and a strong personal lines database system, which will complement Bain Dawes' personal lines business.

Also, "Bain Dawes had a prestigious list of clients which were vulnerable to takeover. Clarkson fits in beautifully with its medium- and smaller-sized clients, making us less vulnerable to losing major accounts," said Mr. Arnold.

One area both companies lack, however, is North American reinsurance expertise, said Mr. Arnold, noting the company is interested in talking to teams of reinsurance experts interested in joining the new group.

Aircraft insurance

"Quite remarkable" insurance rate hikes imposed by aviation underwriters on major aircraft manufacturers may force them to self-insure or find other alternatives, says Tony Bolton, chairman and chief executive of Lloyd's of London broker Bowring Aviation Ltd.

As aircraft manufacturers' insurance programs come up for renewal in the next few months, there is "more than a distinct possibility that the major manufacturers will look to some form of self-insurance or perhaps even a pooling arrangement backed by some form of catastrophe reinsurance program," he said.

Aviation underwriters must re-evaluate why they are charging such high rates if they want the manufacturers to continue to buy insurance, he warned.

"I think it is incumbent upon underwriters now to be quite certain that there is no golden egg here, nor some seemingly defenseless goose just ready to be taken to the slaughter," Mr. Bolton said in a recent speech. "The market surely cannot want to see that premium disappear."

Last year, aviation underwriters boosted airline hull and liability rates to recoup from a record $1 billion in losses in 1985. Mr. Bolton said that aviation underwriters had no alternative.

"I would suggest that following the holocaust of the end of 1983 and the amazing run of major losses between June and August 1985, underwriters had no alternative but to prescribe some medicine—and some pretty strong medicine at that," he said.

However, aviation underwriters now need to form business plans for three or five years to stabilize rates.

Based on premium and loss trends of the past, Mr. Bolton estimates that over a four-year period from January 1987 to the end of 1990, world airline insurance premiums will increase 15% annually without any increase in rates to $2.36 billion in 1990 from $1.35 billion last year.

An average loss trend, however, shows that in 1990, claims will only be around $780 million or, at the most, $1.17 billion, he said.

Mr. Bolton hopes that aviation insurers and reinsurers will respond to "the very understandable pressures for reasonable rate reductions" for renewals this year.

"My earnest plea to all insurers is to look at their own figures, their own share of the market, lay their plans and make intelligent decisions for what should happen in the future. ■

U.K. insurers offer election coverage

By STACY SHAPIRO

LONDON—As election fever strikes the United Kingdom, insurance companies are offering new kinds of coverage against unforeseen costs to political parties and their candidates.

The new coverages include contingency insurance to cover political parties' costs in the event a second general election is called within six months of the first vote and electoral legal expense insurance.

Over the last few weeks, three of the four major political parties have predicted that Prime Minister Margaret Thatcher will call a general election in June or October of this year. Under British law, the prime minister—along with the party he or she leads—has five years in office, but can decide during that time when a Parliamentary election will be held.

Normally, the prime minister will choose the best time for his or her party to win the majority of Parliamentary seats. Although Mrs. Thatcher does not have to call a general election until next year, politicians believe the best time for her to do so is this year. Mrs. Thatcher has made no comment on when she will call an election.

Three main parties will vie in the next general election. They are Mrs. Thatcher's Conservative Party, the Labor Party and the Liberal/SDP Alliance, a union of the Liberal Party and the Social Democratic Party.

The party with the majority of the 650 seats in the House of Commons forms a government and elects a prime minister.

Parliament is composed of two legislative bodies: the House of Lords and the House of Commons. The House of Lords is composed of hereditary positions, British peerage, certain judges, archbishops and bishops of the Church of England. Members of the House of Commons are elected by direct ballot and are divided as follows: England 523, Scotland 72, Wales, 38, and Northern Ireland 17.

But, because there are three main powers that will fight in the next general election, there is concern that it will be difficult to get a clear majority—326 seats.

Queen Elizabeth II may then be asked to intervene and ask the party leader with the most seats to become prime minister and form a government.

As the prime minister, the party leader may then call another general election within the year to attempt to gain more Parliamentary seats.

This happened in January 1974, when no one party had Parliamentary majority. The leader of the Labor party—which had the most seats—Harold Wilson, was asked by the Queen to form a government, which he did. Ten months later, in October, 1974 he called another general election.

The Liberal Party has bought contingency insurance to cover the costs of engaging in a second general election that follows within six months of the first general election.

The policy was placed in the London market through British brokers A.H.J. Taylor (Insurances) Ltd. Limits are reported to be for several hundred thousand pounds.

This is the first time that contingency insurance has been bought to protect a political party against the costs of an election.

"If it is a hung Parliament and no one can work together, then there would be a second general election," said Gordon Taylor, director of A.H.J. Taylor, which has been the Liberal Party broker for more than a decade. "The smaller parties may not have the sums to fight a second general election and would be at a disadvantage. So, the insurer would pay for the costs."

The Social Democratic Party also is interested in purchasing contingency coverage and has been quoted 7,000 pounds ($11,200) premium for 250,000 pounds ($400,000) in coverage, according to sources in London.

In addition to contingency insurance, the Liberal Party has purchased legal expense insurance to pay for legal costs of a candidate or agent if they are accused of breaking election codes in the Representation of the People's Act of 1983 (amended in 1985).

The coverage is for up to 25,000 pounds ($40,000) in excess of a 250 pounds ($400) deductible for each voting district the Liberals run in, and is placed with underwriting agent IRPC Legal & Personnel Insurance Services Ltd., a subsidiary of Lloyd's of London broker Stewart Wrightson Holdings P.L.C.

IRPC is an agent for Cornhill Insurance P.L.C., a subsidiary of West German insurer Allianz A.G. Holding.

The insurance protects the Liberal party candidates and local associations for legal costs if they are accused of corrupt election practices defined in the act, such as bribery, defamation, and false declaration of election expenses, confirmed Stephen Manton, managing director of IRPC.

The policy excludes payment of any fines or costs for a second election if a candidate is found to be guilty, he said.

The policy will cover the general—or Parliamentary—election, all local elections and European elections, in which members of the European Parliament are elected from European Community nations.

The Liberal Party has purchased the coverage for all the voting districts in which it will run. The party paid about 9,000 pounds ($14,400) in premiums.

So far, the other parties have not considered buying group coverage for all their local associations. However, the Conservative Party has sent information to local constituencies telling them how they can buy the coverage individually.

The local party associations can buy electoral legal expense coverage for up to 50,000 pounds ($80,000) for 110 pounds ($176) in premium with the IRPC. About 70 members in the Conservative Party and one or two in the Labor Party have submitted applications for the coverage, said Mr. Manton.

Or, they can buy coverage from Legal Benefits Ltd., an underwriting agency for Lloyd's Octavian syndicate, which has been writing electoral legal expenses insurance for four years, said Michael Tuohy, intellectual property manager for Legal Benefits.

Legal Benefits offers the constituencies a legal expense policy for all local, Parliamentary and European elections for the duration of the governments for up to 50,000 pounds for 65 pounds ($104). If a national party buys the coverage, then the premium is reduced to between 30 ($48) pounds and 40 ($64) pounds per candidate, he said.

In the past four years, Mr. Tuohy has discovered that the average legal expense claim during an election is about 1000 pounds ($1,600). About 40% of claims are to pay for legal costs in slander and libel cases. The rest are to pay for legal costs in defending other election infringements, he said. ■

SEC permits U.S. trading of Skandia stock

STOCKHOLM, Sweden—Skandia International Holding A.B., the holding company for Skandia International Insurance Corp., has received Securities and Exchange Commission approval to float American Depository Receipts in the United States.

The SEC approval allows U.S. shareholders to trade stock in Skandia International.

"With the sponsored ADR program, Skandia International Holding A.B. takes a very important first step toward the U.S. equity markets," said Hans Dalborg, Skandia International president and chief executive officer, in the 1986 annual report.

Skandia International's results improved last year from 1985.

Skandia International's gross premium volume increased 5.6% to 9.15 billion Swedish kronor ($1.37 billion) in 1986 from 8.67 billion Swedish kronor ($1.3 billion) in 1985. Underwriting losses fell to 475 million Swedish kronor ($71.3 million) from 670 million Swedish kronor ($100.5 million).

Surplus rose 14% to 6.14 billion Swedish kronor ($921 million) in 1986 from 5.39 billion Swedish kronor ($808 million) in 1985.

Skandia International's U.S. operations cloud the improvements in Skandia International's results, says the report. Skandia International contributed 500 million Swedish kronor ($75 million) to its U.S. operations to bolster claims reserves for probable future U.S. liability claims, it says.

This was in addition to the $100 million Skandia International contributed in 1986 to Skandia America's surplus, bringing it to $270 million at year-end 1986.

Overall, Skandia International's results were good. Operating profit nearly tripled to 316 million Swedish kronor ($47.4 million) in 1986 from 132 Swedish kronor ($19.8 million) in 1985.

In 1986, Skandia International also charged 200 million Swedish kronor ($30 million) from its 1985 surplus to cover its portion of a $33 million British High Court decision against its British unit and another insurer.

Last October, a London High Court ruled Skandia (U.K.) Insurance Co. Ltd. and Westgate Insurance Co. Ltd., formerly Hodge Mercantile & General Insurance Co. Ltd., were liable for as much as $33 million to a group of banks because an employee of the insurers failed to disclose important information about credit insurance policies written for banks.

Both insurers are appealing the court decision (*BI*, Oct. 13, 1986).

In the meantime, Skandia International, through Skandia U.K., has agreed to buy Nevi A/S'S 29.9% share in financial conglomerate Nevi Baltic P.L.C.

—By John Parry and Stacy Shapiro

worldwide

Saudi insurer

RIYADH, Saudi Arabia—Saudi Arabia's first national insurance company hopes to work with the country's government to establish some supervision for domestic insurance companies.

The National Co. for Co-operative Insurance wants to discuss with the Saudi government rules for capitalization and solvency margins, level of retentions and ways to promote coinsurance, said Mousa al-Rubaia, National's general manager.

There currently are no insurance requirements under Islamic Law.

The lack of regulations means there is "no order in the Saudi market" and there are many undercapitalized "fly-by-night" operators who keep very low retentions when they come into the Saudi market, said Mr. al-Rubaia.

National plans to operate under Islamic principles, sources say. This means the company will be run like a mutual. Deposits will be held in Islamic banks, but investment income will be redistributed to clients, as will any losses, say the sources.

National was established by royal decree in 1985, started business in 1986 and received official ministry of commerce approval last month.

The company is capitalized at 500 million Saudi riyals ($134 million), half of which is paid up, said Mr. al-Rubaia. The shareholders are all state-owned companies: Public Investment Fund, which has a 50% share, the General Organization for Social Service with a 25% share and the Retirement Pension Fund with a 25% share.

National writes only property/casualty business, primarily in the Saudi market. Life insurance will not be written until an Islamic plan is approved.

The National has not decided yet whether to write reinsurance, said Mr. al-Rubaia. "We do not have the expertise or knowledge for reinsurance, and we want to be very cautious in our approach," he said.

The establishment of this company and its resolve to pursue regulation of the Saudi market has been welcomed by brokers and reinsurers who trade in Saudi Arabia and the Gulf region. Although insurance companies in this area are not registered, underwriting agencies for overseas registered companies are writing insurance, according to brokers. Altogether, about $400 million to $1 billion of premiums are written in Saudi Arabia, estimates Mr. al-Rubaia.

—By Maria Kielmas

Legislation would reinstate former IRA contribution limits

By JERRY GEISEL

washington

WASHINGTON—All workers once again would be eligible to make tax-deductible contributions to Individual Retirement Accounts under legislation introduced this month by Rep. David Dreier, R-Calif.

The legislation, H.R. 1924, would repeal provisions in the Tax Reform Act of 1986 that restrict tax-deductible IRA contributions to those not covered by corporate pension plans or those with incomes below certain levels.

These restrictions, according to Rep. Dreier, "impair the ability of working Americans to prepare adequately for their financial security upon retirement."

From 1982 through 1986, all workers, regardless of whether they were covered under a pension plan or how much money they earned, had the right to make tax-deductible contributions of up to $2,000 annually to IRAs.

That tax incentive proved effective as millions of Americans set up and contributed to IRAs for the first time. IRAs, in fact, now have some $250 billion in assets, Rep. Dreier estimates.

But Congress, concerned that IRA contributions were costing the federal government too much in lost tax revenues, sharply curtailed the ability of workers to make tax-deductible IRA contributions when it passed the Tax Reform Act of 1986 last September.

For example, under the IRA provisions—which went into effect on Jan. 1—individual filers who are participants in pension plans and earning more than $35,000, as well as those filing joint returns reporting total income of more than $50,000, no longer can make tax-deductible IRA contributions.

In addition, a sliding scale determines the maximum deductible IRA contribution that can be made by individual filers with adjusted gross incomes between $25,000 and $35,000, and by joint filers with adjusted gross incomes between $40,000 and $50,000, who also are pension plan participants.

Those not covered by a pension plan—regardless of income—retain the automatic right to contribute up to $2,000 annually on a tax-deductible basis to an IRA.

In addition, pension plan participants filing individual returns with adjusted gross incomes of less than $25,000 or participants filing joint returns with adjusted gross incomes under $40,000 also can make annual tax-deductible contributions of up to $2,000 to IRAs.

These new restrictions on tax-deductible IRA contributions are destroying an important incentive for Americans to save for their retirement, Rep. Dreier says.

In addition, expanding IRAs again would increase the pool of money available for retirement and take financial pressure off the Social Security program, Rep. Dreier says.

"The huge amount of private resources accumulating in IRAs would substantially reduce pressure over the long run on government spending and those Americans who must shoulder the heavy burden of maintaining the solvency of the Social Security system," he notes.

Rep. Dreier's legislation also would allow a non-working spouse to make a $2,000 tax-deductible contribution to an IRA for the first time.

SEPs urged

The Pension Rights Center is urging employers to consider setting up so-called Simplified Employee Pension plans.

SEPs are easy to establish and allow employers to make tax-deductible contributions to provide workers with needed retirement income, says Amy Shannon, SEP campaign coordinator for the Washington-based Pension Rights Center.

Under a SEP, which was authorized by the 1978 tax law, an employer can contribute up to $30,000 or 15% of salary—whichever is less—per plan participant each year.

SEPs are attractive to small companies because they are flexible and inexpensive to administer, the center says. In addition, a company is not locked into making any future contributions.

"Workers like SEPs because the money paid into their SEP accounts, and the interest on them, belongs to them even if they leave the company," the center says.

The center has published a one-page fact sheet that explains how SEPs work. Copies of the fact sheet, "The Pension Plan (Almost) Nobody Knows About," are available by writing the Pension Rights Center at 918 16th St. N.W., Suite 704, Washington, D.C. 20006. The cost is $3.

Medicare expansion

Rep. Edward Roybal, D-Calif., has introduced legislation that would expand the federal Medicare program to reduce the vulnerability of the elderly to catastrophic health care bills and add new benefits.

Under the legislation, H.R. 1930, the maximum out-of-pocket expenses a beneficiary could incur annually for Medicare-covered services would be capped at $500. No such dollar cap currently exists.

In addition, prescription drug benefits would be provided for the first time under Medicare. The prescription drug benefit would have a $300 deductible and a coinsurance charge of $2 per prescription.

This expanded Medicare program would be financed by a 16-cent-per-pack increase in the federal excise tax on cigarettes and a $10 per month premium paid by beneficiaries.

Meanwhile, in another Medicare-related matter, a Washington-based lobbying group representing the elderly is describing as "window dressing" a Reagan administration proposal to place a $2,000 annual cap on out-of-pocket expenses for Medicare-covered services.

The elderly "will be duped into thinking that the president's plan will provide catastrophic illness protection," says William Hutton, executive director of the National Council of Senior Citizens.

The administration proposal is "little more than window dressing for what really needs to be done," Mr. Hutton said.

A grass-roots campaign will be mounted to convince Congress to approve legislation to give the elderly protection from catastrophic nursing care and prescription drug expenses, he said.

Fiduciary liability

The Labor Department's Advisory Council will hold a special meeting April 28 to discuss the problems pension plans are having in obtaining fiduciary liability insurance.

The meeting will begin at 10:30 a.m. in Room N-3437C, U.S. Department of Labor, 200 Constitution Ave. N.W., Washington, D.C. 20210.

Equal contribution

The ERISA Industry Committee has endorsed a proposal by the Health Care Financing Administration to eliminate the equal contribution rules that require employers to contribute the same amount to health maintenance organizations as they do to indemnity health plans they offer (*BI*, Feb. 16).

"The equal contribution requirement has prevented employers from basing their contributions on the experience of the groups covered by their plans and has thereby maintained the cost of HMO options at unnecessarily high levels and impaired the efforts of employers to contain their health plan costs," according to ERIC.

"Furthermore, the HMO industry is now sufficiently mature to compete with other health plan alternatives on its own, without the costly and inefficient assistance of the equal contribution requirement," ERIC stated. ■

comings & goings: industry

Continued from previous page
Mass. Mr. Charron joined the firm in 1981.

Robert D. Baus named manager of the Washington, D.C., office of Buck Consultants Inc. Mr. Baus joined Buck's New York office in 1972.


Mr. Baus

Howard J. Golden has joined employee benefit consultant Kwasha Lipton of Fort Lee, N.J., as a partner in the legal department.


Mr. Golden

David P. Dawson promoted to vp and senior consultant at Herget & Co. Inc., the Baltimore-based actuarial, benefits and compensation consulting firm. Mr. Dawson joined the company in 1980 as a member of the firm's consulting department.

Excess/surplus

Gerard W. Reczek named vp and manager of the Boston branch of Stewart Smith East Inc. in New York. Most recently, Mr. Reczek was assistant vp and broker with Fort Hill Insurance Agency Inc. in Boston.

Also at Stewart Smith East, **John V. Malejko** elected vp-casualty. Most recently, Mr. Malejko was with Crump Northeast Risk Managers Ltd. in New York.

Anthony C. Bova appointed president of American Brokerage Excess Inc. in Bala Cynwyd, Pa. Previously, Mr. Bova was president of Bova Management Brokerage Group, and founder of Graham and Bova Underwriters.

Also at American Brokerage Excess, **Michelle S. Linsalata** appointed vp. Ms. Linsalata will assume administrative responsibilities of the agency as well as underwriting functions, new business placement and marketing.

Reinsurers

Peter M. Nance promoted to senior vp at General Reinsurance Corp. in Stamford, Conn. He is in charge of the casualty facultative and broker markets operations.

Claudia A. Brewer and **Jon P. Kocourek** promoted to vps at E.W. Blanch Co. in Minneapolis. Before joining Blanch in 1985, Ms. Brewer was facultative and treaty manager at Paul Napolitan Inc. Previously, Mr. Kourek worked in Blanch's San Francisco office. ■

info

● The Greater Los Angeles chapter of the National Safety Council's Film Library is expanding. The library has added hundreds of new **safety-related films and videos** emphasizing, among other topics, safety and health issues. Many titles are available in Spanish. For a free film catalogue, write to the Film Library, Greater Los Angeles chapter, National Safety Council, 616 Westmoreland Ave. Los Angeles, Calif. 90005.

● The Menninger Foundation has published a report titled, **"Predicting Which Disabled Employees Will Return To Work: The Menninger RTW Scale."** Of interest to claims benefits managers and rehabilitation coordinators, this scale not only indicates who is likely to return to work, but also identifies those individuals who should benefit from rehabilitation services. The report—TMF-P008-18—is available for $10 from the Menninger Foundation, Research and Training Center, Jayhawk Tower, 9th Floor, 700 Jackson, Topeka, Kan. 66603; 913-223-2051.

● For every $3 employees receive in wages, their employers provide an additional dollar in various benefits, according to Fax Communications Inc. In a new publication, **"Understanding Your Employee Benefits: What's In It For You,"** Fax informs and motivates employees to understand and appreciate the value of their employee benefits. The basics of employee benefits, particularly health care and life insurance, are conveyed in an easy-to-read style with illustrations. In addition, employer contributions to Social Security and disability coverage also are covered. Designed and priced to be included in take-home handouts, a free sample copy of the booklet is available from Fax Communications Inc. Dept. BI, 3279 20th St., San Francisco, Calif., 94110; 415-641-7422.

● According to a new publication issued by the Society of Chartered Property & Casualty Underwriters, insurance buyers can take a variety of actions that will help control the price they pay for auto, home and business insurance. **"How Consumers Can Affect Insurance Cost"** is the title of the 16-page illustrated booklet designed to increase the level of knowledge of insurance buyers. The booklet covers the basic insurance coverages that are available and necessary, the factors that affect the cost of these coverages, and safety considerations. Specific sections include actions motorists can take, actions homeowners can take and actions businesses can take. Single copies are available free from the Communications Department, Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355.

● **"Cocaine In The Workplace"** is the title of a new booklet designed to dispel more than a dozen myths surrounding the drug and highlight its dangerous side effects. The 16-page illustrated booklet from Krames Communications encourages supervisors to focus on performance issues and shows them how to draw up a contract with affected employees to require increased performance by a fixed date. Co-workers are urged not to enable drug use by covering for abusers and are informed of the warning signs of cocaine abuse. Company managers or supervisors can obtain a sample copy of the booklet by sending a request on company stationery, or by attaching their business card to their request, from Krames Communications, 312 90th St., Daly City, Calif. 94015-1898.

● A new videotape explaining the hows and whys of the **Texas Workers' Compensation Assigned Risk Pool** is now available to agents and their clients. "A Workable Solution: An Introduction to the Texas Workers' Compensation Assigned Risk Pool" describes how the pool is organized and funded, why some businesses

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are rejected in the voluntary market and what services the pool offers to help employers prevent future losses. The assigned risk pool was created in 1953 by the Texas Legislature to provide a source of work comp coverage for employers that cannot obtain it in the voluntary market. "A Workable Solution" is available for loan in VHS and ¾-inch video formats from the Insurance Information Institute, 800 Brazos, Suite 4220, Austin, Texas 78701; 512-476-7025.

• An introductory brochure on **alternative dispute resolution** methods has been published by the American Arbitration Assn. The descriptive brochure defines arbitration, mediation, the minitrial and other alternatives in easy-to-understand language. It lists the steps in arbitration and mediation processes as practiced under the AAA rules and contains examples of standard arbitration and mediation clauses. Also, it discusses the types of cases suitable for alternative dispute resolution. The 18-page brochure is available for $1 prepaid from Betty Berry, American Arbitration Assn., 140 W. 51st St., New York, N.Y. 10020-1203.

• Two new books from Commerce Clearinghouse Inc. address the effect of recent federal legislation on certain employee benefits. **"CCH Guide to Employee Benefits Under 1986 Tax Reform"** explains major changes to rules governing pensions and employee benefits. Included in its analysis are changes made to rules governing pension plan qualifications, new penalties and restrictions imposed to ensure that amounts that are tax deferred are actually used for retirement and not as tax shelters, and new rules limiting tax incentives to benefits that are provided on a non-discriminatory basis. In addition, the guide contains full texts of the Internal Revenue Code and Employee Retirement Income Security Act sections as added, amended or repealed by the act. Also included in the guide are the controlling committee reports, which provide the committee explanation of the new law provisions. Single copies of the 512-page book are $12.

"New 1986 Mandatory Retirement and Maximum Income Age Benefit Rules" is the title of CCH's 64-page explanation of the new maximum age employee benefits rules and the laws as added or amended. These new rules—affecting employers, labor unions, employment agencies, and employee benefit plan administrators—are contained in 1986 amendments to the Age Discrimination in Employment Act of 1967, ERISA, and the Internal Revenue Code of 1986. Effective Jan. 1, 1987, employees will be protected from age discrimination in all terms and conditions of their employment, especially protection from forced retirement after they reach 70 years of age, according to CCH. A table of court cases referred to in the explanations and a topical index are also included. Single copies are available for $6. For a copy of this book or the guide to the new tax law send payment to Cash Item Department, Commerce Clearing House Inc., 4025 W. Peterson Ave., Chicago, Ill. 60646.

• Corporate Contingency Services is offering a new brochure on **disaster recovery planning.** The brochure describes the planning assistance that is provided by CCS, which includes development of data processing and corporate contingency plans, the audit of existing contingency plans and the maintenance of contingency plans. Also included are descriptions of some recent disasters that befell companies without contingency plans. For a free copy of the brochure, contact Corporate Contingency Services, P.O. Box 805, New Hudson, Mich. 48165; 800-426-4620; 313-486-2090 in Michigan.

• "The CPCU Journal," a quarterly publication of the Society of Chartered Property & Casualty Underwriters, features **articles and commentary on insurance** and related subjects. The CPCU Journal is edited by Numan A. Williams, CPCU, professor of finance and insurance at Ball State University in Muncie, Ind. In the March 1987 issue, David Daar, a specialist in insurance law and major litigation with Miller & Daar in Los Angeles, reviews the implications of the Risk Retention Act of 1986. CPCU Journal subscriptions are available at $12 for one year and $22 for two years. For more information contact Lisa Fittipaldi, publications coordinator, The Society of CPCU, Kahler Hall,

Continued on next page

info

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720 Providence Road, CB#9, Malvern, Pa. 19355.

• The Insurance Information Institute has prepared a new **slide presentation designed to put industry profits into perspective.** Entitled, "The Road to Recovery," the presentation also examines the industry's 1986 financial performance, shows how the industry historically lags behind other businesses in return on equity, discusses the impact of problems in the civil justice system on liability lines of insurance and looks at the industry's outlook for 1987. The presentation is being used by industry representatives before legislative sessions, study commissions, tort coalitions, the media, business and other groups. Available in 20- and 30-minute versions, the presentation is designed to be given using a script. It comes with a supply of brochures that outline the key points of the presentation to be left with the audience, and an instructional booklet on how to give an effective presentation. "The Road to Recovery" is available free on loan from the Insurance Information Institute by calling 800-221-4954.

• A new brochure from Self Insurance Exchange Inc., "SIEX—National Clearinghouse of Self-Insurance Experts and Services," provides a **guide to services a self-insured organization should consider**. It also explains how the clearinghouse can help organizations with their self-insurance needs. For a free copy of the SIEX brochure, write Self Insurance Exchange Inc., P.O. Box 8104, Newport Beach, Calif. 92658-8104.

• **"Computer Automation of Manual Functions Within Risk Management"** is the title of a 90-page book from Softec Inc., which details recent seminars conducted by the company. Included in the book is information on automation of general claims, medical malpractice, workers compensation and incident tracking. Also covered are the technical issues associated with operating system software as it applies to risk management automation on personal computers. The book is available in two versions: general industry and hospital. The company asks that those interested in obtaining a copy specify their preference when ordering. Copies are available for $4 from Softec Inc., 33063 Schoolcraft Road, Livonia, Mich. 48150; 313-261-4440.

• Krames Communications is offering 11 new, six-page brochures on **attaining better health during the "prime time" years.** Divided between titles on wellness and interaction with the health care system, these brochures have been created to help readers learn to make wise decisions on lifestyle and health care issues. Titles in the series are: nutrition, fitness, managing stress, safeness, overcoming chemical dependency, asking questions, choosing a health care plan, self-care, alternatives to hospital care, health screening and planning long-term care. Personnel officers, retirement program counselors, community agencies, employers, physicians, therapists, clinics or other qualified individuals or organizations can obtain sample copies by sending a request on their letterhead—or attaching a business card to the request—to Krames Communications, Dept. PTH-8, 312 90th St., Daly City, Calif. 94015-1898.

•The American Society of Safety Engineers has published an 80-page book entitled, **"Promoting Employee Health: A Guide for Worksite Wellness."** The softcover book is designed to provide assistance and information to all types of businesses and industries in aiding the development of organized health promotion and wellness activities at the worksite. It includes a step-by-step program to follow in developing activities aimed at improving the health and well-being of employees while simultaneously increasing employee productivity, reducing absenteeism and enhancing a positive attitude toward the worksite. Copies are available to ASSE members at $15 and to non-members for $20. Send prepaid orders to Department F, American Society of Safety Engineers, 1800 E. Oakton St., Des Plaines, Ill. 60018-2187. Visa and Master Card orders also are accepted by calling 312-692-4121.

• An analysis of the legislation and regulation affecting health maintenance organizations is available for $20 from the Group Health Assn. of America. "GHAA's Legislative and Regulatory Digest" reviews **federal and state issues that influence the way HMOs operate.** For each topic examined, there is a background summary, a review of recent developments, a brief discussion that includes action GHAA has taken on the issue and, where applicable, the congressional committees of jurisdiction. To order the digest, contact the Group Health Assn. of America, Order Department, 1129 20th St. N.W., Suite 600, Washington, D.C., 20036.

• A new monograph from the Society of Chartered Property & Casualty Underwriters opines that **the survival of the property/casualty industry through the 21st century** depends on the lessons learned from the commercial insurance crisis of 1985-1986. The 134-page "Crisis Avoidance: Insurance Responsibilities" presents facts, background information, points of view and criticisms concerning the widely publicized affordability and availability problems. It consists of papers by two educators, a former regulator, five insurance company chief executive officers, four insurance industry specialists, a corporate risk manager and a jurist. The book can be ordered at a cost of $12.50 per copy from the Society of CPCU, Communications Division, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355.

• The Division of Clinical and Professional Psychology of the California State Psychological Assn. offers a brochure that discusses the potential benefits of **incorporating psychological services into an employee health care program.** The role of psychologists in employee wellness—through stress reduction, substance abuse counseling, rehabilitation and prevention—are described. Single copies are available free from CSPA, Division of Clinical and Professional Psychology, 2100 Sawtelle Blvd., Suite 201, Los Angeles, Calif. 90025.

• The American Society of Internal Medicine has updated its most popular patient brochure, **"Medicare: What It Will and *Will Not* Pay For."** The revised brochure reflects the most recent changes enacted by Congress to Medicare laws and lists the premiums, deductibles and copayments that went into effect Jan. 1. The brochure is designed to specifically answer beneficiaries' questions about what Medicare is, who is eligible for it, and how to claim benefits. It clarifies those hospital (Part A) and medical (Part B) services that are covered under Medicare and specifically identifies those services not covered under the program. The brochure can be purchased from ASIM for $20 per 100 copies. ASIM members receive a 10% discount. For more information or to order contact ASIM Literature Order Department, NR87, 1101 Vermont Ave. N.W., Suite 500, Washington, D.C. 20005-3457. Copies can be charged to Master Card and Visa as well: 202-289-1700.

• **Audiocassettes** of the International Foundation of Employee Benefit Plans' 1986 Corporate Benefits Management Conference and 1986 Corporate Health Care Cost Management Conference are now available. For a list of the tapes available and an order form, contact the IFEBP. Single cassettes cost $8 for IFEBP members and $10 for non-members. Audiovisual Services, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069.

• The Self—Insurance Institute of America announces the availability of the new guide, **"Who's Who in Self-Insurance Services Directory."** The directory provides a listing of companies serving the self-insurance alternative, including consultants and brokers, third-party administrators, reinsurers, claim investigation companies, automation vendors, health care providers and captive insurance company managers. All companies listed in the directory are members of the SIIA. For a free copy of the directory write the Self-Insurance Institute of America P.O. Box 15466, Santa Ana, Calif. 92705.

• General Learning Corp. is now offering "The Employee Health/Safety Catalog," an eight-page **guide to employee magazines and newsletters for health promotion** available from GLC including a special newsletter for retirees and pre-retirees. These publications, according to the company, are a cost-effective way to motivate employees and their families to take positive action in managing their own health care. For a free review copy of the "The Employee Health/Safety Catalog" call 800-323-5471. In Illinois: 312-432-2700.

• The U.S. Chamber of Commerce has published **"Drug Abuse in the Workplace:** An Employer's Guide for Prevention." The book contains essential information for employers, including guidelines for implementing a workplace drug abuse prevention program, a supervisor's checklist for reacting to a suspected case of drug abuse and a special section on alcohol abuse. The book also contains sample company policy statements and authorization forms for drug testing programs and lists of further sources of information, like state and federal agencies. Single copies are available for $15 for Chamber members and $30 for non-members. To order contact U.S. Chamber of Commerce, 1615 H. St. N.W., Washington, D.C. 20062.

• "Public Employee Benefit Plans" is a compilation of texts by nine professionals on topics relating to **benefit programs for public entity employees.** The authors of the texts include doctors, attorneys, consultants and public officials. Topics addressed in the book include effective health care purchasing, AIDS and other catastrophic illnesses, prescription drug plans and the future of public pension plans. The book, published by the International Foundation of Employee Benefit Plans, costs $10 for IFEBP members and $16 for non-members. To order, contact the International Foundation of Employee Benefit Plans, Publications Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

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Have a new report, booklet or informational brochure you'd like to send to buyers of insurance? Business Insurance will describe material costing less than $25 as an editorial service in the weekly Info column. Simply send us a copy of the material to be offered, a short description of the material and its cost and a mailing address. Address all contributions to Info, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

European risk managers follow U.S. lead

By DENISE CLAVELOUX

BRUSSELS, Belgium—European risk management associations are following the lead of their U.S. counterparts in creating alternatives to solve insurance coverage problems, according to a leader of two of the groups.

Francois Settembrino, responsible for risk management for the giant cigarette and cigar producer Tabacco Fina S.A., sees the European risk managers also benefiting from contact with U.S. associations.

Mr. Settembrino, 57, has been president for the last three years of Assn. Europeene des Assures de l'Industries, based in Brussels, Belgium, which is a federation of the main European risk management associations.

He also has served the last year as president of the Belgian risk management association, Groupement des Assures de l'Industrie.

"I have always believed that both associations have an important role to play for industry, and I believe that being of service is very important," he said.

"I did not just take on the jobs to play at being president of something," he added.

Mr. Settembrino—who has worked for 24 years in Belgium's insurance market, including serving at a subsidiary of Marsh & McLennan Cos. Inc. and at the employee benefits division of William M. Mercer-Meidinger-Hansen Inc.—believes that the two associations can be useful to European risk managers.

"We live in a world full of pressure groups. It would be abnormal if industry, which has such significant risk problems, did not try to put across its point of view and exert influence," Mr. Settembrino said.

The AEAI—which represents the risk management associations of France, West Germany, the United Kingdom, Belgium, Holland, Italy and Spain—brings together the interests of more than 1,000 companies in Europe, estimates Mr. Settembrino.

The association's main purpose is to allow members to study industrial risks and activities in various countries and industries, he said.

The group is a liaison with other international bodies such as the European Employers Assn. (UNICE) and the International Chamber of Commerce.

The AEAI also has a special working group to handle relations with the European Community.

"Our relations with both national and international bodies is extremely good," said Mr. Settembrino. "The EC is particularly open and receptive, in some cases much more so than national ministries. I have the impression that they really listen to what we say and take it seriously."

Also, since 1981, AEAI has cosponsored a biannual conference in Monte Carlo with the U.S.-based Risk & Insurance Management Society. This year's gathering is slated for Oct. 11-14.

"AEAI began to realize that many of the ideas (we have) coincide with those in the United States," he said. "But, because of the size of the market, the U.S. organizations were more structured than their European counterparts. When similar problems started to be felt everywhere, however, we decided to get together with RIMS to discuss our common problems."

The AEAI also is attempting to bring together various European companies to form a reinsurance facility in Luxembourg to write liability risks. So far, six companies have agreed to buy shares in the new reinsurer, including Tobacco Fina, which will be called European Pooling System S.A. (*BI*, March 2).

EPS will not be operational until year-end at the earliest, said Mr. Settembrino.

Mr. Settembrino believes that the idea behind EPS probably was borrowed from the United States, but he said, "the problems in Europe are very different from those in America. The main concept is that industry is now admitting that it must play an active role in securing its own insurance cover, particularly for such risks as product liability and environmental damage."

'It would be abnormal if industry did not try to put across its point of view,' Mr. Settembrino says.

The main users of EPS probably will be chemical and pharmaceutical companies, but no sector of industry will be excluded from buying shares, he said. Shareholders, however, do not have to place reinsurance with the facility, said Mr. Settembrino. Tabacco Fina, for example, is wholeheartedly supporting the reinsurer and will be an initial shareholder, but will probably not seek coverage with EPS, he said.

Wearing his other hat, Mr. Settembrino said that Belgium's risk management association GAI, which has about 85 members, has a number of working parties that meet about once a month at one of the member companies.

This way, the members, which include some of Belgium's largest industries, get to know each other better and participate equally in the association, he said.

Neither the GAI nor the AEAI advertise their activities, but Mr. Settembrino believes both associations will be judged by their effectiveness. ■

datebook

APRIL 15. Advanced "Post Graduate" Cost Management workshop in Orlando, Fla., sponsored by the Health Research Institute. $250. **Also May 13** in Houston; **June 3** in Chicago; **June 24** in Philadelphia; **July 29** in Honolulu; **Aug. 19** in San Diego; **Sept. 16** in Cleveland; **Oct. 7** in Boston; **Oct. 28** in San Francisco; **Nov. 11** in New York; and **Dec. 9** in Chicago. Health Research Institute, 1600 S. Main Plaza. Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

APRIL 15. ISO Commercial General Liability Policy workshop in Blue Bell, Pa., sponsored by the Insurance Society of Philadelphia and Delaware Tech; $105 for members; $120 for non-members. **Also May 14** in Philadelphia. Insurance Society of Philadelphia, 737 Public Ledger Building, Philadelphia, Pa 19106; 215-627-5306.

APRIL 15. The Risk Bearing Phenomenon—Alternatives to Traditional Insurance workshop in Tampa, Fla., sponsored by the Society of Chartered Property & Casualty Underwriters; $125 for Scciety members; $150 for non-members. **Also May 5** in Pittsburgh. Mari Jennings, The Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355; 215-251-2741.

APRIL 16. Assessing Vendors (HMOs, PPOs, Utilization Review Firms, etc.) workshop in Orlando, Fla., sponsored by the Health Research Institute; $250. **Also June 4** in Chicago; **June 25** in Philadelphia; **July 30** in Honolulu; **Aug. 20** in San Diego; **Sept. 17** in Cleveland; **Oct. 8** in Boston; **Oct. 29** in San Francisco; **Nov. 12** in New York; and **Dec. 10** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

APRIL 16. Coping with COBRA seminar in Springfield, Ill., sponsored by the Illinois State Chamber of Commerce; $45 for ISCC members; $70 for non-members. **Also April 30** in Chicago. Carol Jensen, Illinois State Chamber of Commerce, 20 N. Wacker Drive, Chicago, Ill. 60606; 312-372-7373.

APRIL 16. Cost Containment Through Communications and Education workshop in Orlando, Fla., sponsored by the Health Research Institute; $250. **Also June 4** in Chicago; **June 25** in Philadelphia; **July 30** in Honolulu; **Aug. 20** in San Diego; **Sept. 17** in Cleveland; **Oct. 8** in Boston; **Oct. 29** in San Francisco; **Nov. 12** in New York; and **Dec. 10** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

APRIL 16-17. Labor/Management Cost Containment workshop in Orlando, Fla., sponsored by the Health Research Institute; $495. **Also June 4-5** in Chicago; **June 25-26** in Philadelphia; **July 30-31** in Honolulu; **Aug. 20-21** in San Diego; **Sept. 17-18** in Cleveland; **Oct. 8-9** in Boston; **Nov. 12-13** in New York; and **Dec. 10-11** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

APRIL 21. ISO Commercial Property Rating workshop in Philadelphia, sponsored by the Insurance Society of Philadelphia and Delaware Tech; $105 for members; $120 for non-members. Insurance Society of Philadelphia, 737 Public Ledger Building, Philadelphia, Pa. 19106; 215-627-5306.

APRIL 21-22. How to Use the Risk Retention Act of 1986 symposium in San Francisco, sponsored by the Risk Management Section of the Chartered Property & Casualty Underwriters; $200 for society members; $250 for non-members. **Also May 13-14** in Chicago. Julie Ann Juliana, The Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355; 215-251-2735.

APRIL 21-22. Advanced Safety Management seminar in Phoenix, Ariz., $295. Dr. Rick Summers, Waite Hill Services Inc., P.O. Box 5816, Kingwood, Texas 77325; 713-358-0949.

APRIL 21-22. Insurance Claims for Environmental Damages: Technical and Legal Considerations conference in Washington, sponsored by Executive Enterprises Inc.; $875 for first registrant; $775 for second registrant from same organization; $650 for more. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 212-645-7880; 800-223-0787 within New York; 800-831-8333 outside New York.

APRIL 21-23. Laboratory Safety course in Chicago, sponsored by the Research & Development Section of the National Safety Council, Industrial Division; $415 for NSC members; $520 for non-members. NSC, 444 N. Michigan Ave., Chicago, Ill. 60611; 312-527-4800.

APRIL 21-24. Reinsurance Accounting and Finance for Ceders and Assumers seminar in Tarrytown, N.Y., sponsored by Robert W. Strain Seminars Inc.; $1,295 (includes lodging and meals). **Also Sept. 8-11.** Robert W. Strain Seminars Inc., P.O. Box 1000, Wingdale, N.Y. 12594; 914-832-9384 or 212-677-5974.

APRIL 23-24. New Issues in Public Sector Employee Benefits conference in Washington, co-sponsored by Pension Commission Clearinghouse and Johnson & Higgins Edward H. Friend & Co. division; $250. Laura S. Horvath, J&H/Edward H. Friend & Co. Division, 1800 K St. N.W., Suite 500, Washington, D.C. 20006; 202-785-9080.

APRIL 25. The Insurance Women of Greater Minneapolis seminar; $25 for National Assn. of Insurance Women members; $35 or non-members; $40 at the door. Betty Knight, Insurance Women of Greater Minneapolis, 612-545-4054.

APRIL 26-29. Sixth Annual Conference on Employee Benefits in Scottsdale, Ariz., sponsored by the State and Local Government Benefits Assn.; $120 for SLGBA members; $140 for non-members. George L. Morawski, State of Arizona, 1831 W. Jefferson, Phoenix, Ariz. 85007; 602-255-5482, ext. 263.

APRIL 27-MAY 1. Modern Safety Management course in Atlanta, sponsored by the International Loss Control Institute; $695. International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 404-466-2203.

APRIL 28. Questions on the New CGL and CP Policies? Ask the Claims Department! workshop in Ashville, N.C., sponsored by the Society of Chartered Property & Casualty Underwriters; $80 for society members; $95 for non-members. **Also May 12** in St. Louis. Mari Jennings, Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355; 215-251-2741.

APRIL 28. Surety Claims '87 Conference in Chicago, sponsored by the CMA Consulting Group; $195. **Also May 1** in San Francisco, **May 5** in Philadelphia. Beverly Loughlin, CMA Consulting Group, Box 2287, Morristown, N.J. 07960; 201-267-7171.

APRIL 30-MAY 1. Workers Compensation: The Changing Character of State Systems conference in Storrs, Conn., co-sponsored by the University of Connecticut, Cornell University, Rutgers University and Syracuse University; $150. The University of Connecticut, Non-credit Programs, U-56, 1 Bishop Place, Storrs, Conn. 06268.

APRIL 30-MAY 1. SEC Accounting & Financial Reporting for Property/Casualty Insurance Companies conference in New York, sponsored by Executive Enterprises Inc.; $875 for first registrant; $775 for second registrant from same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 212-645-7880; 800-223-0787 within New York; 800-831-8333 outside New York.

MAY 3-6. Corporate Benefits Management Conference in Dallas, Calif., sponsored by the International Foundation of Employee Benefit Plans; if received 60 days prior to meeting date: $560 for IFEBP members, $635 for non-members; regular rate: $605 for IFEBP members, $680 for non-members. **Also June 22-25** in Lake Tahoe, Nev. International Foundation of Employee Benefit Plans, Registration Department, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

MAY 4-5. Insurance Ratings conference in Hilton Head Island, S.C., sponsored by Standard & Poor's Corp.; $500. Standard & Poor's Corp., 25 Broadway, New York, N.Y. 10004

MAY 4-5. Recovering Uncollectable Reinsurance conference in New York, sponsored by Executive Enterprises Inc.; $875; $775 for additional registrant from the same organization. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 212-645-7880; 800-223-0787 outside New York; 800-831-8333 within New York.

MAY 4-7. Wellness in the Workplace conference in Philadelphia, co-sponsored by the NTL Institute and the Organizational Development Network; $395 for OD Net and NTL members; $275 for academic and union representatives; $175 for students; $445 for all others. NTL Institute, P.O. Box 9155, Rosslyn Station, Arlington, Va. 22209.

MAY 5. Spotlight on Elder Care conference in New York, sponsored by Retirement Advisors; $280. Retirement Advisors, 919 Third Avenue, New York, N.Y. 10022.; 212-421-2400.

MAY 5. Flood Insurance: The Neglected Market workshop in Philadelphia, co-sponsored by the Insurance Society of Philadelphia and Delaware Tech; $55 for members; $65 for non-members. Insurance Society of Philadelphia, 737 Public Ledger Building, Philadelphia, Pa. 19106; 215-627-5306.

MAY 5-8. 50th Anniversary Annual Meeting of the National Assn. of Independent Insurance Adjusters: Golden Year-Investment in Excellence convention in Orlando, Fla.; $200 for NAIIA members/guests; $100 for spouse. National Assn. of Independent Insurance Adjusters, 222 W. Adams St., Chicago, Ill. 60606; 312-853-0808.

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MAY 6. Workers Compensation Course in New York, sponsored by The College of Insurance; $195 for college sponsors; $215 for non-sponsors. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

MAY 6-7. Hurricane and Windstorm Catastrophe workshop in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 373.75 pounds (approx. $590.50). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175.

MAY 6-8. Insurance Coverage, Practice & Risk Management seminar in Chicago, sponsored by the Defense Research Institute Inc.; $395 for DRI members; $420 for non-members. Defense Research Institute Inc., 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

MAY 6-8. The Future of Voluntary Benefits conference in Washington, sponsored by the Assn. of Private Pension and Welfare Plans; before April 22: $400 for APPWP members, $500 for non-members; after April 22: $425 for APPWP members, $525 for non-members. Sue Ransom, Assn. of Private Pension and Welfare Plans, 1331 Pennsylvania Ave. N.W., Suite 719, Washington, D.C. 20004; 202-737-6666.

MAY 7. Facultative Reinsurance-An Update (How to Succeed in the Current Market) workshop in Hartford, Conn., and Los Angles, sponsored by the Society of Chartered Property & Casualty Underwriters; $125 for society members; $150 for non-members. **Also May 14** in Kansas City, Mo. Mari Jennings, Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355; 215-251-2741.

MAY 7. Alternate Health Care Delivery Systems: Which Model? seminar in New York, sponsored by LIMRA; $250 for LIMRA members; $500 for non-members. Patricia A. Kavlaski, Meeting Registrar, LIMRA, P.O Box 208, Hartford, Conn. 06141; 203-677-0033.

MAY 7-8. Controlling Costs Through Prevention: Creating Incentives for Better Health conference in Washington, sponsored by General Health Inc.; $250. General Health Inc., 3299 K St. N.W., Washington, D.C. 20007; 202-965-4881.

MAY 7-8. Alternative Risk Financing Techniques: Expanding the Limits of Risk Retention conference in Fort Lauderdale, Fla., sponsored by Tillinghast Division of Towers, Perrin, Forster & Crosby; $595. Conference Director, Tillinghast/TPF&C, 722 Post Road, Darien, Conn. 06820; 203-655-9791.

MAY 10-13. Casualty Actuarial Society Spring Meeting in Orlando; $230 for CAS members; $5250 for non-members. Edith Morabito, Casualty Actuarial Society, 1 Penn Plaza, 250 W. 34th St., New York, N.Y. 10019; 212-560-1018.

MAY 11. Employee Benefit Plans seminar in Chicago, sponsored by the Illinois State Chamber of Commerce; $90 for ISCC members; $135 for non-members. **Also April 30** in Chicago. Carol Jensen, Illinois State Chamber of Commerce, 20 N. Wacker Drive, Chicago, Ill. 60606; 312-372-7373.

MAY 11-12. Health Care Cost Containment workshop in Houston, sponsored by the Health Research Institute; $495. **Also June 1-2** in Chicago; **June 22-23** in Philadelphia; **July 27-28** in Honolulu; **Aug. 17-18** in San Diego; **Sept. 14-15** in Cleveland; **Oct. 5-6** in Boston; **Oct. 26-27** in San Francisco; **Nov.9-10** in New York; and **Dec. 7-8** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

MAY 13. Health Improvement/Wellness workshop in Houston, sponsored by the Health Research Institute; $250. **Also June 3** in Chicago; **July 29** in Honolulu; **Aug. 19** in San Diego; **Oct. 7** in Boston; **Oct. 28** in San Francisco; **Nov. 11** in New York; and **Dec. 9** in Chicago. Health Research Institute, 1600 S. Main Plaza, Suite 170, Walnut Creek, Calif. 94596; 415-676-2320.

MAY 13. Fundamentals of Insurance course in San Diego, sponsored by the Risk & Insurance Management Society; $540 for RIMS members, $640 for others. Fran Jordan, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MAY 13-15. Techniques of Loss Control course in New York, sponsored by the Risk & Insurance Management Society; $540 for RIMS members, $640 for others. **Also June 3-5** in Honolulu. Fran Jordan, Risk & Insurance Management Society Inc., 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MAY 14-15. Brief Course in Reinsurance in New York, sponsored by The College of Insurance; $165. The College of Insurance, 1 Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111.

MAY 14-15. Health Management Conference: Case Management in San Diego, Calif., sponsored by the National Assn. of Employers on Health Care Alternatives; $395 for NAEHCA members; $300 for additional registrant from same NAEHCA organization; $495 for non-members; $400 for additional registrant from same non-member organization. National Assn. of Employers on Health Care Alternatives, 304 Executive Building, 104 Crandon Blvd., Key Biscayne, Fla. 33149.

MAY 17-20. Eighth Annual Public Risk & Insurance Management Assn. Conference in Seattle; $265 for PRIMA member governments; $330 for non-member governments (includes 1987 membership); $475 for PRIMA industrial affiliates; $525 for private-sector non-members. Public Risk & Insurance Management Assn., 1120 G St. N.W., Suite 400, Washington, D.C. 20005; 202-626-4650.

MAY 20-22. Hull and P&I Insurance seminar in New York, sponsored by the World Trade Institute; $815; $730 for additional registrant from the same organization. World Trade Institute, 1 World Trade Center, 55W, New York, N.Y. 10048; 212-466-3158.

MAY 21. National Assn. of Insurance Women, New York City Annual Awards Luncheon; $65 for individuals; $600 for table of 10. Charlene Hamrah, American International Group Inc., 99 John St., New York, N.Y. 10038; 212-770-9431.

MAY 26-29. Reinsurance Contract Wording seminar in Tarrytown, N.Y., sponsored by Robert W. Strain Seminars Inc.; $1,295 (includes lodging and meals). Robert W. Strain Seminars Inc., P.O. Box 1000, Wingdale, N.Y. 12594; 914-832-9384 or 212-677-5974.

JUNE 1-2. New York State Public Sector Coalition on Health Benefits' First Annual Conference in Albany, N.Y.; $95 for NYSPSC members; $150 for non-members. New York State Public Sector Coalition on Health Benefits, P.O. Box 15, Albany, N.Y. 12260; 518-473-6217.

JUNE 1-3. Employee Benefits: Concepts, Planning and Administration course in Atlanta, sponsored by the Risk & Insurance Management Society; before April 20: $495 for RIMS members, $595 for non-members; after April 20: $540 for RIMS members, $640 for others. Fran Jordan, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

JUNE 3-5. Techniques of Finance and Accounting course in Philadelphia, sponsored by the Risk & Insurance Management Society; before April 22: $495 for RIMS members, $595 for non-members; after April 22: $540 for RIMS members, $640 for others. Fran Jordan, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

JUNE 4-6. Practical Strategies for Pensions After Tax Reform seminar in Chicago, sponsored by Corbel & Co.; $395. Brenda Chatham, Corbel & Co., P.O. Box 17548, Jacksonville, Fla. 32245-7548; 904-731-4455.

JUNE 10-12. Claims Management course in San Francisco, sponsored by the Risk & Insurance Management Society; before April 29: $495 for RIMS members, $595 for non-members; after April 29: $540 for RIMS members, $640 for others. Fran Jordan, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

JUNE 10-12. Techniques of Risk Management course in Boston, sponsored by the Risk & Insurance Management Society; before April 29: $495 for RIMS members, $595 for non-members; after April 29: $540 for RIMS members, $640 for others. Fran Jordan, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

JUNE 17. Pension Planning Workshop in Philadelphia, sponsored by the Insurance Society of Philadelphia and Delaware Tech; $65 for members; $75 for non-members. Insurance Society of Philadelphia, 737 Public Ledger Building, Philadelphia, Pa. 19106; 215-627-5306.

JULY 5-9. 23rd Annual Conference of the International Insurance Society Inc. in Seoul, Korea; $900 for industry participants; $450 for academic or government representatives; $250 for spouses. International Insurance Society Administrative Headquarters, P.O. Box J., Tuscaloosa, Ala. 35487; 205-348-8974.

JULY 29-30. 1987 National Workers Compensation Seminar in Cape Cod, Mass., sponsored by Workers' Compensation Monthly; $195. Workers' Compensation Monthly, P.O. Box 590, Falmouth, Maine 02541.

OCT. 11-14. Risk Management Forum: Association Europeean des Assures de l'Industrie and the Risk & Insurance Management Society Inc. International Conference in Monte Carlo; 6,300 French francs (approx. $378 at current exchange rate) for university members or students; 4,600 French francs (approx. $757 at current exchange rate) for members of a risk management department; 6,300 French francs (approx. $1,036 at current exchange rate) for insurers, brokers, adjusters and other professions other than those listed. AEAI/RIMS Monte Carlo Conference, SOCFI, 14 Rue Mandar, 75002 Paris, France.

NOV. 15-19. National Assn. of Independent Insurers' 42nd Annual Meeting in Maui; $250 for members; $350 for subscribers and guests; $100 for spouses. National Assn. of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018-3286; 312-297-7800.

DEC. 4-9. 33rd Annual Employee Benefits Conference in San Francisco, sponsored by the International Foundation of Employee Benefit Plans; before Oct. 4: $480 IFEBP members only; after Oct. 4: $525 IFEBP members only. Registration Department, International Foundation of Employee Benefit Plans, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

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DES decision

Continued from page 2

pregnant in 1960, and that the DES was manufactured by Lilly.

But the jury then found that Lilly was not negligent in marketing the DES and that the DES was not in a defective condition when it left Lilly's possession.

As a result of the jury's finding that Lilly was not negligent or strictly liable, the jury did not have to decide whether the DES Ms. Shirkey's mother ingested actually caused Ms. Shirkey's cancer.

Mr. Bauer said a major factor in Lilly's favor was testimony from experts that Lilly did not know and could not have known of the link between DES and clear cell vaginal adeocarcinoma, which was not discovered until 1971.

Even plaintiffs' experts said that the link found in 1971 was a "new and startling discovery," he said.

Mr. Bauer said the jury took its duty very seriously and was extremely conscientious, despite the sympathetic nature of the case.

"It was a very emotional jury," he said, pointing out that six of the eight women were crying when the verdict was returned.

Mr. Bauer said the case will have a "real impact" on other DES cases and that it will cause plaintiffs' lawyers to seriously consider the potential outcome before spending the time and money necessary to bring these cases to trial.

He also said the verdict would cut the amounts Lilly and other DES companies are willing to offer to settle these cases.

"It will have a definite effect in that respect," he said.

He also said the Shirkey litigation marked the first time a court had ruled that the state-of-the-art defense was permissible in a DES case in Wisconsin. The defense is generally permissible in pharmaceutical cases in virtually all states, he said.

Mr. Bauer added there have been few DES cases tried throughout the country, some of which have been non-cancer cases.

Another attorney representing a defendant in DES cases agreed the verdict was important.

"It will certainly have a beneficial impact regionally," said Robert Helstowski, an attorney with the Santa Monica, Calif., firm of Haight, Dickson, Brown & Bonesteel, which is national DES counsel for E.R. Squibb & Sons Inc. of Princeton, N.J.

The decision could have an impact on settlements in Wisconsin and in neighboring states, he said.

Last year, a Wisconsin couple received $348,200 in a DES settlement involving various defendants.

Mr. Helstowski also said the verdict has changed the view of some attorneys that courts and juries in Wisconsin were plaintiff-oriented in DES cases. "It's changing the thinking of lawyers on dead-bang liability cases in Wisconsin."

Overall, he said more than a dozen DES cases have gone to trial nationwide against Squibb and Lilly. The "vast majority" have been defense verdicts.

He estimated that hundreds of cases have been settled and about 250 DES cases are pending nationwide, some of which involve multiple plaintiffs.

Meanwhile, an attorney for Abbott Laboratories of Abbott Park, Ill., also said the Shirkey verdict was significant in DES litigation.

"It can't do anything other than help, because the injury in question is that which the published literature provided the greatest support for plaintiffs," said Hugh Moore, with the Chicago firm of Lord Bissell & Brook.

Meanwhile, the U.S. Supreme Court recently denied a petition by Lilly's liability insurers that sought review of the trigger of coverage for DES claims.

The District of Columbia Court of Appeals had previously affirmed a ruling that all of Lilly's insurers from the time of DES-ingestion through manifestation of a DES-related disease were liable.

In March of 1982, Lilly sued more than 60 of its liability insurers that provided excess liability insurance to the drug maker from 1947 through 1976. ■

AIRMIC conference

Market not serving clients, European risk managers say

By STACY SHAPIRO

CAMBRIDGE, England—Risk managers of two large European corporations contend liability insurers actions during the last two years have been unreasonable and unwarranted.

Although they say it is easier to obtain coverage this year, the West German and British risk managers criticize market conditions created by underwriters in the last two years—including coverage restrictions, changes in policy wording, huge rate fluctuations and lack of capacity.

However, the two risk managers expressed the willingness to work with underwriters to solve their problems.

"The market has failed its customers," Peter Rosier, risk management and insurance manager of British conglomerate Pearson P.L.C., said during a session at the Assn. of Insurance & Risk Managers in Industry & Commerce's annual conference earlier this month in Cambridge.

"It has not provided an efficient mechanism for the smoothing of risks. If premiums are going to swing by as much as 500% in one year, then premiums are becoming almost as unpredictable as losses," he said.

"Let me tell you what I learned back in the 1950s from a British subject, a fellow student from the pirates' paradise of Bermuda," added Dr. Wolfram Rohde-Liebenau, senior director of Siemens A.G. of West Germany.

"He told me. . .never expect people to be reasonable," Dr. Rohde-Liebenau said, noting that that advice "does not refer only to reasonable actions and reactions of insurers, but also to industry's actions and reactions."

Mr. Rosier noted that his company's problems for the last 18 months have been caused by the lack of capacity for liability risks. Pearson publishes English language books and newspapers like the Financial Times; manufactures china and glassware, including the famous Royal Doulton china; and owns other companies that manufacture wine, aircraft and provide oil and gas services.

In 1985, Pearson had an umbrella liability policy covering all of the company's operations except aviation products and directors and officers liability exposures, which were covered under separate policies, Mr. Rosier told risk managers attending the AIRMIC conference.

Then, in 1986, "the picture became more complicated as market capacity shrank," said Mr. Rosier. "We achieved one-quarter of the level of cover we had previously placed in the market and our premium doubled."

This year, after Pearson boosted the capital of its captive so it could assume more of the company's risk, Pearson has found more capacity. But, the company still is "not yet at the end of the road, although renewal date was weeks ago," said Mr. Rosier.

There are still gaps in Pearson's liability coverage, Mr. Rosier said. For example, liability insurers have refused in one unspecified case to cover defense costs. The company's product liability coverage that once included losses for injury or damage by faulty design now excludes that exposure. And, all-risk marine policies also now exclude damage caused by faulty design.

There is also concern over coverage gaps caused by the combination of claims-made and occurrence policies and the exclusion by some underwriters of all pollution risks and lack of umbrella covers, he said.

"Markets are notoriously shortsighted," Mr. Rosier pointed out. "The insurance market above all others should struggle to take a longer view because it is in the market's own interest to do so. The insurance market has less excuse than other markets to be shortsighted because its raison d'etre is to offer security and stability.

"It is supposed to provide its customers with a safe haven, a predictable cost, instead of an unpredictable one," he said.

Some British insurance buyers have taken action to fill the lack of capacity for professional liability insurance in particular, added Mr. Rosier.

Architects, lawyers and accountants are setting up mutual insurers to write their own professional liability risks.

Nevertheless, Mr. Rosier believes underwriters now have a golden opportunity to write professional liability, libel and slander and umbrella coverages for British buyers.

In addition, he says British liability insurance policy forms should be standardized. Occurrence forms should be used when an accident or injury triggers the policyholder's liability, while claims-made policies should be used where there is purely a claim for financial loss, he said.

Siemens' Dr. Rohde-Liebenau said a wonderful similarity between West German and British insurers is pointed out in Andrew Tobias' book, "The Invisible Bankers."

Insurers in both nations know "how to take in $52 billion, pay out $6 billion and report a loss," he said.

"Perhaps we will be able to learn from the insurers," Dr. Rohde-Liebenau added.

The West German insurance industry is composed of two basic areas of insurance: "fire" insurance, including consequential loss, which generates premiums of about 2.5 billion deutschemarks annually ($1.35 billion); and liability insurance, with an annual premium volume of almost 2 billion deutschemarks ($1.1 billion).

In the last few years, the German industry has had "big problems in the field of liability insurance," said Dr. Rohde-Liebenau, whose company employs 363,000 people and has sales of more than 46 billion deutschemarks ($24.8 billion).

Following disastrous results in 1983 and 1984, German insurers and reinsurers decided in 1985 not to provide product liability coverage for German exports to the United States.

"This meant that German exports to the United States in the neighborhood of some 30 billion pounds ($48.3 billion) would perhaps remain uninsured," said Dr. Rohde-Liebenau.

German industrial companies, particularly chemical and pharmaceutical companies, scrambled for capacity and had to accept coverage restrictions despite 200% and 300% rate hikes, he said. In addition, pollution coverage "ceased to exist."

Insurers told West German buyers that reinsurers were responsible for the turmoil in the market. So, in 1985 "we demanded to have a direct exchange of opinion with the leading reinsurers who evidently had caused the abrupt change in the markets," Dr. Rohde-Liebenau recalled.

The reinsurers were told by policyholders that the long-term relationship between West German buyers and insurers and reinsurers was in serious jeopardy, he said.

"You perhaps won't believe it, but the answer of insurers and particularly of reinsurers was that continuity was exactly what they wanted all the time," said Dr. Rohde-Liebenau.

Siemens has purchased coverage from the same insurer for 65 years, Dr. Rohde-Liebenau noted, adding that, by and large, the insurer had made almost a 30% profit on the premiums paid by Siemens before rates jumped in 1985.

"It looks really like a profitable account," said Dr. Rohde-Liebenau.

Coverage restrictions imposed by the insurer, therefore, were "not acceptable" to Siemens. "I trust that you now can believe why the answer of insurers and of reinsurers was that they wanted continuity of such a wonderful business relationship."

U.S. commercial insurance buyers did not stand still when the market contracted, but instead provided more than $1 billion in capital to start up alternative facilities to increase capacity, Dr. Rohde-Liebenau pointed out to AIRMIC members.

"The willingness of (the U.S. buyer) to assume liability risks for itself coupled with high share capital and an improved legal situation" that allows the formation of risk retention groups "will make it even more difficult for the traditional insurance market to retain their market share," Dr. Rohde-Liebenau said. ■

Competition's return to be slow: Broker

By STACY SHAPIRO

> **'It is clear that the insurance industry is still not a great place to invest capital, further reducing the likelihood of price cutting,' says W. Lee Carter III, director of research & development for Alexander & Alexander Inc. in Dallas.**

CAMBRIDGE, England—The U.S. property/casualty insurance market will not soften until at least 1989 or 1990 because it is not in the market's best interest to do so, a U.S. broker says.

No one seems to know whether the insurance market in the United States really is becoming competitive, says W. Lee Carter III, director of research & development for Alexander & Alexander Inc. in Dallas.

Everyone is asking when the market will reach the turning point, Mr. Carter told risk managers attending the Assn. of Insurance & Risk Managers in Industry & Commerce conference earlier this month.

"There is a perception that the underwriting cycle is being short-circuited and that there may be a rerun of the early 1980s," Mr. Carter said.

However, he added, "I do not believe that we will see the change really take place until 1989 or 1990. That is not to say that there is not some moderation, but real price-cutting is still some time away, in my opinion."

There are several reasons why underwriters will hold off price-cutting, according to Mr. Carter.

To begin with, U.S. insurers may still have to boost their reserves, which will force them to keep rates high, he said.

"It is no secret that the asset side of U.S. insurers' balance sheets are drastically improved," he said.

According to A.M. Best Co., insurers' 1986 operating income increased to \$4.5 billion, compared with a loss in 1985 of \$5.3 billion, Mr. Carter noted, while the Insurance Information Institute estimates net income to be \$11.5 billion, up from \$1.9 billion in 1985.

However, a study conducted by New York-based Goldman, Sachs & Co. indicates that insurers in the United States are still underreserved for liability losses that occurred between 1982 and 1984, said Mr. Carter.

"The long-tail nature of this book of liability business has brought into focus the degree to which liability losses may still be underreserved," he said.

"The process of increasing reserves usually takes several years, maintaining pressure on underwriters to keep prices high."

Lower interest rates also will keep the pressure on underwriters to maintain higher rates, said Mr. Carter.

"Lower interest rates increase the importance of underwriting profits and lessen the impact of investment income," according to Mr. Carter. "Declining interest rates make little sense of cash-flow underwriting."

A turn in the U.S. market also will be delayed because insurers need more time to recover from the impact of the soft market, according to Mr. Carter.

"The returns being earned by insurers are not yet high enough to attract significant amounts of new investment or to create enough optimism on the part of insurers to begin looking at market share. . . .It is clear that the insurance industry is still not a great place to invest capital, further reducing the likelihood of price cutting."

Also, U.S. tax law changes will give U.S. insurers more incentive to earn underwriting profits rather than investment income because of the reduction in the maximum corporate tax rate, said Mr. Carter.

The Tax Reform Act of 1986 cuts the top corporate tax rate to 34% from 46%.

In addition, companies must discount loss reserves under the new law, "which reduces any tax shelter that insurers have had for those long-tail lines," according to Mr. Carter.

"Underwriting those lines at a loss to get cash flow for investment is a thing of the past."

Also, there is still a lack of reinsurance capacity, which will delay a market turn, he said.

Reinsurers still are very concerned with the U.S. tort system, Mr. Carter said, noting it is still difficult to find catastrophe treaty reinsurance.

Underwriters also are having problems collecting from some reinsurers, he noted. As much as 25% of reinsurance is uncollectible today, he said, adding that auditors will require greater reserves to be set for uncollectible reinsurance, which will keep pressure on rates.

"As buyers of insurance in the United States, you are then likely to see a relatively stable market for the next two years," Mr. Carter noted.

"Unfortunately, that means that we cannot anticipate significant rate reductions or any drastic increase in capacity."

As an alternative, commercial buyers in the United States may form risk retention groups under the amended Risk Retention Act of 1986, Mr. Carter observed.

"This is in fact a turning point for the insurance industry in the U.S.," he said.

Members of a risk retention group must be businesses sharing similar or related risks, Mr. Carter told British risk managers. Risk retention groups can write all commercial liability coverages, except workers compensation insurance.

The organization of a risk retention group "is relatively easy," he said.

A risk retention group can be domiciled in any one of the 50 states or the District of Columbia, but must abide by the insurance requirements of that state.

"The Risk Retention Act will mark a turning point, perhaps a revolutionary turning point for the American insurance industry as companies that enter risk retention groups continue to use them, even when the market softens in two years. They will be hard to attract back to the standard markets," Mr. Carter said. ■

Buyers, insurers urged to cooperate

By STACY SHAPIRO

CAMBRIDGE, England—British risk managers should work together with Lloyd's of London underwriters to find solutions to the tight liability insurance market, says Don Carey, a Lloyd's non-marine underwriter for syndicates managed by D.T. Carey & Others.

"We all have a great deal to learn from what happened in the past decade; both buyers and sellers. We are all professionals in the risk business," he told the Assn. of Insurance & Risk Managers in Industry & Commerce's annual conference in Cambridge April 1.

"We need each other and above all we need professionalism from both sides. I believe that both AIRMIC and Lloyd's underwriters have that professionalism and I for one would welcome the chance of exercising it to our joint benefit."

Mr. Carey admitted to the 296 people attending the conference at Cambridge's Robinson College that AIRMIC may not know enough about Lloyd's and Lloyd's "certainly" does not know enough about AIRMIC.

British risk managers, for example, may think that Lloyd's writes mostly international business and is not interested in writing domestic risks. However, "Lloyd's is extremely interested in doing business with U.K. companies," said Mr. Carey, whose syndicate writes mostly liability business, of which 63% of premiums comes from the United Kingdom.

Also, British risk managers may believe that Lloyd's underwriters —like other insurers—are now complacent about offering new products and services because high rates are satisfying their premium income requirements.

'Surely we must be able to work together, not against one another?' Mr. Carey asks.

"For the moment we could be forgiven for lying back and enjoying it," he said. However, "We cannot afford to be that complacent. You, the buyers, are concerned about the cost of cover, concerned about the lack of capacity and concerned to explore possible alternatives to traditional insurance."

Lloyd's underwriters can provide innovation and stability, he said. "Anyone who has visited the intriguing creation of (architect) Richard Rogers on Lime Street (the new Lloyd's building) will bear testimony to the fact that we are not frightened to accept innovation."

Lloyd's underwriters also are aware of the implications of the current state of the market and the fact that risk managers are forming their own alternatives.

In Britain, for example, only one-third of the capacity for professional liability insurance that was available a few years ago is available today, Mr. Carey said.

"For underwriters to shrug their shoulders and say it is not their problem is commercially dangerous in the long term," he said, "for you will find an answer to your problems because you have to. If that means self-insurance or the establishment of captives or mutuals, then that is what will happen.

"But captives and mutuals remove large chunks of premium from the marketplace—possibly forever—and when the traditional insurance capacity returns, as it will, once again the demand will outstrip the supply."

Mr. Carey said he has read "with alarm" that, to combat the capacity shortage, 26 British architectural firms are forming a mutual insurer. "My alarm was not because of the loss of premium as such, but because the move was made, it would appear, as a counter to the insurance industry."

"Surely we must be able to work together, not against one another? I cannot believe that 26 firms have available to them all the statistical information and the benefit of complex reinsurance arrangements which enable insurers to underwrite the class."

Lloyd's underwriters want to offer stability and continuity to corporate buyers of insurance, Mr. Carey noted. Although it is "foolish" to pretend that the insurance market throughout the world has been anywhere near stable the last two to three years, Lloyd's remains an important player, he said.

"It is not in our style to move in and out of classes of insurance according to the fluctuation of results," he said.

Buyers may want to see a stability in prices, but "I am not sure how capable of achievement that goal really is," said Mr. Carey. Underwriters work in an incredibly competitive market and it would be "naive" to think that Lloyd's underwriters always know the right price.

Mr. Carey accepts that buyers view rate increases and policy restrictions as extreme. He also accepts that buyers must question whether such moves are overreactions by underwriters.

It is also "very" understandable that risk managers are carefully considering whether to self-insure or form captives and mutual insurers, he said.

However, "there is nothing wrong with the insurance industry making profits," Mr. Carey stated. "Indeed, you as the insurance buyer should encourage it" to prevent insurer insolvencies.

While a degree of self-insurance in many cases should be encouraged, "it would be unfortunate, to say the least, if enthusiasm overcame prudence and the concept was taken too far," he said.

"I cannot believe that the time will ever come when sectors of industry have no need of insurance as the ultimate balance-sheet protection, and it is in your interests to see a stable insurance market develop," he said. ■

New tax could reduce Lloyd's capacity

By STACY SHAPIRO

LONDON—A new tax requirement under consideration by the British government could force Lloyd's of London to stop writing long-tail liability risks, according to the Lloyd's Underwriting Agents' Assn.

New members also may be discouraged from joining Lloyd's if the British government alters tax requirements for Lloyd's syndicates, says the LUAA.

In addition, the tax proposal might have "damaging consequences for Lloyd's policy security," says a recent LUAA circular.

Lloyd's 240 underwriting agencies are planning to lobby members of Parliament who are Lloyd's members and begin a campaign to inform the public about the consequences of the tax agency's proposal.

Lloyd's members could face higher taxes under a government proposal to treat funds syndicates set aside to cover future claims similarly to insurance companies' loss reserves.

In his budget speech last month, Chancellor of the Exchequer Nigel Lawson charged that Lloyd's syndicates receive "unjustified tax breaks" when underwriters estimate loss reserves to close an underwriting year, a practice known in the market as "reinsurance to close."

To close a syndicate's account under Lloyd's three-year accounting system, underwriters calculate outstanding liabilities and pay that amount as a reinsurance premiums carried over into the next accounting year.

Currently, these reinsurance-to-close premiums are tax-deductible and not subject to review by Britain's Inland Revenue because Lloyd's says they are reinsurance contracts rather than loss reserves.

The Inland Revenue, however, contends that the reinsurance-to-close practice allows one group of taxpayers to determine the size of its own tax deduction (*BI*, April 6; March 23).

The Inland Revenue believes that, like insurance companies, Lloyd's syndicates' reserve estimates should be subject to the tax agency's review and reduction if they are found to be too high for tax purposes.

Lloyd's underwriting agents strongly disagree.

"The RITC is not a loss provision for tax purposes," says the LUAA circular. "To accept this would be to allow the Inland Revenue to substitute its judgment of future risk assessment over that of professional underwriters and independent auditors.

"Lloyd's is not seeking special privileges. It is not seeking to be above the law or to exclude the legitimate interest of the Inland Revenue. Lloyd's fully accepts that the Inland Revenue must be entitled to review any underwriters' profits and make inquiries to be satisfied about the reinsurance-to-close calculation," the circular says.

"But, to then impose alternative judgments on these calculations would be unreasonable and damaging to the commercial well-being of Lloyd's."

The LUAA also points out that to tamper with the reinsurance-to-close calculations may have a detrimental economic effect on Lloyd's market as a whole.

Furthermore, Lloyd's underwriters may be forced to abandon long-tail liability coverage and may have to cut back capacity because people will stop joining Lloyd's, the LUAA contends.

"To minimize conflict with the Revenue, Lloyd's underwriters could be forced to discontinue underwriting risks with long-term settlement characteristics," warns the LUAA in the circular.

"This type of business forms a significant part of Lloyd's activities; if Lloyd's reduced their involvement, many commercial activities would become uninsurable—with bad consequences for international commerce.

"Lloyd's names (also) would be paying tax on money they had not received—a proposition which would lead to difficulty in retaining and attracting existing and new members.

"To minimize these two effects, professional underwriters might compromise their judgment of proper RITC premium, with damaging consequences for Lloyd's policy security."

The circular says that Mr. Lawson's proposal is based upon an incorrect understanding that Lloyd's is like an insurance company, which it is not.

Lloyd's syndicates must distribute 100% of their earnings each year to their members, while insurance companies can retain any sum as undistributed earnings. Also, Lloyd's syndicates can close their annual accounts by paying reinsurance-to-close premiums to other syndicates. Those premiums cannot be adjusted or renegotiated. But, insurance companies retain control at all times of their reserves.

The circular points out that the 32,000 members of Lloyd's, and not the syndicates, will be forced to pay the tax on money they may never see.

The LUAA and Lloyd's Chairman Peter Miller called a meeting earlier this month of Lloyd's underwriting agencies to discuss the government's decision to alter reinsurance-to-close tax requirements. Mr. Miller told the agents then that Lloyd's currently is negotiating the matter with the Inland Revenue.

At the meeting, Lloyd's agents discussed what they could do individually to prevent reinsurance-to-close from being altered, said Stephen Cane, company secretary for Merrett Underwriting Agency Management Ltd.

One suggestion was "for agents who have MPs (members of Parliament) as members to inform the MPs of the situation," he said. Lloyd's members also could write local members of Parliament about the consequences of taxing reinsurance-to-close premiums.

In addition, agents are being encouraged to give Lloyd's members and anyone who is interested the facts about the tax issue, Mr. Cane said.

"Lloyd's view is that (the taxation) would penalize the members of Lloyd's and make it less attractive to join," said Mr. Cane. "No one is disputing that the Inland Revenue can look at the reserving. But, comparing Lloyd's to a company is a fatal mistake. Names would have to pay tax on reserves which they haven't even got."

The government's proposal to treat the reinsurance-to-close premium as similar to insurance company loss reserves is included in the Finance Bill of 1987, which begins its course through Parliament this week. ■

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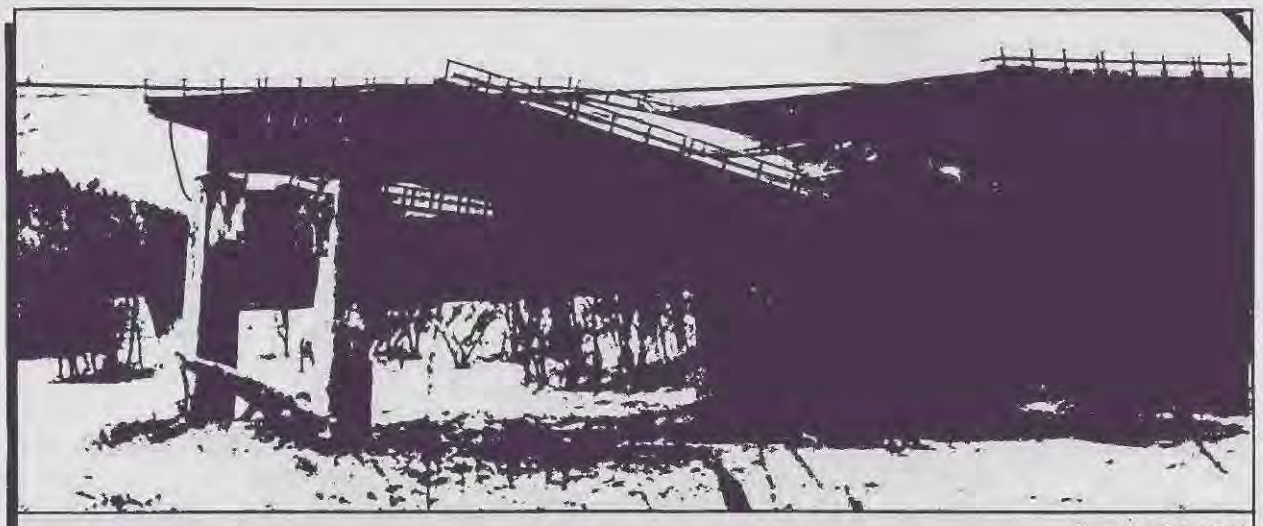


Photo: AP/Wide World

A New York State Thruway bridge collapsed into a rain-swollen Schoharie Creek last week.

N.Y. self-insured for bridge collapse

By DOUGLAS McLEOD

NEW YORK—The state of New York is self-insured for liabilities that will arise from the April 5 collapse of a highway bridge near Albany that may have killed more than 10 people.

A 330-foot section of the bridge on the Gov. Thomas E. Dewey Thruway, 40 miles northwest of Albany, buckled and collapsed into the rain-swollen Schoharie Creek last week. A tractor-trailer truck and at least two cars plunged 60 feet into the river.

Authorities had recovered three bodies as of last Wednesday and feared that at least seven other travelers reported missing also may have been killed.

Among the missing last week was the driver of the tractor-trailer, the cab of which had not been located. Search efforts were hampered by continued rain and flooding on the creek, which was 20 feet above its normal 10-foot depth at the time of the collapse.

Officials were uncertain about the cause of the collapse, but speculated that concrete piers and columns supporting the bridge may have been eroded by floodwaters or weakened by debris being swept downstream.

The bridge, built in 1955, was last inspected in April 1986, though this inspection did not cover two underwater anchorages that may provide clues to the cause of the disaster, officials said last week.

A follow-up inspection had been ordered by the state Thruway Authority but had not been performed at the time of the collapse.

The bridge was designed in 1951 by Madigan Hyland, a New York firm now known as Madigan-Praeger, a unit of URS Corp. of San Mateo, Calif. The Boston-based construction firm of B. Perini & Sons Inc. built the bridge.

Extensive renovations on the bridge in 1981 and 1982 were designed by Stetson-Dale, a Utica, N.Y., firm now known as Stetson-Harza, a unit of Harza Engineering of Chicago.

A URS official said he was uncertain of the insurance coverage Madigan Hyland had in place at the time it designed the bridge, noting that the firm has been acquired twice since 1951.

A Stetson-Harza official declined to comment.

A spokesman for New York Gov. Mario M. Cuomo said that the state is self-insured for liabilities connected to the disaster.

Directors' liability

Continued from page 1

in place in one form or another," noted proxy solicitor Daniel Burch at D.F. King & Co. Inc. in New York, who lobbies shareholders for their votes on particular issues on behalf of major investors or outside interests.

No concrete figures are available on how many companies already have asked shareholders to limit their directors' liability. However, D.F. King may work with 100 companies on this issue this year alone, Mr. Burch estimated.

Overall, about 10 states enacted laws limiting, to some degree, the liability of directors, officers or both last year (*BI*, Aug. 18, 1986). Several other states—Kansas and Michigan among the most recent—have passed such laws this year (*BI*, March 16).

And similar laws are "in the hopper" in about seven other states, Mr. Nash estimated.

Most of the recently enacted state laws that allow corporations to limit their directors' liability do not require companies to obtain stockholder approval beforehand. The catch for corporate America is that Delaware, where many businesses are incorporated, is among the few states that do require such approval.

That explains why the lengthiest section of proxy statements being mailed in advance of annual board meetings is often a plea to shareholders to amend corporate bylaws addressing directors' liability.

Shareholders are being told by corporate management that limiting directors' liability not only will assist the corporations in retaining or finding outside directors, but it also may quell frivolous lawsuits against directors, allow directors to make decisions that are not rooted in fear and eventually may reduce the cost of directors and officers liability insurance.

Businesses putting forth these proposals do not represent any single industry, nor are they concentrated in any part of the country. And, while they are largely publicly traded, for-profit companies, they also include not-for-profit organizations, like schools and hospitals.

According to proxy statements, companies that hope to limit their directors' liability at upcoming annual meetings include large financial institutions like First Interstate Bancorp and Security Pacific Corp., both in Los Angeles, and Citicorp, J.P. Morgan & Co. Inc. and Chase Manhattan Corp., all based in New York.

In addition, Chubb Corp. in Warren, N.J., hopes to limit its directors' liability.

All but Chubb are incorporated in Delaware. Chubb is incorporated in New Jersey and seeks approval to take advantage of changes in New Jersey law that took effect earlier this year.

Corporations—faced with a diminishing directors and officers liability insurance marketplace that is offering far lower limits for extremely higher rates—are genuinely concerned about their long-term ability to retain or attract outside directors.

Continued on next page

PBGC premium proposal

Continued from page 2

of underfunding per plan participant.

However, plans with fewer than 100 participants, regardless of how poorly they were funded, would pay only the $8.50 premium.

- The PBGC would have authority to adjust the funding charge—up or down—by as much as 50% every three years if claims experience changed.
- The annual premium generally would be capped at $100 per plan participant, but the cap would be indexed to 150% of the annual increase in national wages.
- Employers that receive funding waivers from the Internal Revenue Service would face an additional premium surcharge.

The surcharge for a company that receives a waiver—which exempts the company from making minimum pension contributions—could be as much as 50% of the funding charge. The new funding surcharge would only apply to waivers approved after the proposal was enacted.

- The employer, rather than the pension plan itself, would be liable for paying the PBGC premium.

In addition, all members of a corporate family, rather than just the individual employer sponsoring a plan, would potentially be liable for premium payments.

At the hearing, employers expressed the greatest concern about the provision that would give the PBGC the authority to adjust premiums every three years based on the agency's claims experience. Currently, only Congress has the authority to adjust premiums—an authority that should remain with the legislative branch, employers said.

"The PBGC is asking Congress" for authority "to control the spigot. Control over the spigot should remain with Congress," said Charles Labedz, benefits counsel with Textron Inc. in Providence, R.I.

In his testimony, submitted on behalf of the ERISA Industry Committee, a Washington-based benefits lobbying organization representing large employers, Mr. Labedz said only Congress is in a position to determine whether a change in premium payments is justified.

Giving the PBGC the power to alter premium payments would enable the agency, "on the basis of its own arbitrary interest rate assumptions and its predictions of future claims, to determine how much a plan sponsor will pay to it each year," he said.

"This would not only represent an excessive delegation of legislative power; it would also empower the PBGC to resolve its own financial problems through 'self-help,' by unilaterally increasing premiums without congressional approval," he added.

Mr. Labedz described as unnecessary the provision that would automatically index the basic $8.50 premium to annual wage inflation, noting another administration proposal to improve pension plan funding (*BI*, March 23) should reduce the size of future claims against the agency.

"If the funding and VRP (variable-rate premium) proposals have their intended effect, the PBGC's liabilities should actually decline, regardless of what happens to inflation," Mr. Labedz said.

Other employers said it would be unfair to impose the special funding charges on companies with fully funded pension plans.

"We are not convinced that the fully funded level need be set at 125% of termination liabilities. We suggest a smaller cushion," said Vance Anderson, employee relations counsel with New York-based Mobil Corp., in testimony submitted on behalf of the Assn. of Private Pension & Welfare Plans.

Mr. Anderson also said the APPWP could not endorse any kind of automatic indexing of the PBGC premium, especially the provision that would index the $100 cap to 150% of wage inflation.

"With no control over the assumptions used to calculate the (PBGC) deficit, and no clear picture of the basis that would be used to determine wage growth, we are reluctant to support any kind of automatic adjustments or indexing," Mr. Anderson said.

And a Washington attorney representing the U.S. Chamber of Commerce dismissed the variable-rate premium as no more than a short-term revenue raiser.

Richard Fay, a partner with Reed, Smith, Shaw & McClay in Washington, said the answer to curbing the PBGC's financial problems is better pension plan funding, not altering the PBGC premium structure.

"We would favor tighter funding standards" and not "monkeying around with the PBGC premium," Mr. Fay said.

Mr. Fay described as "silly" statements that a variable-rate premium would, by itself, lead to better pension funding.

On the other hand, the concept of a variable-rate PBGC premium received its strongest support from the National Assn. of Manufacturers.

Michael Gulotta, who testified on behalf of NAM and also is president and chief actuary of Actuarial Sciences Inc. in Piscataway, N.J., labeled the current flat-rate premium an unjustified tax on well-funded pension plans.

"A variable-rate approach reflects reality—the reality that (poorly funded) plans represent the greatest risk to the PBGC," he said.

Mr. Gulotta likened the current flat-rate PBGC premium to an insurance company charging the same rate for term life insurance for an 85-year-old as for a 25-year-old.

A variable-rate premium "is an extremely good proposal. It is soundly conceived," Mr. Gulotta said.

The General Accounting Office said a variable-rate premium would be more complex than the current flat-rate structure, but would be more fair.

"We believe it is more equitable than the existing flat rate because those plans generally representing no immediate potential claim would pay the lowest premium," said Joseph Delfico, senior associate director of GAO's Human Resource Division, in his written testimony.

PBGC Executive Director Kathleen P. Utgoff, the chief architect and proponent of the variable-rate premium concept, urged quick action on the proposal.

If Congress delays action until the agency totally runs out of money—which is expected about the turn of the century based on current projections—the PBGC premium would have to be boosted to "extravagant" levels, Ms. Utgoff warned.

If the PBGC premium keeps rising, employers with well-funded plans, which resent subsidizing the poorly funded plans, might begin to terminate their defined benefit plans, she said.

"It is the well-funded plans that we are worried about. They are the ones who could leave the system unless something is done" to stabilize premiums, Ms. Utgoff said.

Ms. Utgoff, in response to congressional questioning, denied that a higher PBGC premium would place such a burden on a financially troubled company that it would file for bankruptcy, terminate its underfunded pension plans and dump the liabilities onto the PBGC.

The higher premium is not significant in terms of a company's ability to survive, she said, noting that the cost of a bankruptcy filing alone might exceed the higher PBGC premium.

Ms. Utgoff also said that limiting so-called distress terminations of underfunded plans to those companies that are liquidating under Chapter 7 of the Bankruptcy Code is not a solution to the PBGC's financial problems.

Currently, under a provision in the Single Employer Pension Plan Amendments Act of 1986, companies that have filed for reorganization under Chapter 11 can terminate underfunded plans if the bankruptcy judge approves the termination.

Ms. Utgoff noted that such a restriction probably would not prove effective in protecting the PBGC from big pension terminations.

A company in Chapter 11 could sell off assets to pay creditors and then, by the time it filed for Chapter 7, there would be few assets available for the PBGC, she said.

"It (limiting terminations of underfunded plans to employers in Chapter 7) is not a simple solution. Other creditors might get everything first. It may not work," she said.

Ms. Utgoff agreed that other changes—princpally requiring employers to better fund their pension plans—are needed along with a variable-rate premium to bring new stability to the PBGC insurance program.

She said companies in financial difficulty lack the incentive to properly fund their pension plans. And, by terminating their plans and shifting the liabilities to the PBGC, these companies can gain a benefit cost advantage over their competitors.

For example, Ms. Utgoff said Wheeling-Pittsburgh Steel Corp. cut its benefit costs by about $3 per hour by terminating several underfunded plans and shifting about $500 million in liabilities to the PBGC.

"We have to change the incentives" that lead to underfunding, Ms. Utgoff said. ■

Directors' liability

Continued from previous page

Securities and Exchange Commission filings show that scores of businesses over the past 18 months have watched some or all of their outside directors resign rather than put their personal assets at risk in the absence of adequate directors and officers insurance.

Businesses that recently have lost one or more directors because of a lack of sufficient D&O coverage include:

- Southwest Capital Corp., an Albuquerque, N.M., company that lends money to small businesses.
- Dallas-based Tennis Lady Inc., which owns and operates more than 30 retail stores specializing in women's' sportswear.
- Beverly Hills-based Wrather Corp., a holding company for several major tourist attractions.
- GCA Corp., a semiconducter manufacturer in Bedford, Mass.
- Folks Restaurants Inc. in Fairless Hills, Penn.

These companies join a host of others whose loss of directors already has been reported: Delta U.S. Corp. in Tyler, Texas; Armada Corp. in Detroit; Lear Petroleum Corp. and Cook Data Services Inc., both in Dallas; Control Data Corp. and International Soft Drinks Inc., both in Minneapolis; G.D. Ritzy's Inc., a restaurant chain based in Columbus, Ohio; Dental World Center Inc., office managers based in Garden City, N.Y.; South Texas Drilling & Exploration Inc. in San Antonio; Swensen's Inc. in Phoenix; Continental Steel Corp. in Kokomo, Ind.; Sykes Datatronics Inc., a computer manufacturer in Rochester, N.Y.; medical supplier Transidyne General Corp. in Ann Arbor, Mich.; and Verna Corp., a drilling contractor in Houston (*BI*, March 10, 1986; Feb. 10, 1986; Jan. 27, 1986).

Some of these companies have since replaced one or more of the directors who have left, but many have not.

The typical proposal that corporations are asking shareholders to approve would limit the liability of directors "to the fullest extent of the law" in the state of incorporation. The degree to which the company's directors would be relieved of liability varies according to the particular provisions of each state's law.

However, all of the laws do not grant directors immunity from liability for acts of gross negligence or intentional misconduct.

And, most state laws will shield directors from liability only for the actions they take in their capacity as directors, even though many directors also hold internal management positions.

Delaware's law has attracted considerable attention from those who follow directors and officers liability insurance issues, but it has done so at the expense of other state statutes that may afford directors even greater protection, some observers say.

In Delaware, companies are permitted—with shareholder approval—to eliminate a director's personal liability for monetary damages to the company or its stockholders in cases of breach of the duty of care, one of two common fiduciary responsibilities directors must satisfy (*BI*, June 23, 1986).

This would effectively remove directors from financial responsibility if they fail to inform themselves of all relevant material before making a business decision in the course of managing the company's affairs.

But the Delaware law does not permit companies to absolve directors from liability for their duty of loyalty, another primary fiduciary responsibility.

'I think there's been an enormous amount of misconception on the scope of Delaware's statute and its effect. In my opinion, Delaware's statute is not nearly as protective as several other states' statutes,' says attorney Dan A. Bailey.

Duty of loyalty requires that directors act in good faith and with the honest belief that their actions are in the company's best interests. This prohibits directors from profiting personally at the expense of the company.

Some observers say that laws enacted by a few other states limit directors' liability even further.

"I think there's been an enormous amount of misconception on the scope of Delaware's statute and its effect. In my opinion, Delaware's statute is not nearly as protective as several other states' statutes," pointed out attorney Dan A. Bailey of Arter & Hadden in Columbus, Ohio.

Mr. Bailey, who specializes in corporate law relating to directors, contends that Ohio and Indiana offer directors broader protection than Delaware.

Mr. Nash of the directors' association shares some of Mr. Bailey's perceptions.

"If I were in Indiana, I wouldn't be going to Delaware, I'll tell you that," Mr. Nash noted.

By not making distinctions between a director's duties, Indiana law permits businesses to limit their directors' liability for breaching both duty of care and duty of loyalty, Mr. Bailey noted.

He characterizes Indiana's law as "a very simple, clean approach."

The approaches taken by both Delaware and Indiana, however, apply only to the liability of directors to their company or its stockholders, not to third-party plaintiffs like creditors, observers noted.

Mr. Hackney points to Pennsylvania as an example of a state offering directors more freedom from liability than Delaware. He observed that some Pennsylvania-based companies that considered relocating to Delaware have decided against it after comparing the directors liability laws in the two states.

For example, while Delaware's law only permits limitations to be placed on directors' liability to a company or its shareholders, Pennsylvania's permits companies to limit their directors' liability in actions brought by any party, Mr. Hackney points out.

And, unless a court finds them to have engaged in reckless or willful misconduct, directors of Pennsylvania-incorporated companies can be reimbursed by their board for damages and expenses even if they are found negligent. The Delaware law, which does clarify its indemnification provisions but does not expand them, only permits reimbursement of certain expenses in these cases, he notes.

Nonetheless, businesses concerned with the issue of protecting directors still regard Delaware as the premier corporate domicile, partly because the state's laws of incorporation have long been favored by U.S. businesses.

Also, the Delaware law limiting directors' liability, which took effect last July, was one of the first enacted in the aftermath of the D&O liability insurance crunch. Indeed, some new state laws will not take effect until July, Mr. Nash pointed out.

Delaware's law is viewed so favorably that some businesses are relocating to take advantage of it.

For example, San Francisco banking concern Wells Fargo & Co.—one of the 10 largest U.S. banks—will ask its shareholders to approve moving its domicile from California to Delaware at the bank's annual meeting April 21.

While retaining qualified outside directors is the chief impetus for the new attention given to official policy regarding directors, there are other reasons.

Charter Medical Corp. of Macon, Ga., told its shareholders in a proxy statement issued earlier this year: "The board further believes that adoption (of the proposal) would permit the company's directors to exercise more freely their business judgment by reducing their concern over potential personal liability with respect to their decisions."

Charter shareholders approved the proposal.

In the proxy that J.P. Morgan issued a few weeks ago, shareholders were informed: "Although Morgan has recently renewed its D&O insurance, there is no assurance that such insurance will continue to be available in the future at reasonable cost and without increasingly restrictive terms."

Hospital chain American Medical International told its shareholders prior to its annual meeting last August: "Management is concerned that the company may be unable to obtain any directors and officers liability coverage or that the cost of any available coverage will become prohibitively high."

Shareholders of Beverly Hills, Calif.-based AMI approved the proposed limits on directors' liability.

Of the 15 or 20 companies that Mr. Hackney's law firm has helped adopt new bylaws to limit directors' liability, none has yet seen a decrease in its D&O insurance costs. He suggests this may be because insurers have not had sufficient time yet to react to the changes in various state laws.

The practice of shielding directors from liability is not limited to companies usually on the cutting edge of risk management.

In fact, a recent survey of 310 Delaware-incorporated businesses found that 75% of them plan to seek shareholder approval to limit or eliminate the personal liability of directors for breach of duty of care (*BI*, Feb. 9).

The survey, conducted by New York-based American Society of Corporate Secretaries, found that only 4% of the respondents do not envision such action.

At the same time, many businesses also are putting forth a related proposal that would broaden the companies' authority to indemnify outside directors or provide them with advances for expenses incurred in defending or settling D&O lawsuits if insurance its not available.

Businesses generally are asking shareholders' permission to indemnify directors in all cases, except when the director is found grossly negligent by a court.

Businesses generally are not required to obtain shareholder approval to provide this protection to outside directors, but many are doing so nonetheless. ■

PCW settlement

Continued from page 1

currently is managing the PCW syndicates, to accept a lower percentage.

Lloyd's also can extend the settlement deadline to June 19.

The settlement is "designed to bring your involvement in the PCW affair to an end," Mr. Miller, himself a PCW member, told other PCW members in a letter attached to the settlement offer. "In return for a cash payment, members' exposure to the PCW syndicates is finally terminated," he wrote, capitalizing the words "finally terminated."

If members refuse to accept the offer, they will "face years of uncertainty with regard to their obligations," he warned.

"We believe that acceptance will be seen to be in the interest of the very large majority of names because it achieves a final resolution of the PCW affair," added Sir Ian Morrow, chairman of AUA (No. 3), in a letter attached to the offer. "We therefore recommend acceptance of the offer."

Sir Ian told *Business Insurance* that PCW members may have to contribute as little as 14 million pounds ($22.5 million) after British tax relief.

"It was a compromise and we think it is a fair one." It means that "what could be a nightmare is over," he said.

However, at least 450 members who belong to the PCW 1985 Committee said in a press release last week that Lloyd's offer is "cynically designed to leave the names with the bulk of the alleged losses out in the cold."

The committee claims that 900 names will have to pay under the offer an average of 5,000 pounds ($8,050), 200 will have to pay an average of 13,000 pounds ($20,930) each and 400 names will have to contribute between 25,000 pounds and 220,000 pounds ($40,250 to $354,200).

The PCW committee also says that the offer is "couched in threatening terms calculated to frighten names into accepting."

The "threats" include that "names' affairs will remain unsettled for years to come," the committee says. "The other side of this coin is that Lloyd's affairs will remain in severe disorder if the matter is not settled."

The committee's press release does not, however, advise rejecting or accepting the settlement offer.

"I doubt this offer will succeed," said Christopher Crosswaithe, a partner with Ashurst, Morris & Crisp in London, who represents the PCW 1985 committee. Each member will have to decide whether to accept the offer, but Mr. Crosswaithe predicts that some PCW members worst hit will refuse the offer and sue Lloyd's and other parties.

One PCW member, who asked not to be identified and who is liable for about 190,000 pounds ($305,900) in losses without a settlement, said he will not accept the offer.

"I shall certainly sue in America," he said, before seeing the terms of the settlement. "After all this time one is going for a nil settlement," meaning he wants his losses fully covered by other parties.

Last week's PCW settlement offer by Lloyd's is the latest chapter in what Mr. Miller described as "one of the most shameful episodes in the history of Lloyd's" (see related story).

The settlement offer comes three months before Lloyd's self-imposed deadline of June 30 to terminate the allocation of 235 million pounds ($378.4 million) of its Central Fund to allow PCW members to meet Lloyd's solvency requirements and continue trading as members of other syndicates.

Under the settlement, Lloyd's will create a new syndicate, 9001, and cede all PCW syndicate business—non-marine, marine and aviation—to it. The 134 million ($215.7 million) to be contributed by Lloyd's, the other parties and the PCW members will be paid to the syndicate as a reinsurance-to-close premium, closing the PCW accounts.

The reinsurance-to-close premium will pay for a "time and distance" policy, which Mr. Miller says is different from discounting the syndicate's loss reserves. The end result, however, is to anticipate future investment income to pay losses.

Syndicate 9001 membership will be composed of Mr. Miller, Lloyd's Senior Deputy Chairman Murray Lawrence and Junior Deputy Chairman Alan Parry. "None of the members of this syndicate will benefit in any way from membership of this syndicate," says the Lloyd's offer. The new syndicate 9001 will in turn cede all its business to a new Lloyd's subsidiary, Lioncover Insurance Co. Ltd. (Two lions appear on Lloyd's shield.)

Additional Underwriting Agencies (No. 4) Ltd. will be established to manage both syndicate 9001 and Lioncover, while Additional Underwriting Agencies (No. 5) Ltd. will handle interests of those PCW members not parties to the settlement.

AUA (No. 3) will only assist in the accounting for AUA (No. 4), said Sir Ian.

Lloyd's expects that losses will be paid by syndicate 9001 over a 20-year period and that the settlement will be enough to cover all losses. However, if the 134 million pounds is not sufficient to meet all legitimate claims, Lloyd's will cover additional liabilities under the reinsurance policy issued by Lioncover.

Lloyd's Central Fund now totals 311 million pounds ($500.7 million), including the 235 million pounds set aside last year to cover the PCW losses that will be freed by June 30.

The other 37 parties contributing 55 million pounds ($88.6 million) are those "who may be under a legal or moral responsibility to you in respect of this affair," said Lloyd's.

In addition to Lloyd's brokers Sedgwick, A&A and Minet, other parties include: brokers Needler Heath Ltd., P.W. Kininmonth & Co. Ltd. and Steel Burril Jones P.L.C.; auditors Black Geoghegan & Till, and Joslyne, Layton-Bennett & Co.; lawyers Waltons & Morse; and underwriting agencies WMD Underwriting Agencies Ltd., PCW and Richard Beckett Underwriting Agency Ltd.

In addition, another 26 members' agencies are contributing to the settlement, including Thomas R. Miller & Son (Underwriting Agencies) Ltd., in which Mr. Miller owns an interest.

Mr. Miller would not reveal how much each of these firms is contributing, but Sedgwick announced that it was contributing 10 million pounds ($16.1 million).

"It is our wish to see the agreement accepted," said Sedgwick Chairman Carel Mosselmans. "It is our hope that we can end this (affair) and get on with our trading."

He would not say whether or not the loss would be paid by Sedgwick's errors and omissions insurers.

However, Lloyd's said that the "errors and omissions market" will contribute to the settlement.

A&A will not reveal how much it is contributing, although sources say it is less than Sedgwick's contribution. However, an A&A spokesman in New York said that A&A will only contribute if 90% or more of the PCW members accept the offer.

A&A will pay its contribution from a $24 million settlement it reached with auditors of British subsidiary Alexander Howden Group Ltd. The A&A settlement with Howden auditors was not reported in A&A's 1986 profits and has been deferred to pay for continuing matters related to Howden, said the A&A spokesman. Therefore, A&A's contribution to the PCW settlement will not affect A&A's earnings.

The 1,547 PCW members asked to contribute 34 million pounds can reduce their payments several ways, according to Lloyd's. They can:

- File claims against personal stop-loss insurance policies.
- Obtain tax relief from the Inland Revenue, depending on their tax position.

Some members who wrote more than 40,000 pounds ($64,400) in premium income could receive as much as a 60% reduction in the amount they have to pay through British tax deductions, said Sir Ian.

Also, if the PCW members continue as members of Lloyd's, their tax relief on PCW underwriting losses could be used in future years.

The U.S. Internal Revenue Service, however, has not said how it will treat PCW members' taxation.

- Apply to Lloyd's for relief or reduction from payment. However, a member receiving such relief could no longer be a member of Lloyd's.

"Lloyd's is extremely concerned to see there is proper assistance," said Mr. Miller. "Lloyd's does not want to deprive anyone of their livelihood or bring them to bankruptcy."

PCW members seeking relief from Lloyd's have until May 6 for AUA (No. 3) or their members' agent to contact Lloyd's membership department.

In addition to the 1,547 PCW members who are affected by the non-marine losses, there are another 1,341 PCW members who were only in profitable marine and aviation syndicates. These syndicates' profits are projected at 8.3 million pounds ($13.4 million).

In addition, 919 names were in both the non-marine and marine or aviation syndicates.

In order to receive profits from the marine and aviation business, the members must accept a parallel offer made to them by Lloyd's last week under which they cannot sue Lloyd's, they must agree to the syndicates' new management and they must transfer all rights to sue other parties to Lloyd's.

Anyone who is a member of both the non-marine and the marine and aviation syndicates must accept both offers.

Mr. Miller, who is a member of PCW non-marine and marine syndicates, says he will waive his portion of Lloyd's contribution to pay for his losses and the profits from the marine syndicates, although he will accept the benefit of the contributions by the 37 other parties, the immunity from further losses and profits from the marine and aviation syndicates.

Mr. Miller said he will pay about 50,000 pounds ($80,500) out of his own pocket for the PCW losses.

The Lloyd's settlement is not available to eight PCW members, including former PCW Chairman Peter Cameron-Webb; Peter Dixon, another former PCW chairman, and his wife Sherill Dixon; and former Minet Chairman John Wallrock.

If the PCW members agree and the reinsurance-to-close arrangement is finalized, Lloyd's "will pursue with vigor the civil suits against Dixon and Cameron-Webb and other parties," said Mr. Miller.

Lloyd's plans to bring a "large lawsuit" against Mr. Dixon, probably in Virginia where Mr. Dixon now lives, to recover the 1 million pound ($1.6 million) fine levied against him when he was expelled by Lloyd's in November 1985, and at least the 45 million pound ($72.5 million) payment by Lloyd's, Mr. Miller said.

"It was my money that was stolen. You can imagine how angry I am," Mr. Miller said at a press conference.

To answer questions from PCW members, Lloyd's has set up a PCW inquiry desk, which will be manned weekdays 9 a.m. to 5 p.m., London time, except during the Easter holidays April 17-20. It will be open the weekend of April 11-12 until 5 p.m., and until 8 p.m. April 14-16. The telephone number is 01-623-7100 in London or 011-441-623-7100 in the United States, extension 4200. ■

update

Briefly noted

Continued from page 2

sen, owner of the **British ferry** that capsized off the coast of Belgium last month, and its liability insurer are now willing to pay as much as 51.6 million pounds ($83.3 million)—up from 20 million pounds ($32.3 million)—to disaster victims and their survivors. The death toll rose last week after the ferry was righted to 173 from earlier estimates of 134 (*BI*, March 16). . . .Attorneys for victims of salmonella-tainted milk asked a Cook County Circuit Court judge last week to grant a retrial of a lawsuit against American Stores Co. and its **Jewel Food Stores** subsidiary. In January, a jury hearing a class-action lawsuit decided that the companies were not liable for punitive damages stemming from Jewel's 1985 production of tainted milk (*BI*, Jan. 26). . . .Syndicates joining the **Illinois Insurance Exchange** will soon have to have higher capital and surplus. After July 15, 1987, $3 million will be required; after July 15, 1988, $4 million; after July 15, 1989, $5 million.

PCW settlement may cap years of dispute

Following is the chronology of events that led Lloyd's of London last week to offer a settlement to members of the syndicates formerly managed by PCW Underwriting Agencies Ltd.:

- **1967 to 1982.** Former Lloyd's underwriter Peter Cameron-Webb operated a series of about 56 syndicates writing marine, non-marine (primarily liability) and aviation insurance. The syndicate manager, PCW Underwriting Agencies Ltd., is owned by Minet Holdings P.L.C.
- **November 1982.** Lloyd's launches a full investigation to locate missing PCW syndicate funds. Attention centers on a reinsurance program arranged by Mr. Cameron-Webb, who earlier in the year had retired as PCW chairman and as a Lloyd's member. In addition, John Wallrock resigns as chairman of Minet after admitting he benefited financially from PCW reinsurance arrangements.
- **April 1983.** Minet forms Richard Beckett Underwriting Agencies Ltd. to replace PCW.
- **January 1984.** RBUA discovers at least 40 million pounds ($64.4 million based on current exchange rates) of PCW syndicate funds had been funneled to companies in Gibraltar controlled by Mr. Cameron-Webb and/or former PCW Chairman Peter Dixon.
- **June 1984.** PCW members are called upon by Lloyd's to pay 38.9 million pounds ($62.6 million) in losses from underwriting years 1979 to 1981. However, Minet and broker Alexander & Alexander Services Inc., which brokered reinsurance for the PCW syndicates, offer to pay 38.2 million pounds ($61.5 million) of this amount. The amount contributed by Minet and A&A includes 25 million pounds ($40.2 million) recovered by RBUA from the Gibraltar companies. The remainder is paid by Minet and A&A, in return for a pledge from PCW members not to sue certain parties. Most of PCW members accept the offer.
- **April 1985.** RBUA estimates PCW members must make cash payment of 62 million pounds ($99.8 million) to meet Lloyd's solvency requirements in 1985. In addition, the agency reports that total PCW losses from 1979 to 1984 could total 130 million pounds ($209.3 million), primarily due to U.S. liability losses.
- **June 1985.** A report by accountant Price Waterhouse says the PCW/RBUA syndicates overwrote their capacity, entered into improper reinsurance transactions and failed to give full information to the syndicate members.
- **August 1985.** Lloyd's earmarks 56 million pounds ($90.2 million) to cover losses of PCW members that refuse to pay up and therefore fail to meet solvency requirements. In addition, Lloyd's forms Additional Underwriting Agencies (No. 3) to assume run-off management of the syndicates from RBUA, which Minet shuts down.
- **November 1985:** Lloyd's expels Mr. Dixon, the former PCW chairman who had since moved to the United States, and fines him a record 1 million pounds ($1.6 million) for his role in the misappropriation of syndicate funds. Five other Lloyd's members are also punished. A Lloyd's report accuses Mr. Cameron-Webb of playing a major role in the plot to defraud the syndicates, but Lloyd's can take no action against him because he is no longer a Lloyd's member.
- **April 1986:** Mr. Cameron-Webb agrees to pay $1.5 million ($2.4 million) to RBUA.
- **July 1986:** Lloyd's temporarily earmarks 235 million pounds ($378.4 million) from the Central Fund so PCW members can meet the annual solvency test. Also, Lloyd's expels Mr. Wallrock for his alleged involvement in the misappropriation of PCW funds.
- **September 1986:** PCW members agree not to file suit against Lloyd's and other parties to continue to negotiate a settlement.

Hall litigation

Continued from page 1

Hall—which approached Omaha to act as a fronting insurer on business to be written by one of the MGAs and reinsured by Union—also is charged with breaches of duty and contract and with negligence in handling the business.

John F. McCaffrey, Hall's chairman and chief executive officer, said the Hall counterclaim was a necessary procedural step in responding to Omaha's suit.

"It's a confusing matter for both of us, and both of us are working very hard to bring it to a satisfactory conclusion," he said.

Mr. McCaffrey declined to say whether the two companies are discussing a settlement, though an Omaha spokesman confirmed that discussions have taken place. However, the Omaha spokesman declined to discuss other details of the litigation.

Hall's allegations against Omaha come as the brokerage faces other legal problems related to its defunct insurance subsidiary, Union Indemnity.

The New York Insurance Department sued Hall and auditor Touche Ross & Co. for $140 million last month, charging that Hall "neglected and abused" Union in furtherance of its brokerage business, and that Touche Ross knowingly approved false financial statements (*BI*, March 16).

Hall and Touche Ross are scheduled to answer the complaint by May 1, an Insurance Department spokesman said.

Omaha's suit against Hall was originally filed in May 1986 in U.S. District Court for the Western District of Missouri in Kansas City and sought $18 million in damages.

The suit—amended last month to seek $150 million in damages—names Hall; Frank B. Hall Re of New York Inc., a reinsurance brokering unit; and Frank B. Hall Underwriting Managers Ltd., a Bermuda-based unit that acted as underwriting manager for Union.

In early 1982, Hall Re proposed to Omaha that it act as fronting reinsurer for business that was to be produced by World American Underwriters Inc., a Kansas City-based MGA, and retroceded to Union.

World American had approached Hall Managers with the plan, and Hall Managers had enlisted the help of Hall Re in finding a fronting company, said John P. Iacono, Hall's assistant general counsel.

Hall Re—which participated in drafting Omaha's MGA agreement with World American—represented that World American had the underwriting skills and experience necessary to produce a profitable book, and that Union would monitor World American's writings on Omaha's behalf, Omaha's complaint says.

In June 1982, according to court papers, Omaha signed a management agreement with World American, giving the MGA authority to write:

- Treaty reinsurance with limits of $150,000 per program per company excess of a ceding company's minimum $100,000 net retention.
- Facultative reinsurance with limits of $500,000 per program per company.
- Surplus lines risks with a $500,000 limit per program per company.

Under a separate retrocessional agreement, Omaha ceded 95% of this business to Union.

The Omaha complaint charges, however, that during and after negotiation of these agreements, Hall failed to disclose:

- That Union retained little of the MGA business, but instead acted as a front, retroceding the bulk to Ocaso S.A., a Spanish reinsurer, and other non-admitted reinsurers "that did not have the capacity to fulfill their respective reinsurance obligations."

Union ceded about 90% of the business to Ocaso and the remaining 10% to a pool in which Union itself was a 4% participant, Mr. Iacono said.

- That Ocaso refused to replace an expired letter of credit securing its obligations to Union, though it was contractually obligated to do so.
- That the Omaha fronting arrangement "involved so many brokerage, management and fronting fees that the business would be unlikely to be profitable" to the ultimate reinsurers.

Hall Re received a 1% commission on premiums ceded from Omaha to Union, while Hall Managers received additional commis-

Continued on next page

Texaco appeal

Continued from page 2

ing the company to post a $12 billion bond would force Texaco to seek protection under Chapter 11 of the Federal Bankruptcy Act.

"A $12 billion bond simply could not be purchased anywhere for any price," Texaco said in its petition.

Surety experts agree. They say capacity in the surety market is nowhere near $12 billion. And, they doubt if any surety insurers would be interested in this risk.

Houston-based Pennzoil won an $11.1 billion judgment against Texaco in December 1985, after a Texas jury found that Texaco induced Getty Oil Co. to break a binding merger agreement with Pennzoil. A Texas appeals court upheld the decision, but reduced the award by $2 billion. With interest, that award has grown to $10.53 billion.

Under Texas law, Pennzoil is entitled to place liens on Texaco's property unless Texaco posts a bond or other security in the full amount of the 1985 judgment, plus interest and legal fees, while Texaco appeals the award. Texaco attempted to block Pennzoil from enforcing the bond requirement or placing liens on its property by filing suit in the U.S. District Court in New York in 1985, charging that the Texas law requiring the company to post the appeal bond is unconstitutional.

The District Court agreed with Texaco and excused the company from posting the $10 billion bond. But the Supreme Court ruled 9-0 last week that the District Court was wrong and dismissed the case.

The Supreme Court said Texaco should have brought the question of the constitutionality of the appeal bond before the Texas courts before seeking a ruling in federal court.

Frantic after the Supreme Court ruling, Texaco quickly assembled a team of lawyers in Houston and filed the petition the next day seeking an injunction against Pennzoil. The appeals court granted Texaco a temporary injunction that blocks Pennzoil from enforcing the bond requirement and set a hearing for today.

A spokeswoman for Texaco said the company hopes to convince the court to "set appropriate security arrangements" between the two companies while Texaco appeals the award.

"If we were forced to post a bond of that magnitude, we would have no alternative but to seek Chapter 11 proceedings," the spokeswoman said.

Surety experts explain that, in most cases, surety underwriters require companies buying appeal bonds to put up the full amount of the bond as collateral. This is done because when an appeal bond is required, "the company has already lost the case and if they lose again they're going to have to write a check," explained one surety broker who asked not to be named.

Only a few of the very largest Fortune 500 companies can even hope to obtain an appeal bond without putting up the full amount of the bond as collateral, several surety underwriters said.

However, because of the perceived risk involved in the Texaco case and the magnitude of the bond, if it were possible for Texaco to obtain an appeal bond, the company would likely be required to put up the full $12 billion as collateral, surety underwriters agree.

"The obligation is so onerous that any underwriter would likely require the full amount of the bond be posted as collateral," a spokeswoman for Fireman's Fund Insurance Cos.' surety department said.

Surety underwriters can demand such collateral because many states will only allow a surety bond as a means of fulfilling the appeal bond requirement. This is because a surety bond is "an easy instrument to deal with," said another surety broker, who also asked not to be named. "Cash or securities create a fiduciary obligation that many courts don't want," the broker added.

The premium for appeals bonds typically runs between 2% to 4% of the face value of the bond. In the Texaco cases, that would equate to a premium of $240 million.

As to whether the worldwide surety market could muster the resources to write a $12 billion bond, surety experts explain that most states follow rules set by the U.S. Treasury Department that limit the size of any one surety bond to 10% or less of the surety company's capital and surplus. Following this rule would mean to write a $12 billion surety bond would require the participation of surety companies with at least $120 billion in capital and surplus.

By contrast, the surplus of the entire U.S. property/casualty industry was $94.6 billion at year-end 1986, according to the Insurance Services Office. ■

Continued from previous page

sions for acting as Union's MGA, the complaint says.

- That Union "did not have the financial capacity, underwriting capacity or management skills to be an adequate reinsurer."

Union canceled its reinsurance agreement with Omaha on Jan. 31, 1984. In July 1984, Omaha asked Hall Re to supply it with a letter of credit from Union securing the runoff of Union's reinsurance obligations.

Hall Re refused the request but said that "Union Indemnity was financially able to meet it obligations. . .and that Hall would stand behind Union Indemnity," the complaint says.

In May 1985, however, knowing that the New York department had discovered Union's insolvency, Hall Managers notified Omaha that Union was rescinding its reinsurance agreement from inception, according to Omaha's suit, which charges that this was a "bad-faith" effort by Union to avoid its obligations.

Omaha's lawsuit levels other charges, including that:

- Hall Re failed to provide Omaha with adequate excess reinsurance coverage for risks written under a "rated excess agreement." Under the agreement, World American and Royal American Managers Inc., a successor MGA, were to write specific risks in layers between $500,000 and $1 million. Omaha was to cede 100% of this business to reinsurers proposed by Hall Re.

While Hall Re said that the MGA would write a "small number" of these risks, World American actually wrote "hundreds of $1 million risks," the complaint says.

The excess reinsurance arranged by Hall Re failed to provide the coverage Omaha needed, and some of Omaha's reinsurers "lacked the capacity necessary to protect Omaha," said the complaint, which does not name the reinsurers.

- Hall Re recommended in 1982 that Omaha sign an MGA agreement with New York-based Chartrex Re Inc., with reinsurance of the Chartrex business to be arranged by Hall Re with several reinsurers, including Union.

Union stopped paying claims on the Chartrex book in January 1985, while other reinsurers selected by Hall Re have failed or refused to honor their obligations, the complaint says.

- Hall Re also recommended Omaha sign an MGA agreement with Royal American Managers, which was formed in 1983 by employees of World American and which acquired World American's reinsurance business from the MGA's parent, Financial Guardian Group.

Hall Re advised Omaha to allow RAM to cede its business to two syndicates on the Insurance Exchange of the Americas in Miami—AMS Syndicate Inc. and RAM Syndicate Inc.—which did not have adequate capital to handle the business, the complaint says. RAM Syndicate is now in rehabilitation.

In addition, Hall Re knew or should have known that World American, RAM and Chartrex were writing business outside the scope of their MGA agreements, said the complaint, which adds that Hall Re actually aided and abetted the MGAs in violating their agreements.

In some cases, Hall Re, acting as an intermediary for other ceding companies, placed Omaha on the same reinsurance risk simultaneously through World American or RAM and Chartrex, the complaint charges.

Hall Re also persuaded Omaha to get a letter from Mutual of Omaha pledging it would maintain adequate surplus in its subsidiary, the complaint says. Although Hall Re said the letter would be used only in "limited circumstances" to attract business, "Hall Re then used the letters obtained to further the wrongdoing" described in the complaint.

Hall, Hall Re and Hall Managers are accused variously in the complaint of negligence, misrepresentation, breach of fiduciary duty, breach of duty of good faith and fair dealing, breach of contract and conspiracy.

'It's a confusing matter for both of us, and both of us are working very hard to bring it to a satisfactory conclusion,' says John McCaffrey of Hall's counterclaim to Omaha's suit.

Although the complaint does not specify Omaha's losses on the business, a lawsuit the insurer filed against RAM, World American and related parties last April claimed incurred losses totaling $169 million on the RAM/World American book (*BI*, April 28, 1986). That suit also charged RAM failed to report $67 million of $118 million in premiums written.

Premiums ceded to Union totaled about $13 million, according to Mr. Iacono, who added that Hall has not been able to audit the MGAs' records and therefore is uncertain how accurate this number is.

In its answer, Hall denies Omaha's allegations. In an interview, Mr. Iacono also specifically denied Hall ever told Omaha it would stand behind Union.

Hall's counterclaim and third-party complaint names Omaha Indemnity and Mutual of Omaha; World American; RAM; James R. Wining and William A. Schonacher, officers and directors of World American and RAM; and Financial Guardian Group.

The Hall complaint charges Omaha Indemnity and the MGAs were negligent in handling the business ceded to Union, and that World American and Messrs. Wining and Schonacher fraudulently misrepresented the business they planned to write and concealed information about risks actually bound.

"From the very inception of the Omaha/(World American) underwriting program in the fall of 1982, (World American), Wining, Schonacher, Omaha Indemnity and Mutual of Omaha knowingly participated in the writing of business which was either excluded under the (MGA) agreement or which exceeded the limitations set forth therein," the complaint says.

In June 1983, for example, World American bound Omaha to reinsure 100% of the risks written by Central National Insurance Co., a St. Regis Group unit, on several transportation programs, the suit says.

Omaha reinsured $900,000 excess of $100,000 per occurrence per policyholder, a violation of the MGA agreement's provision on treaty limits, Hall charges.

Also, Omaha and World American wrote the business "despite their knowledge that the programs would be unprofitable for Union Indemnity," the complaint adds.

Omaha was warned about the programs' unprofitability in a letter from Central National President Frank Barrett, who said Central National previously refused to write the risks because of their poor loss experience. Central National ultimately agreed to accept the business only with 100% reinsurance with Omaha backed by a guarantee from Mutual of Omaha, the complaint quotes Mr. Barrett's letter as saying.

In addition to insisting that Mutual of Omaha guarantee Omaha Indemnity's solvency, Central National also required a hold-harmless agreement from Omaha Indemnity that relieved Central National of any responsibility on the programs other than issuing the policies.

Omaha and Central National since have settled litigation, agreeing to allocate losses under the contract. Omaha has agreed to assume about 86% of the losses, with Central National paying about 14%, one source said. The Omaha spokesman declined to confirm details of the settlement.

Also, in August 1983, Dependable Insurance Co. Inc. proposed that Omaha provide 100% reinsurance on a book of its business, the Hall complaint says. World American, Financial Guardian and Messrs. Wining and Schonacher knew that the Dependable policies not only exceeded the authority of Dependable's own agents, but that they also exceeded World American's binding authority, the complaint charges.

Dependable initially requested the reinsurance be bound by Omaha itself. Omaha refused, but did not prevent World American from binding the coverage on its behalf, Hall charges.

World American and Financial Guardian also agreed to indemnify and hold Dependable harmless for losses arising from Omaha's denial of liability on the grounds that World American exceeded its authority, the complaint says.

World American also exceeded its authority in binding reinsurance covering a taxi and limousine program written by Balboa Insurance Co., and in writing numerous other risks including professional liability, medical malpractice and financial guarantee coverages, all of which were excluded under the MGA agreement, Hall charges.

Omaha Indemnity and Mutual of Omaha continued to allow World American to violate the terms of its MGA agreement long after they knew or should have known of the violations, Hall alleges.

In October 1983, for example, Omaha Indemnity received a letter from a senior vp of Booth, Potter, Seal & Co.—a Philadelphia-based reinsurance broker now known as Cole, Booth, Potter & Co.—warning it about an especially risky taxi program written by Omaha.

The letter warned that "the particular arrangement could possibly 'blow up' and that the 'flow of money' would be affected and that some of the participants of the programs could be 'crooks,' " according to the complaint, which does not identify the program.

"Because Union Indemnity bore the ultimate risk, Omaha Indemnity simply collected its fees and conveniently closed its eyes to the misconduct" of World American, Hall charges.

During late 1984, Hall Managers became suspicious that much of the business ceded to Union was unauthorized, and a May 1985 audit of World American confirmed the suspicion, Hall says, noting that Union then notified Omaha that it was voiding the treaty from inception.

Hall Re had repeatedly urged Omaha to audit its MGA, but Omaha refused until June 1984. This audit, however, was "conducted in a negligent fashion that failed to reveal the gross improprieties" alleged in the suit.

Mutual of Omaha actually encouraged the improper underwriting practices of its subsidiary and World American by providing letters guaranteeing Omaha's solvency, the complaint charges.

Mutual of Omaha Chairman Thomas J. Skutt signed such guarantee letters in blank and allowed Omaha and World American to fill in the names of ceding companies and forward the guarantees as they saw fit, Hall alleges.

Separately, one of Omaha's ceding companies—Occidental Fire & Casualty Co. of North Carolina—recently commuted 12 reinsurance treaties with Omaha for a cash payment of $26 million.

Occidental now is completing an actuarial review to determine the extent to which eventual liabilities will exceed the $26 million payment, according to Chairman Jack Quaritius, who said the result may affect the operating results of Occidental's parent, McM Corp.

Occidental had "good and substantial reasons" for commuting the treaties despite having a guarantee from Mutual of Omaha, though Mr. Quaritius would not specify those reasons. ■

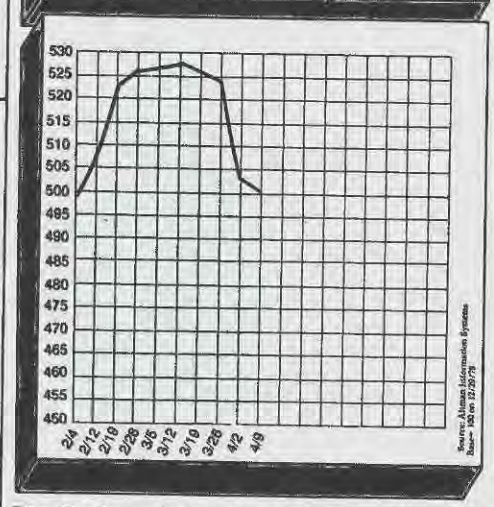
BI Industry Stock Report

April 9, 1987 **4/3/87 thru 4/9/87**

		Price	% Chg.	P/E	$ Div.	% Yld.	High	Low	Vol.(000)
Brokers									
Alexander & Alexander Svcs	NYSE	29.88	-2.0	28.7	1.00	3.3	30.50	29.75	471.7
Baldwin & Lyons Inc	OTC	22.00	-4.3	9.5	0.20	0.9	23.00	21.25	34.5
Corroon & Black Corp	NYSE	30.75	-7.9	13.7	0.84	2.7	33.50	30.75	612.7
Gallagher Arthur J & Co	OTC	23.25	-1.1	16.6	0.40	1.7	24.00	23.00	712.8
Hall Frank B & Co Inc	NYSE	13.63	0.0	0.0	0.00	0.0	13.88	13.63	143.1
Marsh & Mclennan Cos Inc	NYSE	65.25	1.0	19.8	1.90	2.9	66.88	65.25	1,259.3
Poe & Assoc Inc	OTC	13.25	0.0	16.8	0.40	3.0	13.25	13.25	2.5
AGENTS/BROKERS	AVERAGE			16.6		2.6			
Conglomerates & Holding Cos.									
Anderson Clayton(Ranger/PanAm)	NYSE	65.63	0.0	18.8	0.00	0.0	0.00	0.00	0.0
Armco Inc	NYSE	9.75	-4.9	0.0	0.00	0.0	10.63	9.75	2,746.4
Berkley W R Corp	OTC	31.00	-6.8	12.9	0.24	0.8	33.25	31.00	770.2
Berkshire Hathaway Inc Del	OTC	3470.00	1.5	237.3	0.00	0.0	3480.00	3400.00	3.5
CIGNA Corp	NYSE	62.25	1.0	9.8	2.80	4.5	64.00	62.25	743.9
CNA Finl Corp (CNA)	NYSE	51.50	-5.3	12.8	0.00	0.0	55.75	51.50	377.5
General Re Corp	NYSE	57.75	-2.9	21.1	1.00	1.7	60.75	57.75	1,658.6
ITT (Hartford Group)	NYSE	60.88	0.4	17.2	1.00	1.6	63.50	60.88	4,602.6
Sears Roebuck & Co. (Allstate)	NYSE	54.13	2.1	15.0	2.00	3.7	55.38*	54.00	5,938.2
Transamerica Corp (Occidental)	NYSE	33.88	1.5	9.5	1.76	5.2	34.25	33.38	1,205.5
CONGLOMERATES/HOLDING COS.	AVERAGE			87.7		0.2			
Insurers									
Aetna Life & Cas Co	NYSE	62.13	0.0	10.1	2.76	4.4	64.38	62.13	4,547.8
American General Corp	NYSE	38.38	-4.1	10.7	1.25	3.3	40.50	38.38	2,003.8
Amero Heritage Life Invt Co	NYSE	42.75	0.1	14.8	1.32	3.1	42.75	42.50	0.8
American Indty Finl Corp	OTC	17.50	1.4	0.0	1.12	6.4	17.50	17.00	11.1
American Intl Group Inc	NYSE	70.00	-2.9	17.3	0.25	0.4	74.50	70.00	1,787.8
Aneco Reins Ltd	OTC	3.25	0.0	4.1	0.00	0.0	3.25	3.25	9.0
Avemco Corp	NYSE	41.25	1.9	18.3	0.50	1.2	41.25	40.50	24.0
Business Mens Assurn Co Amer	OTC	28.25	0.9	0.0	1.10	3.9	28.25	27.50	29.4
Chubb Corp	NYSE	61.13	-6.3	10.9	1.68	2.7	65.00	61.13	1,441.2
Combined Intl Corp	NYSE	55.00	2.1	10.0	2.40	4.4	56.13	55.00	450.4
Continental Corp	NYSE	47.63	-1.6	13.2	2.60	5.5	50.00	47.63	547.8
Crown Life Ins Co	OTC	310.00	0.1	10.7	6.40	2.1	325.00	310.00	0.4
Durham Corp	OTC	44.75	1.1	15.0	1.36	3.0	44.75	44.25	22.7
Farmers Group Inc	OTC	44.25	-4.3	14.3	1.20	2.7	45.75	44.25	1,314.1
Fairmont Finl Inc	AMEX	18.25	0.7	12.6	0.00	0.0	18.50	17.88	104.8
Fireman Fd Corp	NYSE	38.25	5.2	16.3	0.40	1.0	38.25	37.00	1,041.2
Fremont Gen Corp	OTC	19.75	1.3	0.0	0.48	2.4	19.75	19.38	125.3
Great West Life Assurn Co	OTC	700.00	0.0	14.4	18.00	2.6	0.00	0.00	0.0
Home Group Inc	AMEX	20.75	-4.0	5.6	0.20	1.0	22.25	20.75	409.0
Hanover Ins Co	OTC	73.00	0.7	11.1	0.56	0.8	73.00	72.50	42.4
Harleysville Group Inc	OTC	18.25	6.6	5.9	0.40	2.2	18.25	17.13	128.0
Hartford Steam Boiler Insptn	OTC	69.88	-3.6	16.4	2.00	2.9	73.25*	69.88	92.1
Kans City Life Ins	OTC	27.75	0.0	10.7	0.96	3.5	28.00	27.75	19.5
Kemper Corp	OTC	32.13	-4.8	12.8	0.60	1.9	34.00	32.13	1,086.0
Liberty Corp S C	NYSE	41.50	2.5	14.6	0.72	1.7	41.50	41.00	7.5
Lincoln Natl Corp Ind	NYSE	47.13	-4.8	10.3	2.16	4.6	49.50	47.13	474.4
Mission Ins Group Inc	PAC	2.25	0.0	0.0	0.00	0.0	4.38	0.69	13.3
Monumental Corp	OTC	55.63	0.0	18.8	0.00	0.0	55.63	55.63	1.1
Nac Re Corp	OTC	28.75	-4.2	44.2	0.00	0.0	30.50	28.75	36.2
Nobel Ins Ltd	OTC	15.00	0.0	11.3	0.37	2.5	15.00	14.50	132.2
Northwestern Natl Life Ins	OTC	24.75	-2.5	7.4	0.86	3.5	25.00	24.63	1,544.4
Ohio Cas Corp	OTC	45.25	0.0	15.0	1.68	3.7	46.50	45.25	307.9
Old Rep Intl Corp	OTC	26.00	-4.1	10.9	0.80	3.1	27.13	26.00*	343.8
Orion Cap Corp	NYSE	24.50	-3.0	0.0	0.76	3.1	25.25	24.50	152.4
Protective Corp	OTC	17.25	0.0	11.1	0.70	4.1	17.25	17.00	277.8
Provident Life & Acc Ins Co	OTC	24.25	3.7	11.3	0.84	3.5	24.63	23.75	131.0
St Paul Cos Inc	OTC	45.25	-3.5	13.1	1.76	3.9	48.00	45.25	1,998.9
SAFECO Corp	OTC	56.00	2.8	11.6	1.70	3.0	56.75	55.25	577.7
Scor U S Corp	OTC	14.75	0.0	23.4	0.00	0.0	14.75	14.75	143.7
Seibels Bruce Group Inc	OTC	17.50	-7.9	0.0	0.80	4.6	19.00	17.50	48.4
Selective Ins Group Inc	OTC	24.50	2.1	11.3	0.92	3.8	24.75*	24.00	59.7
Statesman Group Inc	OTC	5.00	2.6	5.7	0.05	1.0	5.00	4.88	231.9
Tokio Marine & Fire Ins Co	OTC	82.75	0.0	93.0	0.17	0.2	82.75	82.75	7.0
Torchmark Corp	NYSE	30.38	4.7	11.2	1.20	4.0	30.50	29.50	469.2
Travelers Corp	NYSE	46.38	-2.9	10.4	2.28	4.9	48.25	46.38	2,388.9
Trenwick Group Inc	OTC	15.50	-6.1	39.7	0.00	0.0	16.38	15.50	95.7
United Fire & Cas Co	OTC	28.00	1.8	10.8	0.80	2.9	28.50	28.00	16.7
United States Fid & Gty Co	NYSE	41.50	-1.2	11.5	2.48	6.0	43.13	41.50	1,435.1
Unum Corp	NYSE	24.75	-1.0	9.9	0.40	1.6	25.50	24.50	803.0
Uslife Corp	NYSE	41.63	-0.6	10.6	1.20	2.9	42.50	41.50	269.2
Washington Natl Corp	NYSE	27.88	-1.8	13.2	1.08	3.9	28.50	27.88	23.4
Zenith Natl Ins Corp	OTC	22.00	-5.4	16.8	0.80	3.6	23.25	22.00	258.6
INSURANCE COMPANIES	AVERAGE			12.9		2.6			

System design: Altman Information Systems

BI Insurance Index



The *Business Insurance* stock index closed at 500.1 on April 9, down 3.9 points from 504.0 on April 2. Of 63 insurance industry stocks monitored, 23 posted gains, 28 declined and 12 remained unchanged at the end of the period. Leading advances were posted by: Tokio Marine & Fire Insurance Ltd., up 7.6%; Harleysville Group Inc., up 6.6%; Fireman's Fund Corp., up 5.2%; and Torchmark Corp., up 4.7%. Declining stocks for the period were led by: Corroon & Black Corp., down 7.9%; W.R. Berkley Corp., down 6.8%; Chubb Corp., down 6.3%, Trenwick Group Inc., down 6.1%; and Zenith National Insurance Corp., down 5.4%. The *Business Insurance* index fell 0.8% during the five-day period, which was equal to the decline in the Dow Jones 30 Industrials.

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