

business insurance

APRIL 4, 1983

update

Most claimants in MGM fire agree to settlement offer

LAS VEGAS, Nev.—Plaintiffs representing more than 95% of the dollar value of the remaining 450 lawsuits arising out of the 1980 MGM Grand Hotel fire in Las Vegas have agreed to settle with the hotel-casino company.

This falls short of the 100% of releases that the court-approved settlement plan required plaintiffs to deliver to MGM for individual approval by April 1. However, members of the

Continued on next page

Reporting weekly for corporate risk, employee benefit and financial executives/\$1 a copy; \$40 a year

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The asbestos crisis

Negotiations could lead to agreement on coverage

By STEPHEN TARNOFF

The parties embroiled in the ongoing asbestos litigation say an agreement on how to compensate thousands of victims of asbestos-related diseases could be reached within two months.

Representatives for insurers, asbestos companies and plaintiffs' attorneys express optimism that the negotiations could lead to an end to the massive litigation over how much insurance coverage asbestos defendants have to pay claims.

Approximately 30 coverage lawsuits involving billions of dollars are pending in federal and state courts across the country as insurers and policyholders battle over how coverage should be determined.

In addition, an agreement could provide a way to resolve plaintiffs' claims more quickly and inexpensively through a central claims-handling facility.

About 300 companies that manufactured, sold or had some other connection with asbestos products face some 20,000 pending claims by plaintiffs who say exposure to asbestos triggered serious, sometimes fatal diseases (see related story).

Compromises by all the parties to long-held positions in the litigation would be a key part of the agreement.

"There will be, I hope, publication of a proposal that could resolve a great deal of the dispute between policyholders and insurers on this matter," said Raymond W. Stahl, senior vp of The Travelers Corp. and chairman of the Asbestos Claims Council, a group of all of the major insurers with asbestos exposures.

Several draft proposals have been produced by the council and exchanged with policyholders, but the parties have not yet produced a document both sides are willing to accept, he added.

"But we are getting closer everyday. Sixty days is reasonable."

"I'm cautiously encouraged," said John L. Baldwin, president and chief executive officer of Pittsburgh-Corning Corp., a major asbestos defendant that has taken part in the negotiations.

Conceptually, there could be an agreement on a "global resolution" concerning both the coverage litigation and the litigation between plaintiffs and asbestos firms, Mr. Baldwin said.

Plaintiffs' attorney Stanley J. Levy of the New York law firm of

Continued on page 26

Some say insurance industry could be ultimate victim when the dust settles

By STEPHEN TARNOFF

Will the insurance industry survive the avalanche of asbestos claims hitting it or will it become the controversial mineral's last and largest victim?

No one is sure, but it is clear the industry has never before faced the potential liability brought by asbestos litigation, experts agree.

Asbestos companies—and their insurers—already face more than 20,000 claims from workers who say they were injured by exposure to asbestos, a mineral

used frequently to make fireproof materials and electrical insulation. And it is estimated that another 30,000 to 200,000 claims may still be filed.

These claims could cost billions of dollars, some estimate, imperiling many primary and excess insurers and reinsurance companies.

As a result, insurers are fighting with victims, policyholders and among themselves to stave off the potential losses. In the process, insurers are paying huge legal fees—one source estimates them at \$400 million for last year alone—to avoid paying claims.

At least 30 lawsuits between asbestos companies and their insurers are now ongoing. Many say that litigation will continue for another decade although others say the debate could be over soon (see related story).

Most observers say the insurance industry will still be intact when the asbestos dust clears.

"Asbestos is the single biggest problem we find in the industry," says Floyd Knowlton, a vp at The Travelers Corp. "But the numbers aren't anywhere near the numbers that the Chicken Littles are saying."

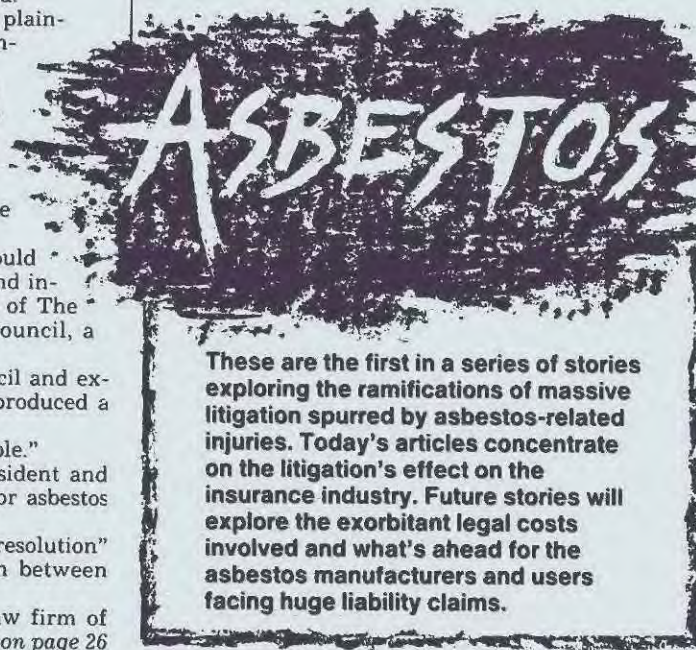
"It would be premature to say the industry would go bankrupt," adds Dennis Connelly, counsel to the American Insurance Assn.

Only under the worst possible scenario—settlements and jury awards skyrocket and courts adopt policy interpretations that give policyholders the maximum amount of coverage—would the industry be imperiled, he says.

But others, who cite studies that predict tens of thousands will die from asbestos diseases in the next few decades, are not as certain.

Insurers like Commercial Union Insurance Co. have long argued that, under certain coverage theories, they won't be able to handle an unprecedented number of claims caused by asbestos and

Continued on page 24



These are the first in a series of stories exploring the ramifications of massive litigation spurred by asbestos-related injuries. Today's articles concentrate on the litigation's effect on the insurance industry. Future stories will explore the exorbitant legal costs involved and what's ahead for the asbestos manufacturers and users facing huge liability claims.

Graphic: Jim Bakasetas

ODECO wants others to pay rig claims

By BILL DENSMORE

NEW ORLEANS—Ocean Drilling & Exploration Co., the owner of the Ocean Ranger drilling rig that sank off Newfoundland last year, wants the rig's builder and several other companies to pay liability claims and other costs.

ODECO disclosed in its recent annual report that it faces more than \$1 billion in liability claims arising from the accident, while it has \$200 million in liability coverage.

The Feb. 15, 1982, capsizing killed all 84 workers aboard the rig (BI, Feb. 22, 1982).

Attorneys for ODECO have filed three separate suits—two in Canadian courts and one in U.S. District Court in New Orleans—that seek defense costs and indemnity for any judgments against ODECO in the accident, the replacement cost of the rig and funds to remove the platform from the floor of the North Atlantic.

ODECO officials say the two Canadian suits, one filed in a

Newfoundland court and one in a federal court, make essentially the same claims as the suit filed in New Orleans.

Named in the New Orleans suit are Mitsubishi Heavy Industries Ltd.; Nagano Keiki Ltd.; Watercraft America Inc.; Harding A/S; A/S Nor Davit; and the American Bureau of Shipping.

ODECO officials declined to discuss the suits or the relationship of each defendant to the loss.

However, the New Orleans suit names Mitsubishi as builder of the Ocean Ranger, which was one of the world's largest semisubmersible drilling rigs. Attorneys for Mitsubishi declined comment on the suit.

The American Bureau of Shipping is a New York-based professional association of marine architects, naval engineers and other marine specialists that plays a role in design of ships and oil rigs. The ODECO suit says the Ocean Ranger "was classified as a vessel suitable for unrestricted ocean operations by the ABS."

"We're in the dark as to what their motives are," says Kenneth E. Sheehan, an ABS vp and counsel. "I just wonder whether they're (filing suit) on their own or at the direction of the underwriters."

The suit identifies Nagano Keiki as a Japanese corporation; Harding and Nor Davit as Norwegian corporations based in Rosendal and Bergen, respectively; and Watercraft as an Edgewater, Fla., firm. But, these companies are not otherwise mentioned in the suit nor are any specific allegations made against them.

According to the ODECO annual report recently mailed to the company's 7,000 shareholders, legal claims arising from the Ocean Ranger disaster totaled \$1.043 billion as of March 4, including \$759 million in claims for punitive damages. The rest of the claims—or about \$284 million—presumably are for compensatory damages.

The discussion of the accident, contained in a footnote to

Continued on page 21

NEWSPAPER
INSIDE:

Illinois high court rejects dual-capacity lawsuit
Page 2

Social Security changes to mean higher benefit costs
Page 3

update

MGM plaintiffs agree to pact

Continued from previous page

Plaintiffs' Legal Committee are confident that MGM will accept the settlement offer before the end of the month.

"I am in Las Vegas and my bet is 8-to-5 that the settlement will be consummated," said John J. Cummings III, the PLC's co-chairman. MGM officials could not be reached for comment.

In addition to MGM, 27 of 112 other defendants also have agreed to settle, committing nearly \$60 million to the \$75 million contributed by MGM for a total of \$135 million available for allocation among claimants if the settlement proceeds.

Defendants that do not join in the master settlement plan will proceed to trial in the U.S. District Court in Las Vegas July 11.

Kenilworth owed \$2.2 million

ST. LOUIS—U.S. District Court here has ordered U.S. Central Underwriters Inc., a local brokerage, to pay Chicago-based Kenilworth Insurance Co. \$2.2 million in premium plus interest and attorneys fees, according to the Illinois Insurance Department.

The department, which is now liquidating Kenilworth, filed suit earlier this year when analysis of records it seized last April revealed large balances owed to the insurer by U.S. Central, its owner Robert Hutchings and several other agents, brokers and reinsurers.

The department has outstanding lawsuits against Kenilworth's former managing general agent, Robert W. Patterson, who allegedly owes \$714,720, and Amtrux Inc., which owes \$388,000 in outstanding premium, according to Kenilworth's liquidator William C. Allen.

DES manufacturer acquitted

CHICAGO—Drug manufacturer Eli Lilly & Co. and the University of Chicago were acquitted March 24 by a U.S. District Court jury of charges involving the anti-miscarriage drug DES.

Gwendolyn Mink, 31, had sought \$1 million for potentially serious health problems and emotional stress she said she suffered because her mother took the synthetic hormone diethylstilbestrol, or DES, in a 1951 university study.

Ms. Mink, who filed the lawsuit four years ago, contended Lilly had manufactured an unsafe product and that the university administered the drug without telling study participants.

DES has been linked to cancer in the daughters of women who used it. But, John Cadwalader Menk, the university's attorney, successfully argued that the state of the art and science at that time and the studies available "gave no indication of the drug's dangers."

St. Paul may owe extra tax

ST. PAUL, Minn.—The St. Paul Cos. Inc. says it could have to pay \$51 million in back taxes, plus interest, for 1977 and 1978 if the Internal Revenue Service prevails in a dispute over the size of its tax-deductible loss reserves.

The company disclosed in its annual report that it was notified by the IRS in August 1982 of proposed adjustments to its taxable income for those two years. St. Paul says the IRS is using a new method of testing loss reserves with which it does not agree.

"These adjustments relate primarily to alleged overstatements of loss reserves of our property/liability insurance subsidiaries and, if sustained, would result in additional income taxes for 1977 and 1978 of approximately \$51 million plus interest," St. Paul says.

A company spokesman declined to elaborate on the statement in the annual report. "We don't feel it's a big deal," he said. The company said any additional tax payments would have no material effect on its overall financial position.

Waste firm facing suit

CHICAGO—A unit of Chubb & Son Inc. is believed to have underwritten directors and officers liability coverage for Waste Management Inc., which was hit last week with a shareholder suit.

The suit, filed March 28 in U.S. District Court, alleges the Oak Brook, Ill., firm failed to disclose potential liabilities under environmental laws.

Waste Management was the subject of reports published last month alleging problems at several of its toxic-waste storage sites. The firm's stock price plummeted following the articles, which the company disputes.

The suit, filed by shareholder Stanley M. Grossman, also names Waste Management's independent auditors, Arthur Andersen & Co., as defendants. It says Mr. Grossman purchased Waste Management shares on Feb. 15 at \$60.25 a share. The stock closed March 31 at \$43.625.

A Washington law firm, Kohn, Milstein, Cohen and Hausfeld, is representing Mr. Grossman, who was not otherwise identified in the suit. Lawyers were unavailable for comment.

Arthur Andersen, like other Big Eight accounting firms, is believed to be insured by underwriters at Lloyd's of London.

index

Benefit beat	4
Classifieds	24
Comings&goings: buyers	9
Comings&goings: industry	12
Insurance services guide	26
Letters	6
London line	19
Opinions	6
Perspectives	15
Ticker	27
Washington	10

Vol. 17, No. 14—*Business Insurance* (ISSN 0007-6864) is published weekly at 740 Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, circulation department, 740 Rush St., Chicago, Ill., 60611; 312-649-5221. Copyright 1983 by Crain Communications Inc.

Illinois court rejects dual-capacity lawsuit

By CAROL CAIN

SPRINGFIELD, Ill.—An employer in Illinois cannot be sued by an injured worker just because the employer owns or leases the worksite.

The state Supreme Court ruled March 25 that an employee who collects workers compensation benefits may not also sue an employer because it serves in a dual capacity as a landowner that is ultimately responsible for what happens on its property.

"This clearly establishes in Illinois that an employer cannot be sued...just because he owns or leases the land," said Stanley J. Davidson, an attorney with Michigan Mutual Insurance Co., the employer's work comp insurer in the case, *Sharp vs. Gallagher* (BI, March 15, 1982).

Employers and employer groups throughout the state had predicted economic disaster if the high court had ruled the other way. But they were breathing easier last week as they heard about the decision, which they called encouraging and fair.

The court ruling reaffirms the current exclusive remedy provision in the state's Workers Compensation Act, which says workers compensation benefits are the only recourse for a worker injured on the job.

"(The decision) is definitely a help; anything is that

helps contain third-party suits where workers comp is the initial coverage," said Leonard Day, labor relations director for the Illinois Chamber of Commerce.

"It's frightening to employers to think there is additional financial liability hanging over their heads," he added, noting that the high cost of workers compensation has been listed by many employers as the reason for moving their operations out of Illinois.

"This ruling certainly relieves some headaches," Mr. Day said.

The case stems from a Jan. 16, 1978, residential construction site accident in the Chicago suburb of Downers Grove in which Russell Dean Sharp, a 28-year-old carpenter-helper, slipped and fell while working on a garage roof.

He filed a workers compensation claim naming Farmingdale Millwork of Countryside, Ill., as his employer. He received \$18,363, representing 19 weeks of temporary total disability and 70% loss of use in his left foot.

Mr. Sharp then filed a two-count lawsuit alleging violations of the Structural Work Act and common law negligence against Robert Gallagher and Daniel Henry, owners of Farmingdale Millwork and partners in Orchard Hill Building Co., which owned the construction

Continued on page 22

Syndicates cease writing

By STACY SHAPIRO

LONDON—Poor underwriting results coupled with the dismissal of several key Lloyd's of London underwriters are responsible for the closing of more than 35 syndicates, a Lloyd's publication says.

The syndicates, some of which were undercapitalized, are now running off their business, according to a poll taken by Lloyd's List, a daily publication put out by Lloyd's.

Many of the syndicates closed because they could not offset their huge underwriting losses by increasing premiums or by relying on investment income, sources in the market say.

Some of the losses are sizable. For example, members of Lloyd's Syndicate 895, a marine syndicate managed by Spicer & White (Underwriting Agencies) Ltd., must pay more than 1.8 million pounds (approximately \$2.6 million) of losses.

The 237 members, including tennis star Virginia Wade, must pay more than 15,000 pounds (\$21,800) for every 20,000 pounds (\$29,000) of

Continued on page 23

Former risk managers form alumni group to share ideas

By SALLIE J. DRURY

Former risk managers, mark your calendars for April 27. At 2 p.m. in the LaBrea Room of the Hotel Bonaventure, the first meeting of the Risk Management Alumni Assn. will convene.

"Our primary purpose is to join together from the varied fields we've branched out to, with experience as risk managers our common denominator, to form business contacts and exchange ideas," said Cheryl Peske, secretary of the association.

Ms. Peske, formerly risk manager for the city of Milwaukee, is now a consultant with Strauss Zahn Co. She and Edith F. Lichota, who is chairman of the association, got the idea for the alumni group when they were both speakers at a seminar sponsored by the Risk & Insurance Management Society and Insurance Co. of North America in January 1982.

"Edith and I had been fairly active in RIMS," Ms. Peske said, "and as risk managers we had found that organization very supportive."

"We thought there was a need for a support network of those who had left risk management and gone into other areas."

She and Ms. Lichota, who is now INA's vp of government affairs and formerly was risk manager with Kennecott Copper Corp., kept in touch during the year. "Then last fall we decided to do it," Ms. Peske said. "We targeted for an April date, and decided to get together in Los Angeles during RIMS when a lot of people would be out there."

RIMS will hold its annual conference April 24-29 in Los Angeles. Ms. Peske stressed, however, that the new organization is not related to RIMS. "We hope to help all former and present risk managers," she said, "not just RIMS members."

Ms. Lichota said the association will provide a roster of members who are available for risk management program support: to give speeches, help develop programs and be available for informal dis-

Continued on page 23

Pension researchers get reprieve

By JERRY GEISEL

WASHINGTON—Pension researchers can breathe easy—at least for now.

The Labor Department probably won't move its pension disclosure office to a converted warehouse in a gritty section of Washington.

errors & omissions

• Syndicate 799 at Lloyd's of London is Merrett Syndicates Ltd. The lawsuit filed by MGM Grand Hotels Inc. against its retroactive liability insurers incorrectly identified Syndicate 799 as Leslie & Godwin North America (Non-Marine) Ltd. (BI, March 21). Merrett Syndicates underwrote \$1.75 million of the \$35 million layer of retroactive insurance excess of \$65 million in underlying insurance.

• The administrator for Household Merchandising Inc.'s prescription drug plan is National Pharmacies Inc. of Elmwood Park, N.J., not National Prescription Administrators Inc. as reported March 21 in a story on mail-order prescription drug plans.

The department had been trying to comply with a new mandate issued by the General Services Administration—the federal agency that maintains government buildings—to reduce the amount of rented space it occupies.

One way the Labor Department is considering doing this would be to move its busy pension disclosure office from the department's main building on Constitution Avenue near Capitol Hill to a warehouse in a rundown area of the city known as the Washington Naval Yard.

By moving the disclosure office to the warehouse, a former trolley car repair facility that is now owned by the federal government and used for storage, other Labor Department offices now occupying rented space could be moved to the department's main building.

"We have to be more efficient in the use of space," says Charles George, deputy director of the Labor Department's Office of Management.

However, by the time the Labor Department decides exactly how it will reduce the amount of space it occupies, the old Naval Yard warehouse probably will be rented out to another government agency. The GSA is anxious to lease the site.

That would be just fine with pension researchers who dread a possible shift of the pension disclosure office to the Naval Yard.

Moving the disclosure office, which contains all pension-related information employers file with the Labor

Continued on page 8

Social Security bill to hike benefit costs

By JERRY GEISEL

WASHINGTON—The price of shoring up the Social Security program will be higher benefit costs for employers.

For example, Social Security payroll taxes, already one of employers' most costly benefit expenses, will increase even more.

The financial bailout legislation Congress approved late last month to raise the \$165 billion in new revenues needed to avert a Social Security funding crisis will sharply accelerate FICA tax increases.

On Jan. 1, 1984, the FICA tax will rise to 7% from the current 6.7%, a year earlier than originally scheduled. In 1988, the tax will climb to 7.51% instead of the planned 7.15%. The payroll tax will reach 7.65%, as scheduled, in 1990.

For large employers, these payroll tax increases will cost millions of dollars. For example, Newark, N.J.-based Prudential Insurance Co. of America says the FICA tax increase means that next year it will pay \$98 million in Social Security payroll taxes for its 72,000 employees instead of \$93.8 million.

Congress's decision to tax up to one half of the Social Security benefits received by individuals whose adjusted gross incomes exceed \$25,000, including income from tax-free bonds, and for families whose incomes exceed \$32,000 also could increase employers' pension costs.

Most corporate pension plans are designed to replace a certain percentage of pre-retirement income. Those salary replacement ratios assume Social Security benefits are tax-free.

Because Social Security benefits will be taxed and thus reduced, employees will look for more from their corporate pension plans.

"Because of the tax, companies will be inclined to shore up plans to produce a slightly higher replacement ratio for middle class and well-to-do retirees," said Lloyd Kaye, a principal with William M. Mercer Inc. in New York.

"Employers may want to sweeten their pension plans to compensate for loss of Social

Social Security legislation	
<p>Mandatory participation</p> <p>Beginning Jan. 1, 1984, newly hired federal employees will have to be covered by Social Security and all non-profit employers will have to participate in the Social Security program, including those that already have withdrawn. Meanwhile, state and local governments will be prohibited from withdrawing from Social Security after the effective date of the legislation. Public employers that already have withdrawn would not be forced to rejoin.</p>	<p>Delayed retirement credit</p> <p>Between 1990 and 2010, the delayed retirement credit for individuals between 65 and 70 will be raised from 3% to 8% per year.</p>
<p>Cost-of-living increases</p> <p>The scheduled July 1 cost-of-living adjustment of benefits will be delayed to Jan. 1, 1984. All future benefit increases will be in January instead of July.</p>	<p>Benefit tax</p> <p>Individuals whose adjusted gross income exceeds \$25,000 and couples whose adjusted gross incomes exceed \$32,000 will be taxed on 50% of Social Security benefits received. Income from tax-exempt bonds would be included in determining whether an individual is over the tax threshold.</p>
<p>COLA stabilizer</p> <p>If Social Security trust funds fall below a 15% reserve from 1985 to 1988, Social Security benefit hikes would be limited to either average wage increases or the Consumer Price Index, whichever is less. After 1989, the COLA stabilizer would kick in if the reserves fell below 20%.</p>	<p>Taxing salary reduction plans</p> <p>Wages deferred under 401(k) salary reduction plans will be subject to FICA taxes beginning on Jan. 1, 1984.</p>
<p>Retirement age</p> <p>The retirement age for Social Security benefits would gradually increase from 65 to 67. It would rise to 66 from 65 between 2000 and 2009, then to 67 by 2027.</p>	<p>Taxing non-qualified plans</p> <p>Benefits payable by "open-window" non-qualified, deferred compensation early retirement plans will be subject to Social Security taxes on Jan. 1, 1984.</p>
<p>Early retirement</p> <p>Workers still could retire at age 62, but their initial benefit would be cut by 25% starting in 2009 and by 30% in 2027. Workers can now retire at 62 and receive a benefit equal to 80% of the age 65 full benefit.</p>	<p>Payroll taxes</p> <p>The Social Security tax rate for employers, now 6.7%, will rise to 7% on Jan. 1, 1984, and gradually rise to 7.65% in 1990. The tax rate for employees also will rise but they will get a one-time credit for 1984 taxes.</p>
<p>Security benefits due to taxation... agrees Sylvester Schieber, research director of the Employee Benefit Research Institute, a Washington-based benefits think tank.</p>	<p>Earnings test</p> <p>Beginning in 1990, workers 65 through 69 years old would lose \$1 in Social Security benefits for every \$3 they earn over certain earnings limit. This year, older workers lose \$1 for every \$2 earned above \$6,600.</p>

Security benefits due to taxation..." agrees Sylvester Schieber, research director of the Employee Benefit Research Institute, a Washington-based benefits think tank.

The bailout legislation, which President Reagan is expected to sign April 10, will put other cost pressures on corporate pension plans.

For example, the age at which a worker can retire and collect full Social Security benefits will gradually increase until it reaches age 67 in 2027. Currently, a worker

can retire at age 65 and collect full Social Security benefits.

As a result, corporate pension plans that offset pension benefits by the Social Security benefits a worker receives automatically will have to pay more to employees who retire before 67 because they will be receiving less from Social Security.

Employers, though, will have plenty of time to prepare for that change. The Social Security retirement age will increase slowly, beginning in the year 2000, until it

reaches 67 in 2027.

However, other provisions in the Social Security legislation will require much faster action by some employers. For example, a major provision requires mandatory Social Security coverage for non-profit employers, known as 501(c)(3) organizations.

This provision goes into effect on Jan. 1, 1984. That gives thousands of non-profit employers, who either never joined Social Security or left the program, just nine months to

Continued on page 22

Work comp's ups and downs

Illinois, Michigan employers get rate relief

By CAROL CAIN

Manual rates aren't falling yet, but competition spurred by deregulation is cutting workers compensation costs in Michigan and Illinois.

New workers compensation competitive rating laws went into effect Jan. 1 in both these highly industrial states on Lake Michigan. With only three months' experience to draw on, most insurers and state officials say it's too early to tell whether open rating will affect rates as much as similar laws have in Oregon and Kentucky (BI, Sept. 20, 1982; Jan. 3).

Some employers, however, are already paying as much as 20% to 60% less for workers compensation insurance because of an increase in the use of scheduled rating for individual risks.

Under scheduled rating, or scheduled crediting, the insurer not only files its manual rates with the state insurance department, but it also files a discretionary plan for crediting or debiting individual companies. For example, insurers often assign a certain amount of points for particular loss-control measures, like good housekeeping. These points, which translate into premium credits or debits, are used in figuring the final workers compensation insurance premium.

After the scheduled rating plan is filed, the insurer does not have to show the insurance department how the credits are applied to individual companies, but some departments do cap the overall size of credits allowed.

"Rates (in Illinois) are not affected...they're still using the suggested (manual) rates, but the battleground is the

schedule credit," said Irv Shainberg, vp and operations manager of Associated Agencies Inc., a Chicago broker.

While Illinois has allowed scheduled rating and deviation from rating bureau rates, the new open rating law has raised the consciousness of insurers to be more competitive, observers say.

An increased use of scheduled credits allows insurers more flexibility while they compete. If they cut manual rates across the board, they would have to get insurance department approval to raise those rates again when the market tightens. But, if they instead cut employers' cost by giving them hefty credits, they can simply reduce those credits later if the market dictates.

There used to be a maximum 25% cap on credits in Illinois, but with that cap removed, credits are averaging 30% to 35%, with some as high as 50%, Mr. Shainberg said.

While Illinois removed the cap for scheduled credits or debits, the Michigan Insurance Bureau has imposed one because its officials thought insurers were cutting premiums too much.

Initially, the bureau received a number of filings that it considered "exceeded the bounds of reasonableness," said Eric Nordman, a regulation officer with the bureau. For instance, one insurer filed for up to an 85% credit.

The bureau's response was to put a 25% cap (plus or minus) on credits and debits.

Fireman's Fund Insurance Cos. and Employers of Wausau, which filed for credits of up to 40%, initially objected to the 25% cap. Employers of Wausau later withdrew its ob-

Continued on page 20



Graphic: Amy Palmer

Hawaii attempting to cap cost explosion

By CAROL CAIN

HONOLULU—Hawaii is trying to cap exploding workers compensation insurance rates.

Rates have increased 87.3% on the islands during the past five years. In fact, employers were hit with a 29% average rate increase this year alone. And some saw increases as high as 54%, a death blow to a few companies, according to a state representative.

Legislators, trying to quickly resolve the problem before their three-month session ends April 22, have introduced bills and resolutions calling for a moratorium on rate increases next year and a study of the entire workers compensation system with attention to establishing open rating, a state fund or a regulatory commission.

Pinpointing what is behind the escalating rates is not easy.

While a few want to place all the blame on the workers compensation insurers, others say costs are high because Hawaii only requires workers to wait two days after an injury to file a claim. Hawaii also has a very high frequency of claims compared with the national average, some point out. Still others say the courts' liberal interpretation of the laws is helping employees and hurting employers.

"I think what it is more than anything else is a culmination of our laws, the interpretation of our laws (by the court) and inflation," said Tim Lyons, executive vp of the Hawaii Business League, an organization of about 200 members.

Whether the Legislature will be able to accomplish anything this session is still un-

known.

"It (the rate increases) sort of raised the wrath of everybody, but unfortunately, I think it's too late," Mr. Lyons said, noting the short legislative session. "And workers compensation is so complicated for everybody, especially a legislator."

So far, the bill moving along the fastest is one calling for a rate freeze next year.

H.B. 1531, which was introduced by Rep. Eloise Tungpalan, D-Pearl City, and calls for a moratorium on rate increases in 1984, already has been passed by the House and is in the Senate's Consumer Protection and

Commerce Committee. Chairman Sen. Steve Cobb, D-Honolulu, is studying the possibility of an amendment to also halt increases in worker compensation benefits during the same time.

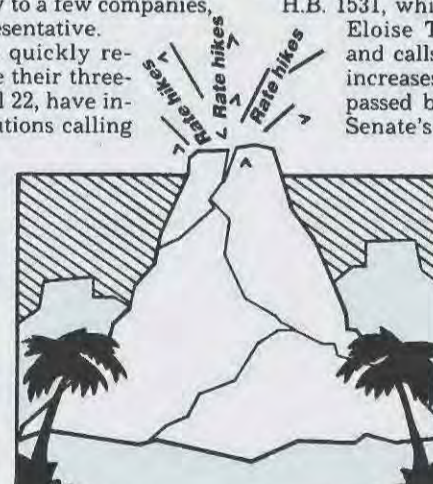
Initially, Rep. Tungpalan wanted the moratorium to go into effect this year and be retroactive to Jan. 1, but the attorney general advised that could cause constitutional problems.

Two separate resolutions calling for a study of the system were to be discussed March 25 by the House Employment Opportunities and Labor Relations Committee, but because of a holiday, the hearing was rescheduled until April 8.

One resolution, also introduced by Rep. Tungpalan, the committee's chairwoman, calls for a cost analysis of an open-rating system, state fund, self-insurance and a regulatory commission by the legislative auditor.

"What we're trying to do is control costs so that no one takes advantage of the system,"

Continued on page 21



Graphic: Jim Bakasetas

Citibank employees get improved plans

Employees of Citibank N.A. in New York are now receiving improved medical and long-term disability benefits.

In addition, the company's 25,000 employees nationwide will also be able to contribute to a 401(k) salary deduction plan.

The company, beginning Feb. 1, started offering employees a choice of three medical plans or joining a health maintenance organization.

The hospitalization portion of all three medical plan options is underwritten and administered by Blue Cross Assns. nationwide, while the major medical and surgical portions are self-insured by Citibank without stop-loss insurance, according to Steven F. Gorchoff, a Citibank vp. The major medical and surgical portions of the plan are administered by Equitable Life

benefit beat

Assurance Society he says.

Citibank's former medical plan was insured by Blue Cross of Greater New York.

All three medical options cover 80% of most claims up to a variable out-of-pocket limit, while the employee pays the other 20%.

The three plans are:

- Option One, which requires the highest monthly employee contributions—\$7.46 for individuals and \$27.37 for families.

The plan requires a \$100 per-person or \$250 per-family deductible, although the deductibles in any of the three plans do not apply to hospital, surgical or anesthesia charges.

Option One fully covers 120 days of hospitalization, with extra days covered at 80%. The maximum annual out-of-pocket expense is capped at \$2,000 per employee or \$4,000 per family.

In addition, Option One offers full coverage for unmarried, dependent students until the end of the calendar year in which the dependent reaches age 23.

- Option Two, which requires monthly employee contributions of \$3.12 per person and \$15.41 per family and deductibles of \$200 per person and \$500 per family.

This plan pays for an unlimited number of days of hospitalization. The maximum out-of-pocket ex-

pense annually is \$1,000 per employee and \$2,000 per family.

Full coverage for an unmarried, dependent student until the end of the calendar year in which the dependent reaches age 25 is included in dependent coverage.

- Option Three, which requires the highest annual deductible—\$300 per employee and \$750 per family—but the lowest monthly contribution—\$1.89 per employee and \$11.47 per family.

This option also fully covers an unlimited number of days of hospitalization and caps out-of-pocket expenses at \$1,000 per employee or \$2,000 per family.

The third option also covers a dependent student until age 25.

In addition, all three medical plan options contain these features:

- The plan will assume an addi-

tional \$100 in claims for certain surgeries performed after a second surgical opinion is obtained.

The second opinion must be given by a physician authorized by Blue Cross, Equitable or Citibank's medical department. Eighteen procedures—including hysterectomies, cataract removals, bunionectomies and tonsillectomies—are covered under the second opinion option.

The plan also pays the entire cost of the second opinion.

- Pre-surgical tests done on an outpatient basis are now reimbursed at 100%, instead of the former 80% rate. This option is available only at hospitals participating in the Blue Cross pre-surgical testing program.

- Full reimbursement is available for procedures done at specific freestanding outpatient surgical centers.

- The plan covers births at birthing centers that operate under the license of a qualified hospital with registered nurses certified to be nurse-midwives.

- Hospice care, at hospices approved by the plan, is now fully reimbursed.

- Outpatient psychiatric care is reimbursed at 50% of reasonable and customary charges, with a lifetime maximum reimbursement of \$7,000. However, there is now an annual maximum of 52 sessions. The former plan included no maximum number of sessions.

- New employees are immediately eligible for medical plan coverage. Previously, employees weren't covered under the plan until their fourth month of service.

In addition to the three medical plan options, Citibank employees can enroll in one of 17 different health maintenance organizations around the country. No matter what HMO an employee chooses, Citibank will contribute \$42.28 for individual coverage or \$102.92 for family coverage toward monthly premiums.

The new self-funded long-term disability plan provides a benefit of 66.6% of an employee's first \$15,000 in salary, plus 50% of his or her remaining salary, before integration with Social Security.

Employees who earn less than \$30,000 annually do not have to pay for this coverage. Employees who earn more than \$30,000 with fewer than 25 years' service pay 30 cents per year for each \$100 they earn in excess of \$30,000.

Employees with more than 25 years' service do not have to contribute to the plan, but they can make optional contribution, which would offset taxes on the benefit should they be disabled.

On April 1, Citibank employees also became eligible for a 401(k) plan. Under the plan, employees can contribute up to 6% of their annual base salary to their accounts and receive favorable tax treatment on those contributions.

However, to start a tax-deferred account, a Citibank employee must contribute the basic savings plan award—equal to 3% of salary—given to each employee with two years' service. If an employee contributes this award, Citibank will match it with another 3% contribution, for a total of 6%.

Thus, Citibank will contribute 6% of an employee's salary to the plan, and the employee can receive favorable tax treatment for deductions of up to another 6% of his or her pretax salary. In addition, the plan allows an employee to voluntarily contribute up to another 10% of salary to the plan without tax advantages.

Made any benefit changes? Write Claudette Dampier, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5282.

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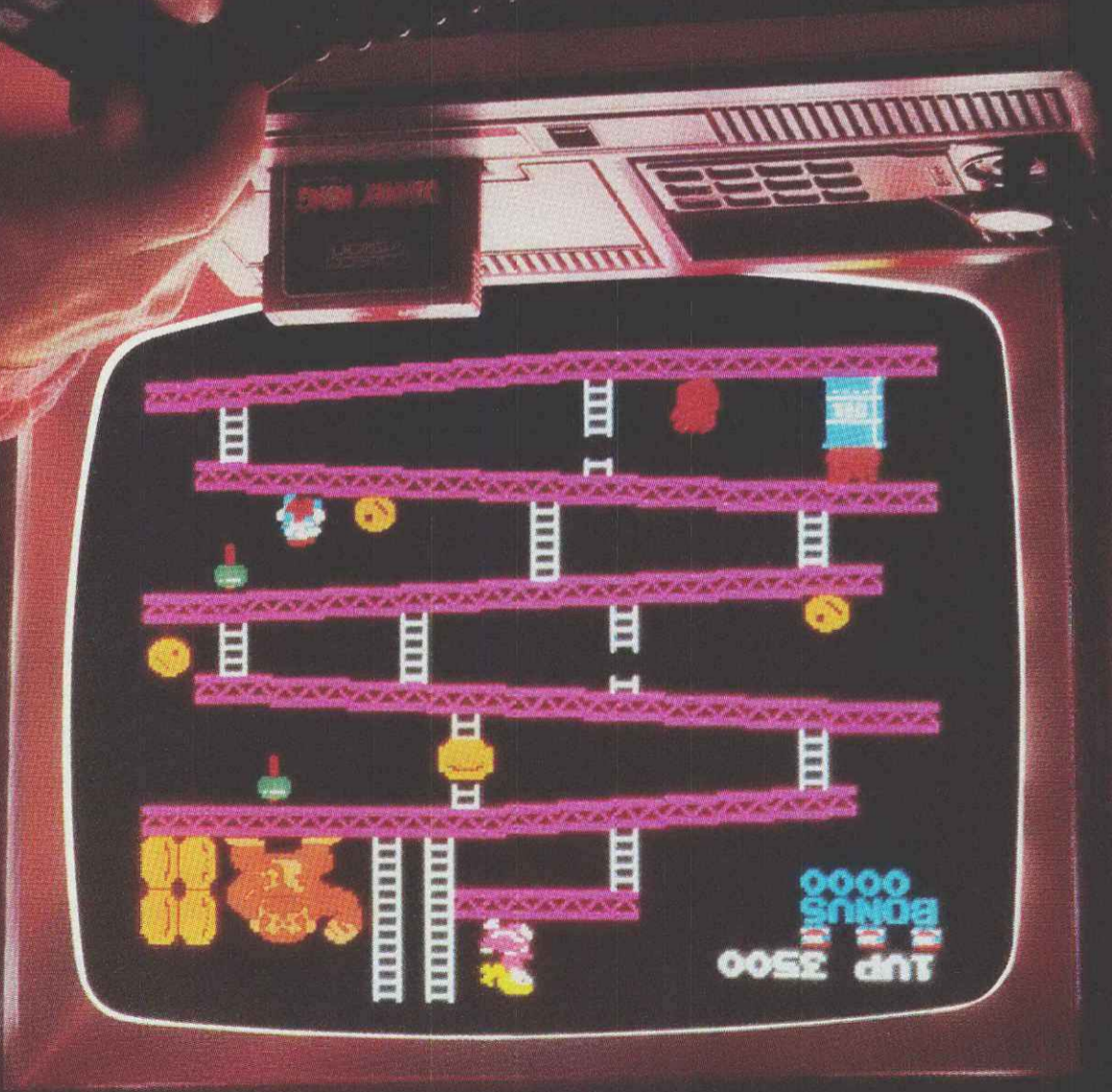
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compensation, where Wausau's loss-control and training capabilities are very helpful.

"There's an openness of communication between Wausau's people and our manufacturing people, and a continuing process of striving to defeat safety problems. We feel we can benefit from Wausau's advice and we look upon insurance as a partnership effort."

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opinions

The burden of uncertainty

IN OUR PERSPECTIVE section today, we are running a contest to best define "risk." The 10 best entries are printed on page 18 for you to read and rate.

One of them says risk is the "absence of certainty."

If that is a legitimate definition, then the risk load employers carry has been lightened quite a bit lately.

First, after sweating it out for more than a year, Illinois employers now know for sure that they cannot be sued by injured workers simply because they own or lease their places of business (see story, page 2).

We applaud this decision handed down by the Illinois Supreme Court. A worker had wrongly contended that he should be able to sue the owner of the land on which he was injured—even if that owner also was his employer—because a landowner is ultimately responsible for what occurs on his property.

The uncertainty of what the application of this dual-capacity doctrine would mean in legal costs and awards left Illinois employers with quite a risk on their hands.

Secondly, for better or worse, the Social Security bailout program has been finalized (see story, page 3). Even though it is projected that the changes will mean higher benefit costs for employers, at least now they know what's ahead of them and can plan for it. After

months of watching for recommendations to come from the president's National Commission on Social Security Reform and then anguishing over what Congress would finally do with the recommendations and what extra surprises it would throw in, it is a relief to know for sure what's in store.

And last, but probably most significant, it appears that the insurance industry, asbestos defendants and plaintiffs are devising a plan for the payment of tens of thousands of asbestos injury claims (see story, page 1).

The uncertainty about the final cost of current and future asbestos claims already has forced three asbestos defendants to file for reorganization under the federal Bankruptcy Act and many others to fear their insurance is inadequate.

The uncertainty over ultimate costs also is haunting primary insurers, excess insurers and reinsurers of asbestos risks.

But now, if their plan to compromise on coverage theories and to set up a central claims handling facility works, the asbestos damage costs will no longer be so uncertain. At least, the amount of available insurance will be known.

And what a load off everyone's shoulders that will be.

letters

Self-funding depends on more than company size

To the editor: I disagree with the position taken by Wallace Jeffs as stated in his Perspective article (*BI*, March 14) regarding self-insuring health benefits. He generalized throughout the entire article, his position was less than objective and he bases many of his assumptions upon facts that are just not correct in the real world of group insurance and alternate financing mechanisms.

Throughout his article, Mr. Jeffs utilizes examples that may be misleading because they are not applicable to the majority of insurers or the majority of self-funded plans. If the vast majority of insurers offered a 200-life employer premium lags, retrospective-rating agreements, minimum premium plans and fully insured programs with retentions that were truly as low as 12%, the increased interest in self-funding and, in particular, the increased growth in third-party administration would not have occurred. Because the insurance industry has failed to offer many of these to all but their very largest clients, the small to medium-sized employer has turned to self-funding with ever increasing frequency.

It is prudent for an employer considering self-funding to work very closely with a professional consultant or third-party administrator in developing a program that will meet the needs of the employer. A well-structured program will provide reinsurance coverage that does not eliminate all risk, but rather allows the employer to define the level of risk that is acceptable to them, and pass on all additional ultimate risks to a reinsurer. If the employer then funds for his maximum exposure and establishes an unrevealed claims reserve, the possibility of undefined risk is eliminated.

Frankly, the only risk at this point is

the possibility of some short-term, potentially negative cash flow. If an employer is not capable of withstanding short-term swings in cash flow, then he is probably not a good candidate for a self-funded program. However, inability to deal with broad swings in cash flow is not a problem peculiar to small companies, nor is financial strength an attribute of all large companies. Consequently, the decision whether to self-fund or insure is a decision that must be based upon criteria other than size.

In concluding his argument against self-funding for small employers, Mr. Jeffs addresses the issue of our recessionary economy, as well as the problems with medical inflation and other factors that are increasing the cost of delivering hospital and medical care today. Is he implying that only self-funded cases are impacted by these phenomena? If so, why

are we seeing renewals today from most insurers that contain substantial rate increases and frequently address the issues of cost shifting, deductible erosion, and increased utilization as a means of justifying their increased rates?

I would suggest to Mr. Jeffs that it would be rather simplistic to base a decision to self-fund or not self-fund primarily on the size of the employer. There are a number of other factors that are much more important, and the decision as to the proper funding mechanism can only be made after considering the long-term best interests of the employer and after a thorough analysis has been provided by a competent consultant and/or third-party administrator.

Stephen F. Rasnick
President
Claims Administration Services Inc.
Palatine, Ill.

Fund the PBGC according to each risk

To the editor: It was heartening to read (*BI*, March 21) that the Reagan administration wants legislation that would make it more difficult for employers to dump their underfunded pension plans onto the Pension Benefit Guaranty Corp.

Not so pleasing to this writer, though, was the statement in the same article that "the administration also agrees that the annual termination insurance premium be raised to \$6 per participant."

My objection to this flat-rate approach to fund the PBGC is its total lack of fairness.

Why shouldn't the premium be proportional to the benefit level? Is it fair for a plan that provides a \$15 or \$20 benefit to pay the same premium as one in the \$6 to \$8 range? And why shouldn't a solid,

conservatively funded plan pay a lower rate than an underfunded one? Aren't insurance premiums supposed to be proportional to the risk?

Rather than debate whether the PBGC's premium should be increased to \$6, Congress should be interested in seeing that the Employee Retirement Income Security Act is administered fairly. I think it's time to consider a flexible rate that assigns higher costs to the greater risks and encourages adequate funding by providing the incentive of lower premiums.

Robert R. Lippert
President
The Hamilton Caster
& Manufacturing Co.
Hamilton, Ohio

Getting the facts straight on surplus aid and agent's balances test

To the editor: The reporter covering the recent Petroleum Insurance Conference in New Orleans (*BI*, March 21) had a difficult task as there were a number of technically oriented speech topics.

In the report of my discussion of insurance company financial ratios, the description of the surplus aid and agent's balances tests is not accurate, although I may have misled in one instance.

Surplus aid is the commissions received on unearned premiums in ceded reinsurance. Agent's balances should be com-

pared with surplus. Also, a few of the other tests should receive more elaboration to be clearly understood than the space for the article would permit.

I pointed out that most of the tests described were the NAIC Early Warning System, now known as the Insurance Regulatory Information System. I believe risk managers should be familiar with these tests and the Best's ratings and use them to try to avoid insurers that are having financial trouble.

Also, although most of the attendees would know, for the record Schlum-

berger is principally an oilfield services company, not a heavy equipment manufacturer.

S. Peter Law
Risk Manager
Schlumberger Ltd.
New York

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Published by Crain Communications Inc., Chicago

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Published weekly at 740 Rush St., Chicago, Ill. 60611. Offices: 220 East 42nd St., New York, N.Y. 10017; Suite 515, National Press Building, Washington, D.C. 20045; 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 5327 N. Central Expwy., Suite 200, Dallas, Texas 75205; 20-22 Bedford Row, London WC1R 4EB, England. \$1 a copy. \$40 a year in U.S. Canada and all other foreign add \$14 for surface mail. Europe and Middle East only add \$35 for air delivery. First-class mail to U.S. and Canada only, add \$50. Bermuda only, \$85 per year expedited delivery. WILLIAM STRONG, vp-circulation. DIANNE WALSH, circulation manager. ROGER DIGREGORIO, fulfillment director. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Dept., Business Insurance, 740 Rush St., Chicago, Ill. 60611 or phone 312-649-5221. Telex 25-4248; Cable CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.



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How The Hartford improves cash flow for groups of 100 or more.

"If you're still paying standard premiums, you're losing money."



Ray Drury, Vice President, Group Sales, tells benefit plan managers how The Hartford's full range of cash flow options can cut insurance costs.

Q. How did your Minimum Funding Group Life Insurance slash premium payments by almost 90% for a large Southwestern city?

A. By replacing the standard monthly premium that would have been due on the city's half-billion dollars of Group Life with a two-part premium—one part fixed and based on expenses and the premium for pooled coverages, the other part variable and tied to actual claims.

Thanks to this arrangement, the city's fixed monthly premium was reduced from \$135,000—the estimated standard premium that would have been due—to less than \$15,000. And the city has the use of the funds without any dilution of coverage or insurance safeguards.

Q. If losses become higher than normal, will the city pay more than the standard premium?

A. Absolutely not. Our Minimum Funding plan caps total monthly premiums—fixed and variable combined—so that they never exceed what would be due under a standard-premium plan.

Q. Can cash flow advantages be realized by small groups?

A. Definitely. While our Minimum Funding Group Life and cash flow LTD plans are designed for larger groups, we also have a full spectrum of options for groups of 100 or more. They include Minimum Premium Plan, Administrative Services Only, and Excess Risk Insurance.

With these options, you retain all or part of the risk and responsibility relating to claim payments. In doing so, you also retain all or part of the funds you'd ordinarily pay the insurance company for assuming that risk and responsibility. The cash flow advantages stem from having the use of those funds. If you hold reserves, you can also realize cash flow advantages from interest income generated by that money.



Q. How great a cash flow improvement can a small group realize by self-funding?

A. The improvement can be dramatic. For example, a West Coast electrical equipment manufacturer with 300 employees completely self-funded its medical benefits, while The Hartford provided Stop Loss coverage. As a result, the company reduced its fixed monthly cost from over \$100 per family in standard premiums to under \$10 per family—including third-party administration.

Q. What ways do you have to improve cash flow with your fully insured plans? And what kind of impact can they have?

A. We have Deferred Premium plans and Retrospective Rating Agreements which are available with our full range of group Life/Health coverages. Using both those options, a Midwest food processor with some 4,000 employees improved its cash flow by more than \$1 million in a conventionally insured Hartford group plan. And that's not an isolated example.

To sum up, we have a full spectrum of cash flow options. And we'll work closely with you—and your broker, agent or Hartford-approved third-party administrator—to determine which options can best improve your bottom line results.



Q. How can I get a brochure describing The Hartford's full range of cash flow options?

A. Just call me at 203-683-8599. Or write Cash Flow Options, Group Sales Dept., Hartford Life Companies, P.O. Box 2014, Hartford, Conn. 06145.

Don't make a decision on Group Benefits until you talk to a broker or independent agent who represents The Hartford.

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The Hartford Insurance Group, Hartford, Connecticut 06115.

Pension researchers get a reprieve

Continued from page 2

Department, would make a "mockery" of the Employee Retirement Income Security Act, one researcher says.

"The backbone of ERISA is participant access to ERISA records," said Judy Diamond, president of ERISA Benefit Funds, a Washington-based benefits research firm.

A move to the Naval Yard warehouse would be the "rip-off of the century," Ms. Diamond adds.

There are few parking lots in the area and those who park on the street face the risk of having their tires slashed in the high-crime area, Ms. Diamond pointed out.

"You need an automatic rifle to go down there," said a Labor Department pension official who doesn't want the disclosure office moved.

However, the Labor Department's Mr. George says he is not aware of an unusual crime problem at the Naval Yard, noting that thousands of federal employees already work in the area.

Even if the Naval Yard building is leased to another government agency, that doesn't mean the

disclosure office will stay in its current roost on the fourth floor of the Labor Department.

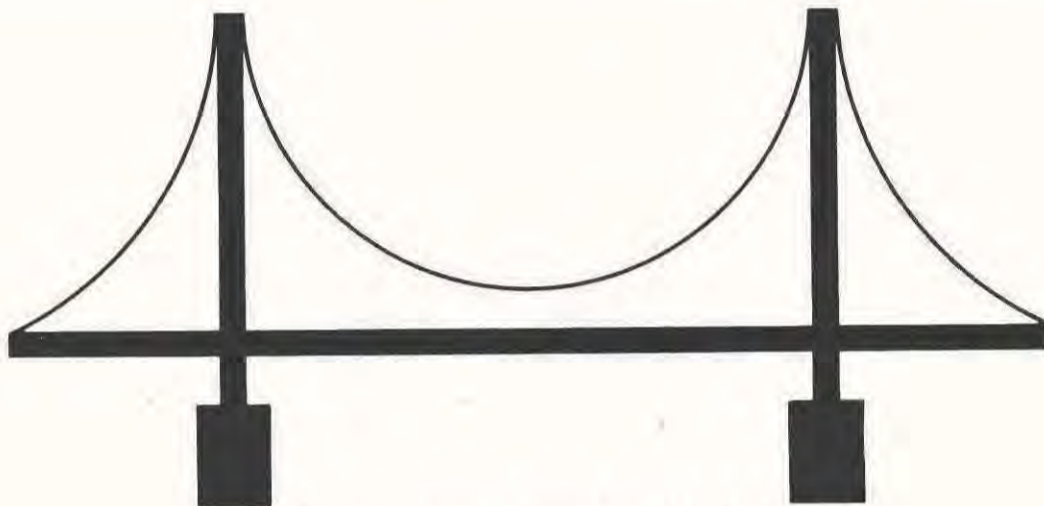
It is possible that the disclosure office could be moved elsewhere, or the amount of space it occupies could be cut back.

"We are looking at everything," Mr. George said. But service to the public will be considered when the Labor Department makes a final decision on whether to move the disclosure office, Mr. George said.

The disclosure office is a haven to both benefit researchers and pension plan participants. Records for the nation's 600,000 private pension plans are stored there.

For example, a plan participant can quickly find out the number of participants in its pension plan as well as the plan's financial transactions by requesting copies of Form 5500, which are on file at the disclosure office.

In 1981, the latest year for which information is available, the disclosure office handled 93,000 requests for ERISA records, a Labor Department spokesman said.



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APRIL 25-26. Principles of Petroleum Insurance workshop in San Francisco, sponsored by Professional Development Institute; \$395. Also **April 28-29** in Los Angeles. PDI Accounting & Insurance Center, Box 13288, NT Station, Denton, Texas 76203; 817-565-3383.

APRIL 25-29. Identification, Sampling and Evaluating Airborne Asbestos Dust in Los Angeles, sponsored by the University of Southern California; \$500. USC, Institute of Safety & Systems Management, Office of Extension & In-Service Programs, Los Angeles, Calif. 90089; 213-743-6523.

MAY 2-3. Principles of Petroleum Insurance workshop in San Antonio, Texas, sponsored by Professional Development Institute; \$395. Also **May 9-10** in Houston, **May 16-17** in New Orleans and **May 26-27** in Dallas. PDI Accounting & Insurance Center, Box 13288, NT Station, Denton, Texas 76203; 817-565-3383.

MAY 2-4. Recognition of Accident Potential in the Workplace Due to Human Factors course in Los Angeles, sponsored by University of Southern California; \$300. USC, Office of Extension & In-Service Programs, Institute of Safety & Systems Management, Los Angeles, Calif.; 213-743-6523.

MAY 8-11. Washington Legislative Update

seminar, sponsored by the International Foundation of Employee Benefit Plans; \$390 for members; \$465 for non-members. IFEBP, 18700 W. Blue-mound Road, Box 69, Brookfield, Wis. 53005; 414-786-6700.

MAY 9. Confined Space Entry Safety workshop in Dallas, sponsored by Loss Prevention Associates; \$185. Loss Prevention Associates, P.O. Box 59888, Dallas, Texas 75229; 214-241-0396.

MAY 9-10. Flexible Compensation, 1983 seminar in Washington, sponsored by Employers Council on Flexible Compensation; \$300 for members, \$425 for non-members. ECFC, 1700 Pennsylvania Ave. N.W., Washington, D.C. 20006; 202-393-1728.

MAY 9-11. 1983 Electrical Safety conference in Madison, Wis., sponsored by the University of Wisconsin; \$395. Victor P. Janule, Department of Engineering and Applied Science, University of Wisconsin-Extension, 432 N. Lake St., Madison, Wis. 53706; 608-263-7429.

MAY 9-13. Property Conservation course for property owners in Long Grove, Ill., sponsored by the Kemper Group; \$400. W.P. Thomas Jr., NID (HPR) A-1, Long Grove, Ill. 60049; 312-540-3380.

MAY 10-11. Managing Latent Occupational Disease Liability conference in Arlington, Va., sponsored by The Energy Bureau Inc.; \$695. Linda Doren, The Energy Bureau, 41 E. 42nd St., New York, N.Y. 10017; 212-687-3178.

MAY 10-13. Hazardous Materials Safety seminar in Nashville, Tenn., sponsored by the Hazardous Risk Advisory Committee of Nashville; \$135 before May 9; \$150 thereafter. Hazardous Risk Advisory Committee, Seminar Registration Desk; Metro Civil Defense, 2060 15th Ave. S., Nashville, Tenn. 37212; 615-385-8575.

MAY 11-12. Health Care Cost Containment workshop in New York, sponsored by the Health Research Institute; \$395. HRI, 49 Quail Court, Suite 200, Walnut Creek, Calif. 94596; 415-676-2320.

MAY 11-13. Employee Stock Ownership Assn. sixth annual conference in New Orleans; \$350 for members; \$400 for associate members; \$450 for non-members; discounts available for additional participants from the same company. ESOP Assn., 1725 DeSales St. N.W., Suite 400, Washington, D.C. 20036; 202-293-2971.

MAY 11-13. Property Conservation seminar in Wilmington, Del., sponsored by the International Safety Academy; \$275. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77224; 713-932-9400.

MAY 12-13. Evaluation of Structural Failures program in Madison, Wis., sponsored by the University of Wisconsin; \$275. Rolf T. Killingstad, University of Wisconsin Extension, 432 N. Lake St., Madison, Wis. 53706; 608-272-3748.

MAY 16. An Analytical Approach to Risk Management seminar in New York, sponsored by *Business Insurance*; \$535; 10% discount for additional registrants from the same company. Also **May 18** in Dallas, **May 23** in Los Angeles, **June 15** in Chicago and **June 20** in San Francisco. Ann Vazquez, *Business Insurance*, Communications Services Department, 220 E. 42nd St., New York, N.Y. 10017; 212-210-0137.

MAY 16-19. Inspector Training seminar in Houston, sponsored by the International Safety Academy; \$490. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77224; 713-932-9400.

MAY 16-20. Fundamentals of Industrial Hygiene Monitoring course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; \$425. Also **May 25-26** in Chicago. John Garis, NATLSCO, Long Grove, Ill.; 312-540-2026.

MAY 18-20. National Safety Management Society annual conference in Arlington, Texas; \$250 for members; \$295 David M. Wassum, NSMS, P.O. Box 170174, Arlington, Texas 76003; 214-631-6070.

MAY 22-27. American Industrial Hygiene conference in Philadelphia, sponsored by the American Industrial Hygiene Assn. and the American Conference of Governmental Hygienists; \$65 for members; \$90 for non-members; \$15 additional for on-site registration. Stephanie Beidler, AIHA, 475 Wolf Ledges Parkway, Akron, Ohio 44311; 216-762-7294.

MAY 23-25. Employee Benefits symposium in San Francisco, sponsored by the International Society of Certified Employee Benefit Specialists; \$420 for members; \$495 for non-members. ISCEBS, Box 209, Brookfield, Wis. 53005; 414-786-6700.

MAY 23-25. Fundamentals of Industrial Exhaust Ventilation course in Long Grove, Ill., sponsored by the National Loss Control Service Corp.; \$350. John Garis, NATLSCO, Long Grove, Ill. 60049; 312-540-2026.

MAY 23-25. Techniques of Loss Control course in New York City, sponsored by the Risk & Insurance Management Society; \$345 for members; \$445 for non-members. Education Department, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

MAY 23-27. Basic Safety Management seminar in Atlantic City, N.J., sponsored by the International Safety Academy; \$570. ISA, 10575 Katy Freeway, Box 19600, Houston, Texas 77224; 713-932-9400.

MAY 24-26. Benefits in Crisis conference in Washington, sponsored by the Assn. of Private Pension & Welfare Plans; \$315 for members; \$345 for non-members. APPWP, 1201 Pennsylvania Ave. N.W., Suite 340, Washington, D.C. 20004; 202-737-6666.

comings and goings: buyers

Alcan promotes Russell to foreign exchange post

Eckart Russell, 42, has been promoted to manager of foreign exchange for Alcan Aluminium Ltd. in Montreal. He will maintain supervision of Alcan's risk and insurance management program. As risk and insurance manager for Alcan, Mr. Russell was named the 1982 *Business Insurance* Risk Manager of the Year (BI, April 19, 1982). Mr. Russell has been with Alcan since 1969, and has handled insurance and risk management for the multinational company since 1972. **Peter Cleyn, 31,** is the new risk and insurance manager at Alcan. Formerly with Marsh & McLennan Inc. in Montreal, Mr. Cleyn has a bachelor's degree from the University of Montreal and a master in business administration from Concordia University. Mr. Cleyn reports to Mr. Russell.

Mr. Russell

Steven Zalewitz, 35, is insurance and risk manager at LCP Chemicals & Plastics Inc. in Edison, N.J. In this newly created position, he will handle property/casualty and marine insurance for the company. Mr. Zalewitz previously served as corporate insurance manager for CCX Inc. (formerly Continental Copper & Steel Industries Inc.) in Carl Place, N.Y. Prior to that he was corporate insurance director for J.B. Williams Co. Inc. in Cranford, N.J. Mr. Zalewitz received a bachelor of arts degree from Rutgers University at the Newark, N.J., campus and is a deputy member of the New Jersey Chapter of the Risk & Insurance Management Society. He reports to George Rauth, vp of finance and chief financial officer.

Robert J. Field, 37, is the new risk manager at UOP Inc. in Des Plaines, Ill. Mr. Field will oversee the entire risk management program for this wholly owned subsidiary of Signal Cos. of La Jolla, Calif. He is the former manager of insurance and safety for Darin & Armstrong Inc. in Southfield, Mich. Mr. Field received a bachelor's degree from Wayne State University in Detroit. He has earned the Associate of Risk Management designation and is a deputy member of the Risk & Insurance Management Society. He reports to Carl Schumann, chief financial officer.

Theodore D. Cable, 52, was named director of compensation and benefits, a new position, at Amsted Industries Inc. in Chicago. He has been with the company since 1955 when he joined its American Steel Foundries division as employment supervisor. Mr. Cable received a bachelor of science degree in psychology from the Illinois Institute of Technology in Chicago and a master of business administration degree from the University of Chicago. He will report to Vp O.J. Sopranos.

Suzanne H. Crager, 38, was named assistant vp at Provident National Bank in Philadelphia. Ms. Crager will retain her responsibilities as corporate risk manager, handling all property/casualty insurance and loss-prevention programs. She joined Provident in 1981 and started the risk management program. Prior to that she

was insurance administrator with Inductotherm Industries Inc. of Rancocas, N.J. Ms. Crager received a bachelor's degree from Glassboro State College in Glassboro, N.J., and the Associate of Risk Management designation. She is president of the Delaware Valley Chapter of the Risk & Insurance Management Society. She reports to Senior Vp Robert B. Trempe.

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EEOC reviews older workers' pension credits

By JERRY GEISEL

WASHINGTON—The Equal Employment Opportunity Commission is taking another look at pension credits for older workers.

The EEOC says it will seek public comment on a suggestion to force employers to grant pension service credits to workers who stay on the job after the pension plan's normal retirement age, which is usually 65.

Since 1979, the EEOC has been following a Labor Department interpretative bulletin (BI, June 11, 1979) that says employers do not have to give credit for service after the plan's normal retirement age.

The EEOC staff will be drafting questions for public comment on the impact of changing that interpretation.

washington

Those questions will be published in the Federal Register sometime this spring, an EEOC spokeswoman says.

PBGC troubles

The financial stability of the Pension Benefit Guaranty Corp. is deteriorating, a Reagan administration task force warns.

During fiscal 1982, the PBGC incurred more than \$200 million in losses from employers that terminated their pension plans with insufficient assets to pay guaranteed vested benefits. That's more than double the \$85 million in losses the PBGC had predicted it would

incur.

Currently, the PBGC has \$800 million in assets and \$1.160 billion in liabilities, leaving a deficit of \$360 million. By 1984, the agency will be in a negative cash-flow situation unless changes are made in the PBGC's termination insurance program, according to the task force composed of representatives from the Labor, Treasury and Commerce departments as well as the PBGC.

The most immediate change needed is to boost the annual premium employers pay the PBGC for termination insurance to \$6 per pension plan participant from \$2.60, the task force recommended

in a 50-page report.

But the panel—which was chaired by Jeffrey Clayton, the administrator of the Labor Department's Office of Pension and Welfare Plans—says even greater premium increases will be necessary unless the PBGC insurance program is overhauled.

"To the extent an employer can dump its plan on the system with minimal liability, the premiums of other employers must increase," the task force report said.

To prevent employers from "dumping" underfunded pension plans onto the PBGC, the task force says Congress should overhaul the Employee Retirement Income Security Act so that an employer could only terminate an underfunded pension plan if it could prove to the PBGC that continuing

the plan would force the firm to go out of business.

In addition, the task force recommends that if a purchasing company fails, an employer that transfers a unit to another firm would generally be liable for pension liabilities for up to 10 years after the sale. The selling company would not be liable if the pension liabilities were less than \$350,000 at the time of transfer.

Making employers that sell subsidiaries contingently liable for their pension plans, as the task force recommends, would reduce the current "large seller-small buyer" ERISA loophole.

Under ERISA, an employer that maintains a pension plan at the time the plan is terminated is liable for the participants' vested benefits. As a result, a company that sells a subsidiary with a badly underfunded pension plan would no longer be liable for funding the plan's promised benefits.

Thus, a company might find it advantageous to sell a subsidiary—even at what appears to be unfavorable terms—if the subsidiary's pension liabilities are very large.

The company would then no longer face a potential liability of 30% of its net worth—which could amount to tens of millions of dollars for a large corporation—if the subsidiary later terminates its pension plan.

On the other hand, a buyer with little or no net worth would face little risk in buying a subsidiary that has huge pension liabilities. If the subsidiary fails, the new owner wouldn't face pension liability claims because it would have little for the PBGC to take.

Second opinions

Thousands of needless surgeries could be halted and the federal government could save more than \$150 million if Medicare and Medicaid patients were required to get a second opinion before surgery, the Department of Health and Human Services says.

In a new report, HHS says some 37,000 needless operations in the Medicare system alone could be eliminated if a mandatory second opinion program were implemented.

Further delays in implementing a mandatory second surgical opinion program can only result in more health care funds being wasted, said Richard Kusserow, the department's inspector general.

Teamsters' view

The Reagan administration's proposal to tax employer-paid health insurance benefits is "just another attempt to make workers the whipping boy for economic recovery," the International Brotherhood of Teamsters says.

Teamsters President Roy Williams also says a health benefits tax is not needed to discourage excessive use of medical services.

"Hardworking men and women in this nation" already pay more than their share of out-of-pocket expenses and that serves as a deterrent to unnecessary care, Mr. Williams said.

Under the administration's proposal, an employer's health care or insurance contributions that exceed \$2,100 a year for family coverage and \$840 for individual coverage would be counted as taxable income to the employee.

About 30% of workers covered by employer-sponsored health plans would be affected by the tax.

The administration's tax proposal, S. 640, which was introduced by Sen. Robert Dole, R-Kan., chairman of the Senate Finance Committee, is pending in the Senate. ■



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comings and goings: industry

Shand, Morahan makes top management changes

Shand, Morahan & Co. Inc., the underwriting manager based in Evanston, Ill., has reorganized its top management.

Joseph J. Prochaska Jr., currently senior vp and chief financial officer, has been named chairman and chief executive officer. He replaces **Joseph E. Morahan Jr.**, who is now a senior vp of Alexander & Alexander Inc., Shand, Morahan's parent (BI, March 14).

Max W. Beam, currently Shand's president and chief operating officer, will become vice chairman. Mr. Beam is replaced by **E.L. Calhoun**, currently executive vp,

who will become president.

Other excess/surplus changes:
Louis W. Biegler elected chairman of L.W. Biegler Inc. and International Surplus Lines Insurance Co. in Chicago. Mr. Biegler has been president and chief executive officer at both companies since 1971.

Insurers

James G. Stewart appointed executive vp and chief financial officer at CIGNA Corp. in New York. He will be responsible for accounting, financial reporting, corporate tax and treasury functions. Mr. Stewart had been chief financial officer for the CIGNA Employee Benefits and Financial Services Group. He replaces **Wilson H. Taylor**, who became head of CIGNA's Property/Casualty Group.

James B. Ross named president and chief operating officer of Benico Inc., Beneficial Corp.'s insurance subsidiary in Wilmington, Del. He was formerly with CIGNA Corp., where he was vice chairman of INA Reinsurance.

Richard S. Fleming appointed vp in the group pensions department of Metropolitan Life Insurance Co. in New York. In this position, he is responsible for a newly created unit that will develop and market financial products. He was most recently special assistant to Richard R. Shinn, chairman and chief executive officer.

Stephen A.J. Sedlak was elected vp and corporate actuary of Nationwide Corp. in Columbus, Ohio. He had been an actuarial officer at Nationwide.

Curt Lankford promoted to farm and commercial underwriting vp for Farm Bureau Mutual Insurance Co. in West Des Moines, Iowa. He has been with Farm Bureau since 1974.

William R. Decker and **Christopher C. Mansfield** were elected vps at Liberty Mutual Insurance Co. in Boston. Mr. Decker is manager-life and group sales. Mr. Mansfield also was appointed assistant general counsel in the Boston home office legal department.

Reinsurers

Geoffrey D. Dunkak joined Treaty Reinsurance Underwriting in Richardson, Texas, as a vp. He will underwrite on behalf of all three TRU-member companies: Beacon Insurance Co., Bercanus Insurance Co. Ltd. and The Old Reliable Fire Insurance Co.

Thomas F. Leonhardt joined Magnant Re Intermediaries Inc. in Stamford, Conn., as vp. He will work as a treaty reinsurance producer at the reinsurance brokerage.

Other suppliers

Donald K. Heim has been named president and chief operating officer of Advanced Risk Management Services division of Corroon & Black Corp. in Nashville, Tenn. He had been executive vp of ARMS' Research & Development division. Also, **Richard W. Bureson** promoted to president of ARMS' newly formed National Accounts Services division. He was formerly senior vp of the Research and Development division.

David E. Barford named head of the London office of William M. Mercer Inc.'s international division. He had been managing consultant of operations at Mercer.

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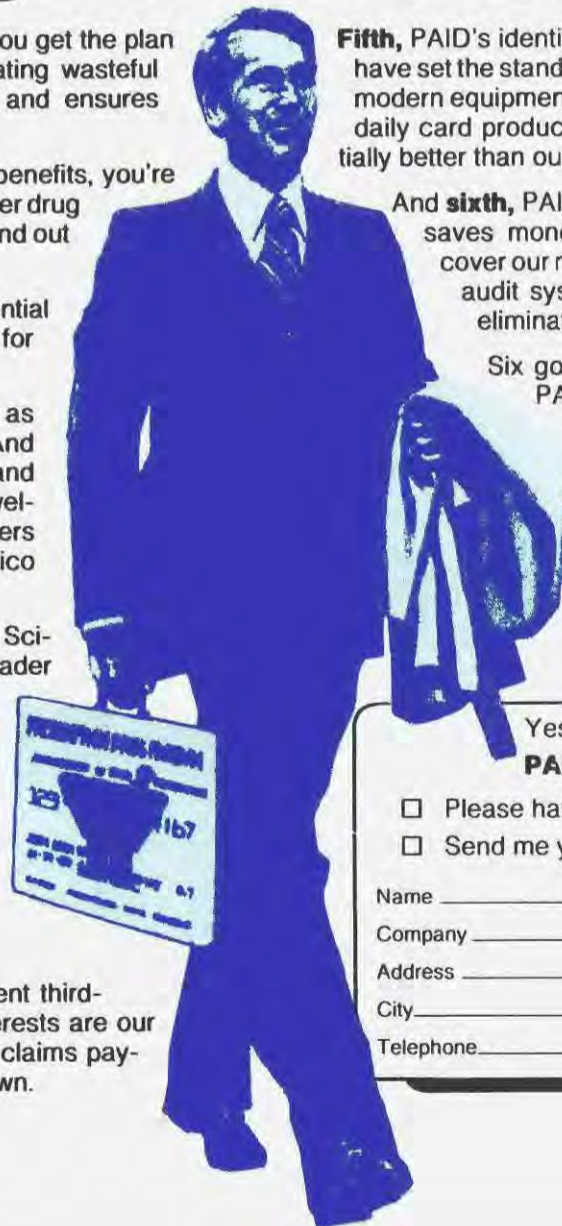
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New professional liability policy for groups unveiled

WASHINGTON—Trade associations now can buy a professional liability insurance policy that provides separate liability limits for each officer and the trade group.

MGIC Indemnity Corp.'s new professional liability insurance policy will give trade associations the most comprehensive protection available against liability suits, experts say.

"This is the broadest coverage a trade association can buy," said Ed Armstrong, a consultant and manager of risk management services for The Wyatt Co. in Washington, which evaluated 12 different professional liability insurance policies for the American Society of Association Executives.

The most important feature of the policy, which has been endorsed by the 10,000-member ASAE, is individual coverage for each insured, including association directors, officers, employees, volunteers and committee members.

By contrast, standard trade association professional liability policies with an aggregate limit can be quickly exhausted if several trade group officials are successfully sued, leaving other officials without coverage.

Separate limits "protect individuals if there is a large suit," said J. Wayne de Nazarie, vp and director of marketing for Milwaukee-based MGIC. One large suit will not exhaust coverage, he added.

For example, if a trade association purchased a \$5 million policy, the association itself and each named insured would have \$5 million of coverage. Even if there were a \$5 million damage verdict handed down against one trade association official, other officials still would have a full \$5 million of coverage.

"Separate liability limits is where we are unique," Mr. de Nazarie said.

Other key features of the MGIC professional liability insurance policy include:

- Automatic coverage offered for a trade association's newly acquired subsidiaries so long as the trade association notifies MGIC within 120 days of the acquisition.
- Coverage for civil antitrust, price-fixing or restraint-of-trade suits, both defense and judgment costs. Criminal suits are covered only for defense costs. Antitrust exposures are often entirely excluded.
- Coverage for punitive damages, where allowed by law.
- Endorsements that will cover

trade association officials who are fiduciaries for pension plans.

In addition, both three-year prepaid and one-year policies are available. "Many of our competitors only offer one-year policies," Mr. de Nazarie said.

The MGIC policy, which will be available to trade associations in all states, offers up to \$20 million of coverage. The minimum limit is \$250,000. Most trade associations probably will purchase between \$1

million and \$5 million of coverage, experts say.

Each trade association will be individually rated by MGIC. Rates will be based on the trade association's revenues, litigation history, financial performance and nature of operations. A group representing churches, for example, would probably pay less than a manufacturing trade group.

A trade association with \$250,000 in annual revenues that purchased

a \$3 million three-year prepaid policy probably would pay a premium ranging between \$1,500 and \$2,550, Mr. de Nazarie said.

A larger trade association—one with annual revenues of \$3 million—would pay a premium between \$5,600 and \$6,300 for the same three-year prepaid \$3 million policy.

Before insuring a risk, MGIC wants copies of a trade association's audited financial statements for the

last three years as well as its articles of incorporation, constitution and bylaws.

The potential market for the MGIC policy could be huge. The ASAE alone has 10,000 members who represent 6,000 trade associations.

The policy will be available through independent insurance agents. The commission will be 15% for both the initial policy and for renewals.



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Fire losses in France grow

PARIS—French industrial fire insurers will report particularly poor results for 1982, trade association estimates show.

The number of claims filed with insurers for fires causing more than 5 million French francs (\$1.2 million) in damage increased by 81% over 1981. And, claims for more than 10 million francs (\$2.4 million) have jumped by 91% over 1981 claims.

The Assemblée Pleniére des Sociétés d'Assurances Contre l'Incendie et les Risques (Insurance Societies Council Against Fire and Risks) predicts that most insurers' combined ratios will exceed 100%.

These results follow a prediction made by Michel Marchal, chairman of the Assemblée Pleniére des Sociétés d'Assurances, at the 1982 Rendez-Vous de Septembre in Montre Carlo. Mr. Marchal warned fellow insurers that rates were too low to handle a major catastrophe. Although loss experience was good, he suggested it was time to raise premiums (BI, Sept. 20, 1982).

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DEREGULATION DIRECTION

Will the public get what it wants or what it needs?

By John R. Dunne

AS THE NATION appears to be rushing to deregulate financial services, particularly insurance, there is a clear danger that regulators and free-enterprise advocates will misread the public's mood and needs, and turn a timely effort to enter the 21st century into a retreat to early 20th-century regulatory dogma.

A phenomenon has brought about a public demand for better financial service and has enabled the industry to respond to that need. It must be understood and utilized so that government regulation will continue to pursue its goals: encouragement of industry and protection of the public.

The danger is that regulators, responding to what they perceive as an increasing demand for less government, may well default in their fiduciary role for lack of ability to cope with the problems created by unfamiliar "financial supermarkets." And entrepreneurs, who believe their adventurous customers no longer want a safety net, may wind up back on the narrow traditional regulation path instead of on the "Boulevard Laissez-Faire."

But somewhere between them lies the promising road of financial innovation monitored by an enlightened policy of re-regulation. Finding it will be difficult, but therein lies the challenge for the financial services regulator.

The problems stem from failure to understand the full implications of two rather sudden changes, one substantive, the other technical, which are revolutionizing the insurance industry with space-age speed.

One is the rapid, almost overnight increase in the public's financial literacy. The other is the technological miracle of the century—the computer—which has enabled the new literati to harness and convert encyclopedic knowledge of money and numbers to their advantage. At the same time, computers have made it possible for sellers of financial services to agilely mix and match different products to meet the demands and tastes of increasingly sophisticated and wary buyers.

To overlook this flowering of financial literacy, which has developed so quickly, might be forgivable but for the fact that so many billions of investor and policyholder dollars are at stake.

When faced with problems in personal finance or business, the new literati are likely to take matters into their own hands.

In commercial property/casualty insurance, they assume high deductibles, form captives and risk retention groups and press for retrospectively rated premiums.

In personal life insurance, they abandon whole life coverage and borrow on their policies—an example of consumer arbitrage the life business never cares to see again. And when money market interest rates began to soar, policyholders did not run to government for help. Instead, they did what was best for themselves and "profited" from reinvesting the proceeds from policy loans. They profited and things happened.

Life insurers changed from a monolithic-like product assortment that had been their stock-in-trade for more than a century to more products and options than anyone dared dream possible. The business did what people wanted; it offered products that blended life insurance with high investment yields. Universal life was born and consumers responded.

Economic realities have made consumers more knowledgeable and effective. Yet it is computer technology that has speeded those changes and led to quantum increases in the amount of knowledge both consumers and sellers of financial products can absorb and use.

Evidence of this technological growth is everywhere—in page after page of trade and consumer advertising, in the squeaks and squeals that echo from game arcades and in the growing numbers

of terminals on executive desks and family room tables.

No longer the preserve of corporate heads and their actuaries, the computer is fast becoming the tool of the people and of those who want to sell to people. Indeed, computers may be doing for numbers what the printing press did for letters five centuries before: extend their use and benefits to previously unreached corners of society, to new markets of consumption.

Actually, this data gathering and fund transfer power may be so sweeping and sudden that it blurs the vision of those of us who tend to view insurance regulation in traditional terms.

The result is that we can misread what's happening and lose sight of our goals. We see consumers know more than ever and they have the tools to use what they know. So we ask ourselves, what need have these savvy, computer-tooled consumers for the insurance regulator who controls the otherwise free flow of prices and policies?

What need have they for the legislator who puts up a statutory barricade against streamlined financial services of multipurpose financial services or products that include insurance? Won't they want to pick and choose themselves?

What need will they have for insurance department price comparisons? With a hand-held calculator, they can let their fingers do the counting.

How easy it might be to take away the controls and to let the traffic move free and fast. How thrifty of the public treasury to send examiners off to early retirement and not replace them. How enriching to capital formation if regulatory lobbyists became obsolete and managers could recycle them into sales or other productive vocations.

THAT MANY insurance people are asking such questions is evident from their support of the recommendations of New York's Heimann Commission. It recommended more liberal regulatory policies, found that the state's laws and regulations were "not responsive" to the marketplace and that "severe" statutory restrictions put New York insurers at a competitive disadvantage.

The trouble with this rosy view toward deregulation is while it recognizes financial literacy, it forgets or doesn't account for what motivates it. The motivation is survival in a world of pervasive unemployment, personal and business bankruptcies and the threatened financial collapse of everything from local sewer tax districts to worldwide banks.

Savvy consumers have common sense. They know that even the fanciest "green goods," with the highest earning potential, investment growth and risk-bearing promises, have no value if the company behind them goes belly up.

To conclude that such consumers are not concerned with solvency is to misread financial literacy. Indeed, the Heimann Commission report put solvency atop the regulatory priorities list. But that report and other deregulation tracts fail to explain how the present-day regulator will accomplish the primary "watchdog" mission for solvency without the electronic tool needed to do the job—the computer—the very same tool that enables the industry to do its job.

Unfortunately, as many people see deregulation, it would simply allow corporate giants to move and merge resources and contrive complicated products at computerized speed while regulators stand flat-footed, mired down in a sea of unused, inaccessible data.

What we really need is not so much deregulation as a redirection of regulation to give regulators the tools they need to monitor increasingly sophisticated financial structures and transactions. Computers have freed buyers and sellers from many burdens and enabled both to use information and make decisions

Continued on next page

Where is deregulation headed?

Continued from previous page
in the fast lane of finance.

But much of today's insurance department computer capability is directed at licensing and other clerical work, not at the substantive work of monitoring solvency.

Consider that in the last 10 years, insurers have spent so much—and regulators so little—on EDP equipment. Consider all those laws, regulations and projects that call for data gathering in medical malpractice, product liability and profitability and in relation to driving records, rating classifications and cost containment. Insurers can dutifully supply state insurance departments with crates of required data in printouts or on computer tapes. Yet how much of it will remain in storage because there is neither personnel nor equipment to analyze it?

Regulators need to do more than obtain data and simply stare at it. They need to have the capability to process it through their own systems, to search and scan through numbers, to crunch and test them and to identify troublesome trends which, if ignored, could keep companies from meeting their policy obligations.

The National Assn. of Insurance Commissioners' early warning system, Insurance Regulatory Information System, was designed to help state insurance departments fulfill their statutory mandates to oversee the financial condition of insurers.

BUT TODAY, price cutting and plunging interest rates are knifing deep into insurers' resources. And only the late fourth-quarter surge in stock prices is keeping some companies in the black and out of regulatory takeover. Yet, only 30 states have bothered to take advantage of the NAIC's offer of free terminals to link them to its data base.

The situation is symptomatic of some long-standing problems that have prevented regulators from achieving data-processing parity, and thereby equal power, with the regulated.

Any legislator well knows that there are always budget constraints to funding regulation of any kind. And there have been pressures within state governments to have insurance departments share computer operations with other agencies, with the result that regulatory needs can get low priority.

But even as those long-standing problems become less formidable and as computers gain acceptance by regulators, events outside regulation and government have put new demands on the limited computer capabilities of regulators.

When it comes to regulation for solvency, lost time can easily mean lost capital. The question is how fast can regulators pick up on instant transfers of funds or sudden ratio changes and other standards that are tests for financial condition.

In view of the formation of multinational financial conglomerates, what new tests and programs will be needed to determine the viability of non-insurers, especially those managed in foreign countries?

In the world of integrated financial products, how fast can present insurance regulatory equipment and expertise evaluate those insurance/financial instruments?

In the less-attended area of reinsurance, what data-processing program should be in place to survey solvency of entities several contract "generations"—and perhaps several continents—removed from primary insurance markets?

And, in light of recent revelations, how well are regulators geared to detect fraud that, though not the only possible cause of insolvency, can be the most sensational and possibly trigger sudden financial condition deterioration?

In either deregulation or re-regulation, the increasing incidence of fraud may need a special focus.

It is one of the more glaring ironies of the general movement toward deregulation that advertising pages promote the virtues of double-digit interest—the benefits of deregulation. Yet pages away, the financial news documents the consequences of the deregulated or unregulated world—the almost daily reports of scandal that have rattled the underwriting boxes at Lloyd's of London, the world's foremost showplace of self-regulation.

Those revelations have sent shockwaves that will be measured and analyzed on regulatory Richter scales from London to



This paper was prepared by New York state Sen. John R. Dunne, R-Long Island, prior to beginning his assignment as chairman of the Conference of Insurance Regulators task force on Multipurpose Financial Products and Regulatory Initiative. He is the immediate past president of COIL and was formerly chairman of the New York Senate Insurance Committee.

Sacramento. They provide a double-edged case in point. They show not just what can happen in the showcase of self-regulation, but also that even in a market populated by the most talented of professionals, questionable dealings can go unsuspected and undetected for years.

Considering the sluggish responses to computerization by government regulators and established institutions, it is indicative that one of the best examples of how electronic systems can spot fraud is now on line at the fledgling New York Insurance Exchange, which is only 2 years old. The system permits automatic notice of cancellation of coverage when insurers or reinsurers do not receive premium payments earmarked for them, thus informing the buyer that something has gone awry.

Clearly, it's time for state insurance regulators to drop their pencils and slide rules and move to computer keyboards and video display screens where they can spot nascent insolvencies and possible fraud. By processing millions of bits of seemingly unrelated information, investigators can recognize patterns of fraud and identify suspects. That is the essence of good detective work and it is a task for which computers are well-suited.

The NAIC's latest foray into computers, the long-awaited Regulatory Information Retrieval System, could do those good things but remains unused because of the threat of civil liability for releasing damaging information. Overcoming that threat would help.

But if state regulators are to effectively survey and detect things that affect financial conditions, they will need more than IRIS and RIRS and on-line insurance department capacity.

In addition, insurance regulators need to do more than wait for information to be processed through companies and batched for use by the NAIC and, eventually, their departments. They need to do more than work with the NAIC data base. In an age when megabits of information move among and within financial institutions within a millionth of a second, processes that call for information to be compiled and analyzed on a yearly and quarterly basis are far too slow.

Regulators need to be able to use and store for their statutory needs information on an instant-retrieval basis, not months after the fact. They need the capacity to work with other systems, probe into transactions and call up numbers on writings and surplus, on investment yields, on liabilities and liquid assets. They should have that capability not in order to approve or disapprove transactions, but to know what is happening, so they can move quickly when the facts warrant action and not wait until events have developed into crises.

NO DOUBT, this re-regulation will raise objections, some of them sincere but in the final analysis without merit. Objections based on claims that the information obtained is privileged and that its release could put companies at a disadvantage if it falls into the hands of competitors don't stand up. Only information concerning solvency would be accessible to regulators, not strategic planning or marketing.

Besides, much of the data relating to financial condition, just like information included in examination reports, is public record. No one is suggesting a change in the content of material for regulators—only the speed with which they can get it.

Objections to expense are not as formidable as they would have been before recent technological changes made computers much more affordable. And the expense of wiring regulation with state-of-the-art in computers could well prove cost-effective when considering the billions of dollars policyholders and investors are willing to entrust to the insurance industry.

Some will counter these suggestions with the observation that computers for regulation have an Achilles' heel. After all, those bent on deception only have to fabricate what goes into the computer, as was the case with Equity Funding a decade ago. But today data processing has advanced to the point where engineers can wire around computer systems to check the accuracy of information. That's the kind of wiring that would surely advance the regulatory art to new levels of credibility.

Without that investment in electronic surveillance for solvency, regulators will be pitted against the superpowers of financial service as well as a handful of stealthful self-dealers who work around its fringes.

Without that investment, deregulation will be a brief episode, perhaps only a joy ride on the Boulevard Laissez-Faire with far too much recklessness. And inevitably the traffic cops will return to direct all comers back toward the slow and narrow confines of over-regulation. ■

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THE PERFECT DEFINITION OF RISK

IT'S TIME to stand up and be counted!

These are the 10 best definitions of risk, as selected by the editors of *Business Insurance*, from those sent in by readers (*BI*, Feb. 21). We received 47 entries, counting the ballot-box stuffer who sent in four definitions.

Now get out your pen or pencil!

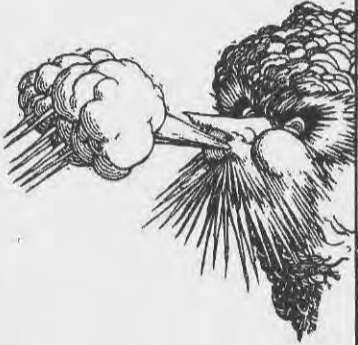
On the ballot below, please rank your favorite definitions by writing the number of your first-, second- and third-place choice in the proper space. The ballots will be judged on a cumulative basis, with a first place receiving three points, a second receiving two and a third place getting one point. The ballot must be returned by April 25. Results will be published May 9. One entry per person, please.

Here are the definitions. Risk is:



What nobody could ever define, but what I should have been prepared for when it happened.
1

The possibility of incurring a financial or personnel loss arising out of an accident which directly or indirectly causes property damage and/or bodily injury.
2



The absence of certainty.
3

Any threat, exposure, disturbance or uncertainty of which we are aware, but we cannot forecast either its timing or extent.
4

Accepting the unexpected as probable.
5

The probability that a hazard will manifest itself in an environment at some point of time and cause loss to elements of the environment.
6

The possibility of financial loss exceeding normal expectations, and physical injury.
7

What you can't afford to lose.
8

An exposure to potential occurrences that could result in economic loss or human suffering.
9

Any possible circumstance which possesses the ability to negatively influence one's time, resources, finances or otherwise state of well-being.
10

Official *BI* ballot:

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Deadline is APRIL 25

Green resigns from Hogg Robinson's board

By STACY SHAPIRO

LONDON—Lloyd's of London Chairman Peter Green is giving up his seat on the board of Hogg Robinson Group P.L.C.

Sir Peter will remain as chairman of Hogg Robinson's underwriting agency, Jansen Green Ltd., however, and retain his stock in the company, according to C.J.S. Price, managing director of the group.

"This was his decision," said Mr. Price, explaining that Sir Peter wanted to resign from Hogg Robinson's board "to avoid any conflict of interest" when the Lloyd's broker sells its underwriting agencies, as required by last year's Lloyd's bill.

"We are just tidying up shop before we get to divestment," said Mr. Price.

A Lloyd's working party is now finalizing the ground rules that will govern how brokers will be able to sell their underwriting agencies, the Lloyd's spokesman said, adding that the rules will be published soon.

Sir Peter was on vacation last week and could not be reached for comment.

Aviation insurer

Many brokers are beginning to tap the London Aviation Insurance Group, which opened in January.

"We are very busy," said one of the group's underwriters. "I have eight brokers waiting here while we speak."

The new venture combines the aviation underwriting enterprise of three of Britain's top insurance companies: Guardian Royal Exchange Assurance P.L.C., The Norwich Union Group and Phoenix Assurance P.L.C.

Phoenix is the largest shareholder in the new venture and a Phoenix employee, John Peters, serves as lead underwriter.

Combined premium income for the group, which will underwrite aviation and aerospace business, totals about \$100 million.

Captive tax

British companies owning offshore captives in domiciles like Guernsey and Bermuda are heaving a sigh of relief.

Chancellor of the Exchequer Geoffrey Home did not include a proposal in the budget recently passed by Parliament that would have taxed offshore British companies at the same rate as onshore companies are taxed.

However, Sir Geoffrey says that he will look into the tax status of offshore companies next year.

Sir Geoffrey had planned to include the offshore tax in last year's budget, but he encountered heavy resistance from major British corporations like, Shell Oil, which said they would move to other nations if such a tax were enacted.

Lloyd's reserves

Lloyd's of London plans to increase the amount of its central fund, which currently is worth 120 million pounds (approximately \$174 million).

The central fund is a fund "of last resort," Lloyd's explained in a recent announcement. The fund will pay claims if a Lloyd's syndicate goes broke and the syndicate's member cannot meet its debts.

Members will be asked to pay more to increase the fund if a bylaw is passed, says a letter from Lloyd's Deputy Chairman Frank Barber to Lloyd's members.

Going commercial

Britain's Post Office Corp., a na-

london line

tionalized industry under government control, is no longer going to self-insure its buildings and plants.

From now on, the post office will buy commercial insurance coverage, a post office spokesman confirmed. The broker handling the newly won account is Bain Dawes P.L.C.

The post office made the decision to buy commercial property insurance in January after suffering a major fire loss last year.

"We realized that buying insurance in the relatively soft market may be less expensive than self-insuring large risks," said the spokesman.

The post office will not set up an

insurance or risk management department to arrange the coverage, however. The post office's properties office and post office attorneys will be responsible for the coverage, said the spokesman.

The post office, however, will continue to self-insure its 27,000 vehicles, which is the second-largest automobile fleet in Great Britain.

Now that the post office is going to the commercial market for coverage, other nationalized companies may follow suit. For example, British Telecom, the communications giant, is setting up an internal department to examine its insurance arrangements.

Investigatory panel

Lloyd's of London has organized a formal investigations steering committee to coordinate the formal and informal investigations going on at Lloyd's.

Last year, Lloyd's launched a number of official investigations, including probes into the alleged irregularities in reinsurance practices at broker Alexander Howden Group P.L.C. and Minet Holdings P.L.C. and their underwriting agencies.

In addition, the new steering committee will have the power to examine other alleged irregularities in the market, including the suspected tampering of warranty insurance policies (BI, March 21), says Ian Hay Davison, Lloyd's chief executive officer.

Both the British Department of Trade and the City of London Fraud Squad will be informed of the status of the different investigations, he said.

The investigations committee will be chaired by Lloyd's Deputy Chairman Frank Barber. Members will include Council of Lloyd's members W.N.M. Lawrence and Henry Chester, as well as Mr. Davison.

Also, the Lloyd's Council voted last week not to suspend underwriters Raymond Brooks and Terrence Dooley. The two men had been accused of having financial interests in a company that reinsured their syndicates.

The committee, though, demanded that they make a full disclosure of their assets and write letters to syndicate members.

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Competition cuts Illinois, Michigan comp rates

Continued from page 3

jection, but Fireman's Fund is still challenging the cap.

"There's nothing in the statutes that says 25% is the hold mark," said Pat O'Keefe, counsel for Fireman's Fund. "We are challenging that position. We feel 40% is necessary to be competitive in the state."

"The credits up to 40% are based on vague characteristics that we feel could be unfairly discriminatory," Mr. Nordman said.

A hearing to resolve the Fire-

man's Fund issue was slated for March 10, but it was adjourned without any action until April 20.

While the new open rating laws have brought a new spirit of competition to Illinois and Michigan, it is still hard to pinpoint the exact effect they are having on workers compensation insurance costs.

Rate reductions in previous years make it difficult to accurately assess the situation. For example, all Michigan insurers were forced to drop rates by 22% last year (BI, Jan.

11, 1982).

Furthermore, the economies of both states have suffered immensely during the recession and unemployment is at record highs. When the workforce is cut, the frequency of lost-time accidents decreases, too. And since workers compensation insurance premiums are based on payroll, a smaller payroll automatically means a smaller premium.

"These economic factors at work would have reduced rates anyway," said Richard Johe, senior vp of Michigan Mutual Insurance Co., the largest writer of workers compensation in the state.

All of this activity combined with huge benefit reforms in 1981 and 1982 are resulting in curbing costs in Michigan, not just open rating, added Insurance Commissioner Nancy A. Baerwaldt.

Insurers have reduced rates by 15% to 17% off the 1982 rates, says Mr. Johe. In many cases, they're lower than the pure premium, or what premium it would take to cover losses only, he added.

"There's less and less money available on a total account... it's forced us to reduce the price on profitable items," he said. "Everything that I see points to considerable reductions for companies in the state."

In many cases, insurers are reducing rates on a classification-by-classification basis.

"The advent of open competition brought a surprisingly wide variety of rate levels and rating plans to the workers compensation insurance market," reads a report released by the state Insurance Bureau.

"The variety of rates indicates that companies are choosing different marketing strategies by targeting the classifications in which they wish to specialize," the report noted. "In changing their overall rate levels, most insurers did not change classification rates by a uni-

form amount. They based classification rates upon their own company experience supplemented by industrywide loss figures."

"We (tried) to do a decent job, classification-by-classification," Mr. Johe said. "Our competition is forcing us to review classification-by-classification again."

"It is competitive," noted Cloyd Barnes, vp of America One Inc., a Lansing broker. "It puts us in a position to quote everything... go out in the marketplace and find the best deals."

There'll be a better picture by the middle of the year, said Mr. Barnes and others. "It's hard to tell. Some of the companies have targeted their rate reduction in certain categories... they will reduce rates more on manufacturing than contracting," he said.

"But already it looks to me that our rates are less than half than they were two years ago." He cited the plumbing classification as an example, noting that it was \$6.22 per \$100 of payroll and is now less than \$3.

Michigan's open rating law abolishes the Workers' Compensation Rating & Inspection Assn. of Michigan, which formerly filed rates en masse for the state's insurers. The new "file-and-use" system requires that each insurer have its own rates and forms on file.

However, to ease the transition, insurers will be allowed to use the old manual rates and file by reference until July 1 when their individual rates must be filed.

Across Lake Michigan, Illinois workers compensation experts are just as nebulous as their peers in Michigan about the ultimate result of open rating.

"It's pretty early in the game to get a handle on it," said Larry Hochstetler, director of government, consumer and industry affairs for the Illinois Council on Compensation Insurance.

"I certainly feel that with the various insurers filing their own rates, there is a degree of competition that has not been there before or to that degree... Only time will tell. There are all kinds of plans filed; no one knows what the actual impact there has been," he said.

Under Illinois' use-and-file system, insurers are allowed to file by reference and adopt the National Council on Compensation Insurance's advisory rates, or adopt the council's pure premium rates and add their own expense factor or file

their own rates.

Almost 90% of the 250 workers compensation insurers in Illinois have already filed, according to Robert Heisler, assistant deputy director of property/casualty for the Illinois Department of Insurance. The deadline was Jan. 30.

Of those filings, only 10% to 12% filed lower rates. The majority adopted the NCCI advisory rate, while four adopted the NCCI pure premium and are adding in their own expense factors, said Mr. Heisler.

"I think the biggest impact is over," he said.

That impact was almost non-descript, according to Jack Kelly, senior vp at Corroon & Black Corp. in Chicago, president of the Chicago Board of Underwriters and regional vp of Independent Insurance Agents of Illinois.

"It's status quo, there are no changes," he said. Because Illinois allowed modifications, discounts and deviations in the past three years, the state has had open competition all along.

"Everybody's holding their breath to see if there'll be a massive rewriting," Mr. Kelly said, predicting there won't be. "We have not seen any overaggressiveness on the part of (insurance) companies."

Mr. Shainberg of Associated Agencies Inc. said his firm was afraid employers would cancel policies to take advantage of the wholesale premium cutting through credits.

But, there weren't any rewrites "and if it held in the beginning, it'll hold all year," he said.

Philip O'Connor, the former Illinois insurance director who worked to get open rating approved in the state and who is now chairman of the Illinois Commerce Commission, said he sees the law producing competition, up-front pricing and deep discounting, precisely what was predicted.

Illinois Sen. Aldo A. DeAngelis, R-Olympia Fields, sponsor of the open rating bill, believes employers will save money on their work comp premiums by the end of the year because of lower rates.

"We'll probably see some competition on the price... it will go down in the short run and stabilize, and then edge back up in the long run," said Steven Millikan, associate vp and director of workers compensation for the Alliance of American Insurers in Chicago. The insurer trade group has opposed open rating.

What does 'competitive rating' mean?

It's not just a case of North vs. South or East vs. West. No matter where competitive rating of workers compensation risks is discussed, there's a debate on the meaning of "competitive" or "open" rating.

According to one definition, open competition occurs in states where there is a minimum of regulation and rates are not reviewed unless a problem arises.

Arkansas, Oregon, Kentucky, Rhode Island, Michigan, Illinois, Georgia and Minnesota say they have open rating for workers compensation insurance.

But some groups, like the Alliance of American Insurers in Chicago, say these states have "non-administrative" systems, not competitive rating.

"Illinois has open rating for auto insurance, which requires no filing, and it's not approved or disapproved by the insurance commissioner," said Steven Millikan, associate vp and director of workers compensation for the Alliance.

But the new Illinois "open rating" law still requires that rates be filed and the Insurance Department has the right to disapprove

any of them, he said.

The Rhode Island competitive rating law, which went into effect in September, even has people within the state confused as to whether it provides open rating.

For example, that reform bill mandates that any company that writes more than 2% of the state's workers compensation premium must file individually and be approved.

"It's a form of open rating, but it's not like the NAIC model (BI, Nov. 22, 1982)," said Thomas J. Calderone, Rhode Island insurance director and director of its Department of Business Regulation.

A spot check of employers throughout the state showed that most are unfamiliar with the details of the new law. Some say rates haven't changed at all, while others believe they've increased.

Arkansas is another state where the use of the term "competitive" is often questioned. The law there, which became effective in June 1981, allows insurers to file rates individually but, unlike other so-called open rating states, prior approval of rates is required.



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Regional broker, international presence

California firm shops the world to place coverage

By DONNA LEIGH YANISH

SAN FRANCISCO—Dinner Levison Co. admits that it is a regional brokerage, but it doesn't hesitate to place clients' risks in markets around the world.

While other regionals may occasionally call London to place a risk, executives at DL set phones ringing at underwriters in London, Switzerland, West Germany, France and the Far East.

The brokerage, which generates estimated annual revenues of \$12 million, has several Fortune 500 accounts, including Esmark Inc. and Transamerica Corp., that demand worldwide markets, explains President Robert Nevins.

Several Dinner Levison executives, including Mr. Nevins, began developing contacts with overseas markets in the 1960s when the brokerage placed the insurance for the San Francisco Bay Area Rapid Transit Authority, which was then building the area's commuter transit system.

In the early years, putting BART's insurance program together was difficult because of the amount of liability and catastrophe coverage necessary, notes Jordan Tolchin, BART's risk manager. Dinner Levison was able to develop the necessary connections with Lloyd's of London and obtain coverage very quickly, he says, adding that the brokerage has

encouraged a continuing relationship between BART and underwriters at Lloyd's.

Although DL has had the BART account since the authority's inception, the account is put up for competitive bid every three years, Mr. Tolchin says, explaining that the authority "remembers (the broker's) interest in BART when it was a risky account. (It) has a unique interest in the authority that we haven't found in national brokers."

BART's insurance is placed through the broker's risk management division, which handles all accounts that require overseas markets.

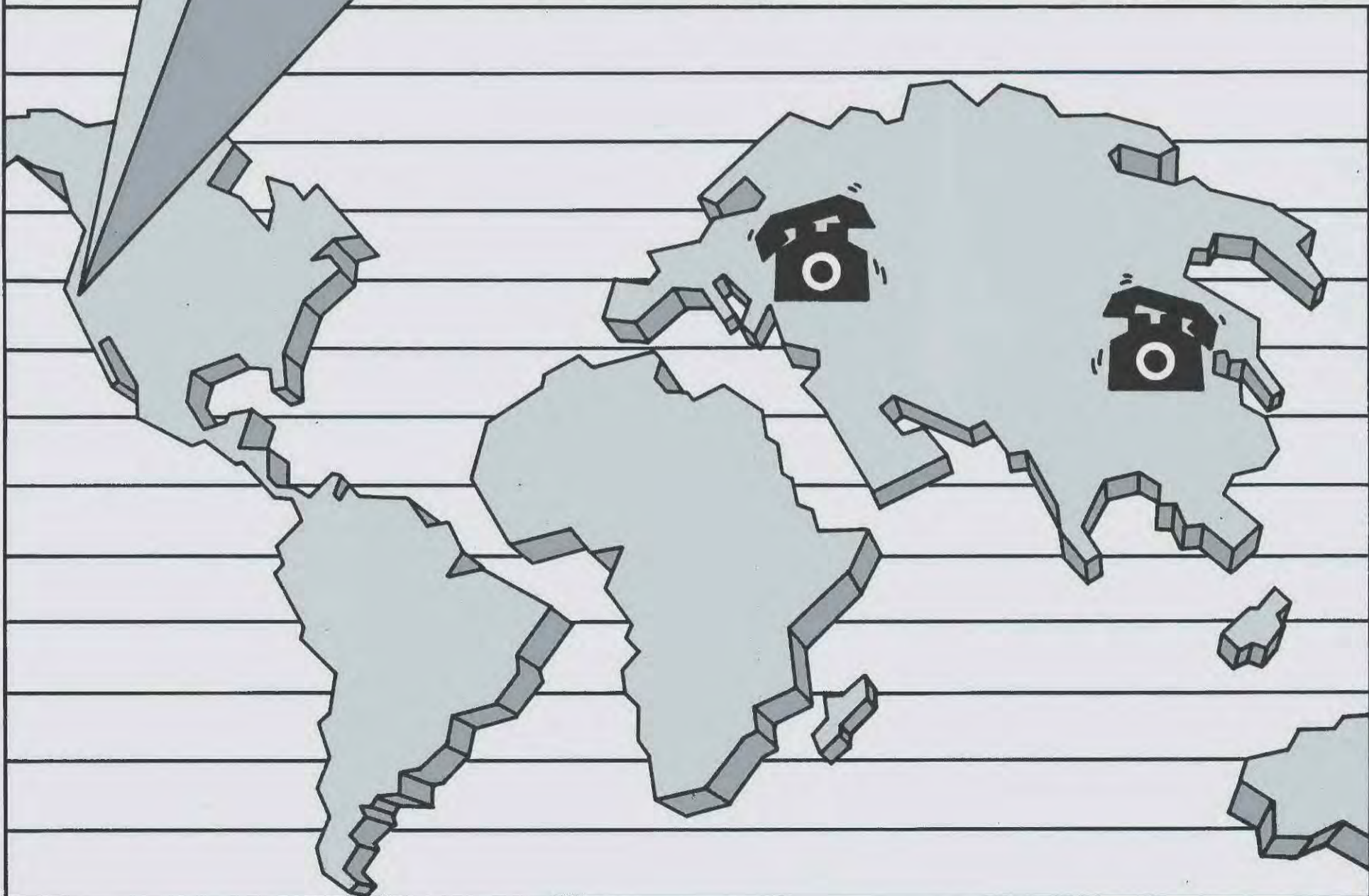
The risk management unit, which also handles most of the brokerage's large domestic accounts, is one of Dinner Levison's three revenue-producing divisions. The others are commercial accounts (which also includes personal lines) and group/life.

The senior vps in charge of each division, along with Mr. Nevins, comprise the executive committee that runs the brokerage, which was incorporated last July after 67 years as a partnership. Although it has been almost a year since the broker incorporated, the firm is still in transition, executives say, even though corporate structure wasn't new to the firm.

"We had been running as a corporation for some

Continued on next page

Mr. Nevins
President
Dinner Levison



Regional broker uses worldwide markets



Photo: Marcus Badgley

Mr. Nelson

Continued from previous page
time. We would have gone sooner, but it's such a massive project," explains Chairman Robert M. Levison Jr.

Expansion was a major reason for incorporating the brokerage, Mr. Levison says. Acquisitions under a partnership are much more difficult. A partnership is also disrupted much more than a corporation when one of the key executives retires, he adds.

With its new corporate structure, Dinner Levison is looking to expand, Mr. Nevins says, in a relatively new direction for the broker's growth. Until five years ago, DL only had one office.

"There are definite advantages to being in one location. All the expertise is right here. Also, the team

approach to handling accounts lends itself to a large number of people," Mr. Nevins says.

Servicing accounts outside the area isn't necessarily impeded by having to travel, Mr. Nevins continues. "Being the outside expert is sometimes an advantage."

But not always, he admits. "For some kinds of business you have to be in the area. As you grow to a certain size, you have to look to geographic expansion."

About five years ago, DL executives apparently decided the firm had reached that certain size. The brokerage opened its first branch office, in Newport Beach, Calif., (see story, page 20F).

Prior to its expansion effort, DL concentrated on building its three profit-generating divisions—risk

management, commercial and personal lines accounts and group and life—into equal parts.

Each division contributes roughly the same amount to income, he notes, though the breakdown varies each year. "At the moment, the group (division's) income is growing faster than the property/casualty side. It changes."

Each division operates as a separate profit center, Mr. Nevins explains. But they also serve as sources for prospects and referrals.

Coordinating prospect lists between the property/casualty and group/life operations of a brokerage is essential to any firm's future, contends Robert M. Karr, senior vp in charge of the group/life division.

"We have to be able to pull all

resources together. We've tried to approach (clients) across the board but it's an evolutionary process."

Although the divisions work together on referrals, each senior vp in charge of a division has the freedom to choose an operating structure for the division within a general framework developed by senior management.

The group/life division, for example, is instituting a system standardizing its method of operation (see story, page 20E), but DL has no plans to institute a similar system in the other divisions.

The basic framework used by each division focuses on teamwork, explains Robert G. Nelson, senior vp in charge of the commercial and personal lines division.

"It's basically a hybrid system. Our structure falls in between the producer-unit system (under which a producer directs a person or small staff that services the account) and a totally departmentalized system (where production and service are completely separate functions)."

DL's approach borrows the basic team from the producer-unit concept. Account executives who produce the business have ultimate control and responsibility for the account, Mr. Nelson explains.

Account coordinators handle the day-to-day servicing of the account along with assistant account coordinators. Producers, however, don't direct the account coordinators; they all report to one person under the departmentalized system.

Account teams aren't standard within the commercial division. A team is developed for each account depending on the individuals' expertise, Mr. Nelson notes.

Larger accounts may have more than one account executive. DL maintains three grades of account executives, with the lower grades reporting to a senior account executive for the account.

DL deviates from the producer-unit system because under that approach, disaster strikes when an account coordinator leaves the brokerage, Mr. Nelson says.

The 32-member commercial group, including eight account executives, is split between two unit managers who each oversee the account coordinators' efforts within the unit. The unit managers are also account executives and produce their own book of business.

Dividing the group into 15-employee units allows the managers greater control, he says. Under the system, people within each unit can also concentrate on their specialties, he adds, although business does switch among the units.

The group tries to maintain a delicate balance between specializing to build expertise and keeping current with accounts to be broad-based generalists, Mr. Nelson says.

Members of the group have developed specialties in placing insurance for retail establishments, contractors, convalescent hospitals and real estate operations, like shopping center owners.

Along with the types of accounts, the size of the business handled by the commercial and personal lines division covers a wide spectrum. The brokerage's commissions from the division's accounts range from \$100 to \$50,000, Mr. Nelson notes.

Although it generates the lowest commission levels, Mr. Nelson says personal lines has a future at DL.

"I don't think we should abandon personal lines. In fact," he points out, "I haven't produced personal lines insurance since 1965, but I recently sent out letters to all my accounts (about DL's personal lines coverages) and four of the presidents of my largest accounts placed their personal insurance with us."

Continued on facing page

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Continued from facing page

DL is trying to reduce the cost of producing personal lines, he says. "We're streamlining the operation and reducing the number of insurers."

The brokerage also has a computer that interfaces with The Chubb Group to receive status information on coverage, billing and claims for personal lines coverage.

Commercial lines staff members can rate pieces of business through a computer that interfaces with The Hartford Insurance Group, Mr. Nelson says. The computer was installed at DL last year by Hartford without a volume requirement.

"On balance, though, we probably use Hartford more than we did before (the computer). The computer enhances our ability to handle smaller accounts efficiently."

Along with Hartford and Chubb, DL's major admitted markets include CIGNA Corp. and Fireman's Fund Insurance Cos., Mr. Nelson adds.

The commercial and personal lines division doesn't place many accounts that require international markets, he says. Those accounts are more likely handled through the risk management division.

"There is a gray area between the accounts here and those in risk management. Usually accounts would be in risk management if they were national or international accounts or if they generate \$25,000 income or more (in commissions for Dinner Levison).

"(But) there are exceptions. We have accounts that generate \$50,000 in income and they have accounts at \$25,000," Mr. Nelson explains.

"There really isn't a distinct line of demarcation, but usually if (the client) has a full-time risk manager on staff, the account would be in the risk management division."

Risk management account executives and their teams at DL may work with clients' risk management teams on a program or may perform all of the services for the clients, notes John P. Folsom, senior vp in charge of the division.

"In getting the risk manager involved in the program, we become (the client's) risk management department or part of the department. It varies, depending on the size of the department," he says.

DL's risk management team uses a formal four-part process for each client, beginning with a strategy session, he explains. At this stage, the team establishes the goals and objectives of the risk management program, noting problems and special considerations.

Step two involves drawing up the specifications for the program. "We establish what the exposures are. The specs tell the in-depth story. For example, for a client in high tech (the semiconductor industry), we determine what the products exposures are. We have the client's risk manager translate the description of the product in plain English. We also talk about hazard analysis," he explains.

Specifications, along with the details in the other steps, are bound in a manual, says Account Executive Page Krause. "We include a time schedule, noting who has what assignments, either on our staff or on the client's risk management staff. Every month the risk manager receives a project list of pending and completed projects. (The manual) also includes a summary of the specs."

The third step is placing the coverage, which DL calls "marketing." Account executives make the marketing decisions, Mr. Folsom notes. "We want to have at least two options (of where to place the risks). We again want the risk manager to participate."

DL encourages clients to meet with underwriters, unlike many brokers who try to serve as a constant intermediary. Account executives try to create a direct relation-

ship between the risk manager and the underwriter, he says.

One DL executive noted that he was leaving soon on a trip that included London, Chicago and Hartford to explain a client's major loss to the underwriters involved, and he was taking the client's risk manager with him.

DL can help establish a relationship between a risk manager and a captive manager, Mr. Folsom says. The broker assists many clients in setting up captive insurance companies, he explains, noting that DL doesn't own a captive management company.

Dinner Levison executives have made a conscious decision not to offer all the components to a risk management program, but rather to help set up relationships between clients and providers of the components, Mr. Folsom explains.

When the components are all in place and the marketing function is complete, the final step in the risk

management process is the wrapup, he says. The broker evaluates the objectives established in the strategy section to determine whether they've all been met.

The wrapup also includes a discussion of where the reinsurance is placed, Mr. Folsom says. "We're strong believers in insurance market control."

The four-part process on a major risk management project can cost the insurance buyer between \$50,000 and \$100,000 in fees apart from premium, Mr. Folsom says. About one half of DL's risk management division's income is fee-generated, he explains.

The risk management division services about 40 accounts with its 30 staff members. Until 1981, virtually all of the division's new business was generated from referrals, Mr. Folsom says. The firm didn't actively solicit new business because the department wasn't geared for a large volume, he

explains, but account executives have actively solicited business for the last two years.

"Our best prospecting is with existing clients. We ask clients if they know anyone who could use our risk management services. In the San Francisco area, the risk management community is pretty small, and we use the (Risk & Insurance Management Society) list." This year, the division is targeting large privately held companies, as well as light-rail transit companies, Mr. Folsom notes. The brokerage has developed expertise in that area by serving not only Bay Area Rapid Transit but also San Diego Trolley Inc., that city's commuter system.

While the risk management division has established its focus for the year, the brokerage's executive committee is steeped in a project to establish a new long-term strategic plan to replace its former five-year management plans, Mr. Nevins. ■



Photo: Marcus Badgley
Mr. Folsom

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Broker closes the books on overdue accounts

SAN FRANCISCO—Can you say that less than 1% of your accounts are more than 90 days overdue?

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About a year ago, the broker established a credit and collection procedure designed to reduce the number of overdue accounts on its books, and apparently it's succeeding.

Under the procedure, a premium is due 30 days after the effective date of the policy or the billing date, whichever is later, explains Scott R. Heldfond, senior vp in charge of administration.

DL executives taught account producers that timely collections are primarily their responsibility, he says.

Selling the idea to producers, however, wasn't easy, adds Ronald M. Hetland, vp in charge of accounting and the brokerage's chief financial officer. "Selling insurance is a gentleman's sport. Producers don't like to call clients about money."

Although Mr. Hetland says he recognized the advantages of shortening the collection period and placing the responsibility for collection on producers, his idea wasn't immediately embraced by all the executives at DL.

"I had to sell the idea to the executive committee and the president. To do that, I kept statistics for various years showing income lost and expenses realized due to existing credit and collection practices.

The statistics showed that collection problems occurred most often with small commercial accounts, Mr. Hetland notes. "But since putting in the procedure, we don't



Photo: Marcus Badgley

Mr. Heldfond

have a bad debt problem. Collections were speeded up by 10 to 15 days."

DL didn't experience what many agents and brokers fear will result from tightening a collection procedure: disgruntled clients taking their business to another broker.

"We didn't lose any accounts. Clients understood. We bill 10 to 20 days after the effective day and then give (the policyholder) 30 days to pay. We're actually financing their insurance for about two months," Mr. Hetland says.

He added that although clients didn't buy insurance through other brokers because of DL's new procedure, DL did stop placing insurance for a few clients because they paid their premiums too slowly.

Since introducing the procedure, DL has earned a few hundred thousand dollars in interest it

wouldn't have earned under the old collection policy, Mr. Hetland says.

"But the real hassles (from the former, less-rigid collection policy) were in administrative time—money spent on staff time. We realized a 12% to 13% savings in accounting staff time." The percentage savings account for the time of one full-time staff person, he points out.

The staff time required to follow through on collecting overdue premiums is a hidden cost of a loose collection system, Mr. Hetland says. "You get in a matrix of people calling around here and there, and waiting for returned calls, and having to call someone else. That increases expenses."

While tightening collection procedures can help reduce expenses almost immediately after the system is first enforced, another time- and effort-saving device, a computer, can reduce expenses in the long run.

Dinner Levison, however, is proceeding relatively cautiously toward a fully automated office. "We're gun-shy. We don't want to be the first in the computer area; we want to see it work first," one DL executive says.

"We don't want to be in the data processing pit; we want to be on the edge," says Mr. Heldfond.

"We want to wait for the industry to start interfacing computers (between insurers and brokers). We want a (central) computer put in the agency without tying us to one insurer."

Mr. Heldfond says he's suspicious

of people who say they're computer experts. There's a learning curve for automation and the industry hasn't reached the peak yet, he contends. "When (industry participants) come to an agreement about what's best, we'll commit resources."

Right now, the broker isn't willing to combine word processing, accounting, data processing needs of the divisions and information management all together into one central computer, Mr. Heldfond says.

The brokerage does have a computer system used by the accounting department, which fills about 85% of its needs, Mr. Heldfond says.

DL's word processing system is completely separate from the accounting system, Mr. Heldfond notes. And like many divisions in agencies and brokerages with increasing computer needs, DL's divisions must compete to have their word processing needs met.

"The risk management division has tremendous needs (for data processing). That's custom work that requires spewing out lots of paper. But the commercial division has needs too, without as much rush," Mr. Heldfond says.

"One division, however, shouldn't dictate priorities. There's constant conflict. I've come to the conclusion that it's best to go to a decentralized approach. (The divisions) will pay for their word processing needs through direct allocation," he explains.

"We'll let each division manage its own priorities and work flow and tell (the word processing center) what they want," adding that the word processing center must be

able to meet the divisions' needs.

Providing technology needed by the various divisions is another challenge, Mr. Heldfond notes. "Here again, risk management has its data processing (equipment) needs while the commercial division has other needs."

Yet, the brokerage doesn't have unlimited funds to spend on computer equipment. The divisions will have to wait for the data processing department, under Mr. Heldfond, to purchase the equipment they need.

"The executive committee has said that no one can buy a personal computer (for the division). We must decide what the needs are and try to balance them. Dinner Levison won't create administrative empires. The divisions know the costs of automation," Mr. Heldfond says.

For now, DL has decided that it will not process claims in-house. But, in the long run, in-house claims handling is definitely part of the data processing puzzle, Mr. Heldfond says.

Mr. Heldfond's vision for DL's future in automation also includes computers in branch offices that can communicate with the central computer at the headquarters. At present, the broker's only branch office in Newport Beach, Calif., has its own computer system, but that system is not linked to the headquarters.

Finding the right system now is very important for the brokerage because Mr. Heldfond predicts that someday Dinner Levison will be a paperless office. ■

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Group/life division expanding faster than other DL units

SAN FRANCISCO—Cost containment is the buzzword in employee benefits.

That's what benefit managers are talking about, so that's what agents and brokers should provide, according to Robert M. Karr, senior vp in charge of the group/life division at Dinner Levison Co.

"Employers have always been afraid to take benefits away from employees. Today, employers are being forced to look at how to take (benefits) away.

"Here brokers can help, exploring cost-containment alternatives such as higher deductibles and ways to hold off adding scheduled benefits," he says.

Right now, the group/life division is shining at Dinner Levison. It's growing faster than any other division at the brokerage, one executive notes.

On the average, however, it contributes an equal share of the broker's estimated \$12 million in revenues along with the commercial and risk management divisions.

Of the 20 staff members in the group/life division, 14 produce and service group employee benefits accounts. Six of these people, including Mr. Karr, are account executives, who produce new accounts that may stem from leads from the property/casualty side.

"We have a whole range of clients because we take all referrals. We're interested in any size of electronics firm, particularly emerging young companies. We target firms with 100 (employees) or more," Mr. Karr says.

The interest in the electronics industry stems partly from its location. California's Silicon Valley, an electronics haven, is located just south of San Francisco.

Among the electronics companies the employee benefits group services is Tandem Computers Inc. of Cupertino, Calif.

There's a tremendous amount of networking within the electronics industry, Mr. Karr says. Employee benefit managers exchange ideas and refer companies.

Mr. Karr also notes the electronics industry isn't highly unionized. "We don't prospect union business; we're typically a non-union (broker). You typically pick sides; either you're going to prospect unionized business or you're not."

The division's staff members, both producers and support personnel, soon will have a set of guidelines to follow. Mr. Karr has developed a seven-part system for producing and maintaining business.

Introduced to the staff last month, the system is still being developed, Mr. Karr says. When it's complete, everyone in the division will have a set of standards to use in performing their jobs, he explains.

The system includes methods for identifying prospects, standards for marketing an employee benefits package, sample programs, benefit surveys and examples of cost-containment measures.

"The objective of the system is to give the staff one central source of reference. For example, here they can find a good business letter of the type they need to send."

"The system is (Mr. Karr's) brainchild, but it still has to develop," says Account Executive Sherry A. DiTullio. "He's asked the staff to make it into something that we feel is workable. If people aren't comfortable with it, they won't use

it."

Ms. DiTullio, one of four female account executives in the division, also is manager for the staff handling group accounts.

Although standardizing the division's operations is important, staff members must have freedom to be creative, Ms. DiTullio says, adding, "we have to strike a balance."

The new system will help the division gear up to offer new employer-sponsored programs, like homeowners and automobile insurance, Mr. Karr says. ■



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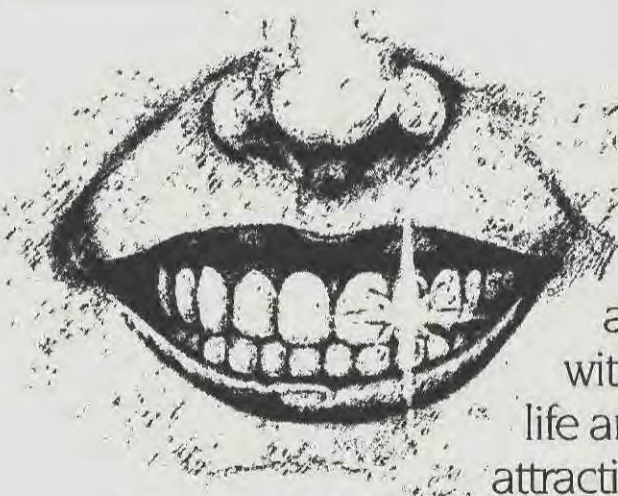
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Broker's only branch is autonomous unit

SAN FRANCISCO—Where does a Northern California-based insurance broker establish its first branch office?

Down the coast, of course, Dinner Levison Co. executives say.

Southern California was the most natural location for the first expansion effort, notes Scott Heldfond, senior vp in charge of administration. "We had enough business in Southern California to support the basis of the operation. Although we have a lot of accounts in Chicago, we thought it would be better to learn (about operating a branch office) closer to home."

And closer to home is Newport Beach, where the broker opened its first branch about five years ago. It currently produces a premium volume of about \$1 million.

The Newport Beach office initially was a satellite of the parent with a three-person staff rather than an autonomous branch, notes Alvin F. Johnson, vp and branch manager.

But a few years after the branch opened, DL's executives recognized a need to sever the tight ties between the parent and branch office and give it more autonomy, he says.

For example, Mr. Johnson notes, when the branch became independent, it developed its own contracts with insurers rather than piggy-backing on the contracts between insurers and DL headquarters.

Mr. Johnson moved to the branch from the risk management division in the corporate headquarters and developed the subsidiary, which now services a variety of accounts including the California Angels baseball team. However, most of the branch's business is real estate-related.

"We're not limited to serving Orange County; we have clients throughout Southern California, except San Diego, which is handled through San Francisco," Mr. Johnson says.

Noting that neither he nor any of the key executives at DL had ever opened an autonomous branch before, Mr. Johnson says, "We made a lot of mistakes, but it was a great learning experience."

The branch's staff of 18 offers clients in Southern California the full range of services offered in San Francisco, Mr. Johnson says, adding the two operations regularly exchange expertise.

"I would be surprised if there wasn't interaction between the staffs at least once in the morning and once in the afternoon every day. We use (the headquarter's) engineering expertise."

"We wouldn't be adverse to opening other offices," DL President and Chief Executive Officer Robert C. Nevins adds. "Newport Beach is the first of several as we need to expand geographically. We'll probably stay regional, but we'll open offices as necessary."

Dinner Levison did try expanding its brokerage operations through another common avenue for growth—acquisitions—but with apparently less success than it realized through the branch office.

In 1981, the brokerage bought the book of business of the Anthony J. Brescia Agency in Woodland Hills, Calif. DL operated the Brescia office in Woodland Hills after the deal, but closed that office and merged its business with the Newport Beach branch in May 1982.

Executives at DL recognized redundancies in having two branches in the Los Angeles area, Mr. Heldfond explains. "It made sense to combine the efforts."

Acquiring the Woodland Hills agency's book did expand the scope of DL's clientele, Mr. Heldfond adds. The agency had a portion of

the accident and health coverage of an association of pest control operators, he says.

However, associations won't be a target for DL, Mr. Heldfond says. "On the property/casualty side, we've talked to a lot of associations and made proposals (without success). We won't commit resources in one path in Southern California; we have to be flexible and able to react fast."

Although DL's expansion path appears to be leading the brokers to buying or starting full-service branches, an acquisition earlier this year veered the path in another direction. DL bought The FPE Group, a San Francisco-based engineering and consulting company.

The FPE Group, despite its new ownership, will not work exclusi-

vely with DL, executives stress. "It's important that (the subsidiary) remains autonomous," one executive says.

Formed in 1975, the engineering firm, unlike its new parent, has established branches in several cities. Its main office is just a few blocks away from DL headquarters but it maintains engineering offices in Wichita, Kan.; Chicago; Philadelphia; Washington; and Youngstown, Ohio.

Engineering and consulting services offered include property loss-control services, fire-protection systems design and safety management. An engineer in the Youngstown, Ohio, office specializes in boiler and machinery loss control.

FPE engineers view loss-control strategies differently from engi-

neers with a brokerage or insurance company, who tend to encourage clients to meet all of the industry standards as strictly written, says Robert A. Lapidus, director of safety management services for FPE.

"The engineers come from corporate risk management departments and we think of loss control in terms of management."

For example, Mr. Lapidus notes, FPE engineers study the client's facility and determine the exposures. "We prioritize recommendations, giving the client cost estimates. When (clients) ask what kind of system (for eliminating or reducing the exposures) we recommend, we say, 'This is the standard; this is where you are. Maybe there are some tradeoffs.'"

FPE may consult with local safety authorities when determining the tradeoffs, Mr. Lapidus adds.

The FPE engineers also serve on committees of the National Fire Protection Assn., which develops many safety standards.

Safety standards that apply in the United States are only part of the list of standards FPE engineers are required to understand. The firm has consulted on several U.S. corporations' overseas projects. For example, FPE engineers are currently working on designing fire protection systems for projects in Saudi Arabia, Mr. Lapidus says.

The consulting firm isn't overlooking U.S. expansion while it eyes overseas business, he adds, noting the firm's particular interest in the Southwest. ■

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agent/broker topics

Hiring salespeople from direct writers can pay off

NEW ORLEANS—Hiring salespeople from direct-writing insurers can be profitable for independent agents and brokers.

But the task isn't easy, according to Douglas L. Schultz, president of The Insurance Connection in Minneapolis, who has hired several salespeople that had worked for direct writers.

Along with challenges that may stem from hiring someone who is used to being an entrepreneur, agents and brokers may face legal problems when bringing an employee of a direct writer into the firm, he explains.

Agents and brokers have successfully used different methods to hire former direct writers, he says.

Under the first method, an agent or broker hires the salesperson as a

producer. For the agent, the arrangement is similar to hiring any other producers.

Many agencies use this method. In fact, one insurer that offers a new-producer training program contends that an increasing number of agents are hiring former direct writers and enrolling them in the insurer's program (*A/BT*, March 7).

Under the second method, the agent or broker enters into a sub-producer agreement with the former direct-writer staffer. The new employees maintain their own offices and own the expirations on the policies they sell. The agency receives a percentage of the commissions and financial guarantees from the producers, as well as maintaining the right of first re-

fusal to buy the expirations.

Mr. Schultz also notes a third method, which has not yet been successful. An agent or broker could just buy the customer list and expirations from the former direct-writer employee.

This method, however, will virtually guarantee a court battle because direct-writing insurers say customer lists and expirations produced by their sales staffs belong to the insurer, not the salesperson.

Compensation under either of the first two hiring methods must be great enough to reflect the employees' insurance sales experience and to entice them to give up the advantages of representing only one insurer.

Mr. Schultz notes that those advantages include market and prod-

uct training, target marketing, competitive rates, long-term market commitment, insurer support and strong public identity.

An agency or brokerage can also eliminate some of the disadvantages that accompany selling a direct-writer's products, Mr. Schultz notes. Those disadvantages are:

- Direct-writer staffers must deal with incomplete product lines and potentially insufficient capacity.
- They have minimal or no field authority or judgment.
- They have only one insurer to look to for new concepts, products and innovations.
- They have no opportunity to own their expirations.
- They may not expand their agencies or their markets.

Although joining an agency or brokerage may be the solution to overcoming these negatives, the task may be easier said than done, Mr. Schultz warns. A major barrier to hiring personnel from direct writers are the potential legal problems the salesperson faces.

Sales contracts with direct writers contain an agreement by the salesperson not to compete with the insurer after severing the employment relationship, notes David Bakst, a partner in the Boston law firm of Morrison, Mahoney & Miller who specializes in legal problems of agencies and brokers.

Non-competition agreements can take two forms, he says. The first is an anti-piracy covenant. The agent agrees not to solicit or accept business within a certain territory for a designated time.

Watch the wording in this agreement, Mr. Bakst stresses. If the covenant just prohibits the former direct writers from soliciting but says nothing about accepting business, they can place business if the prospects come to them.

The second form is much more general, Mr. Bakst says. The employee signing the contract agrees not to engage in the insurance business within a certain territory for a certain amount of time.

Although both forms of non-competition agreements may seem to be insurmountable obstacles for an agent or broker wishing to hire a direct writer, look deeper, Mr. Bakst says. State laws and court opinions differ on whether the insurer can enforce the agreements.

Some states, like Michigan, prohibit non-competition covenants signed by employees, Mr. Bakst

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Mr. Schultz

says, noting that these are different from the covenants included in buy-and-sell agreements.

Most courts are more likely to enforce an anti-piracy agreement than the more general covenant, he notes. For the covenant to be enforceable, it must be reasonably necessary to protect the employer. Courts also scrutinize the territory and time frame.

Agreements deemed unreasonable may also be handled differently depending on the court, Mr. Bakst says. Some courts have ruled that if a covenant is unreasonable, it's unenforceable. Most, however, will reduce the terms of the covenant to make it reasonable, rather than throw it out entirely.

Mr. Bakst suggests that attorneys may forum shop, looking for a court more likely to be sympathetic to the salesperson than to the direct-writing insurer.

"Every dollar spent at the preliminary hearing is well spent. Once a restraining order is entered against the employee, you've lost," he says, because fighting it may take so long that the non-competition agreement would expire.

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PIANY studies agency, insurer cancellations

Low volume is the main reason insurers cancel agency contracts, according to a survey by the Professional Insurance Agents of New York Inc.

Poor service and a desire to concentrate volume are the reasons most agents terminated their insurer contracts in 1982, the survey adds.

A few insurers accounted for most of the insurer-initiated agency terminations in New York last year, according to the survey. One insurance company led the list with seven terminations, four caused by insufficient volume. All four agencies generated less than \$30,000 in premiums.

Two insurers each terminated four agencies, and both canceled three agencies for insufficient volume and one for a high loss ratio.

One of these insurers considers volumes from \$25,000 to \$50,000 insufficient, with the \$50,000 representing a declining volume placed with the insurer. The other insurer used essentially the same criteria. It canceled agents with premium volumes ranging from \$25,000 to \$75,000. The canceled agent with \$75,000 volume reported the agency's volume had been falling prior to termination due to non-competitive underwriting.

Declining premium volume may indicate the agent's dissatisfaction with the insurer. PIANY's survey showed that in 36 cases, agents reported they voluntarily decided to stop representing an insurer.

Two insurers lost four agency contracts apiece, mainly because of poor service. Low commissions was

another reason the agents cited for dropping an insurer contract.

Most agents responding to the survey cited more than one reason for terminating an insurer agreement. Often, they apparently decided to discontinue an insurer because they wanted to consolidate more business in their remaining markets. In most cases, however, there was at least one negative factor present in the decision.

Overall, consolidation was a factor in 24 of the 36 decisions to terminate an insurer contract.

Respondents were also asked what they felt was a sufficient volume to make an insurer viable in their agency. For a multiline insurer, \$100,000 was the volume most frequently selected (31 respondents). Twelve said \$50,000

was adequate, while 11 agents each cited \$200,000 and \$250,000 as their minimum viable volume.

For solely property insurers, 21 agents said \$50,000 is a viable volume. Eleven said \$25,000 was enough, but 14 said it takes \$100,000 to make a property insurer viable.

About 85 member agents of the PIANY responded to the survey.

Open for investment

Agency Management Systems of Atlanta, an agency computer service company, says it will allow a consortium of insurers to invest in the company.

AMS, however, would not say when the plans for this consortium would be finalized or how many companies have shown interest.

The company is currently owned by Commercial Union Insurance Cos. of Boston and produces a computer system designed to work with the so-called IVANS (Insurance Value-Added Network System) concept. IVANS allows an agency to communicate with several different insurance companies through one computer terminal.

"AMS is the first vendor of computer equipment to demonstrate that capability to connect to the IVANS," said Tripp Leach, manager of Red Leach & Son, an insurance agency in Gadsden, Ala.

Mr. Leach recently participated in a test using his AMS system in Alabama to communicate with Reliance Insurance Co. The test involved sending policy information directly to Reliance's computer from the Leach agency and receiving declaration pages.

Computer survey

About 50% of the respondents to the Independent Insurance Agents of Connecticut's most recent in a series of membership surveys on automation say they use a batch computer system for accounting purposes.

A batch system offers accounting and bookkeeping data processing services outside the agency for a service fee.

Twenty percent of those responding to the survey have purchased their own minicomputer, ranging in price from \$35,000 to \$125,000. None of those agencies that purchased a computer received financial assistance from an insurer to help pay for the computer.

Of the respondents that purchased a computer, 80% say they are satisfied with their choice and cited applications for the computers including accounting, quotations, marketing, word processing, agent-insurer interface and electronic mail.

About 60% of those with computers have policy retrieval capability. Agents whose computers can't retrieve policies listed that as an area where the computer system could be improved. Rating and software were also mentioned as areas that could be improved.

The survey was the third in the series conducted by the association about the computers used by members. The IIAC surveys a different 10% of its membership each time on a strictly random basis, resulting in statistically accurate data with a 3% to 5% margin of error, according to the association. ■

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How computers will affect the future of agencies

By LOUIS F. VONVILLE

INSURANCE REACTS to the needs of society. As society changes, insurance products and services respond. And everything in society is changing now.

Education is changing from attending school for a period of time to a continuing learning process conducted mainly within the community rather than within the schoolroom.

Health programs are changing and concentrating on keeping people healthy rather than curing the sick.

Worker attitudes are changing to instant gratification, job satisfaction and less loyalty to the employer.

Family roles are changing. Many one-parent homes exist. Mother's role is shifting away from the home; father's role is moving closer to the home. The number of child-care centers is increasing.

Look around as you go through your daily activities, be perceptive and see just how much things have changed. Just as certain, tomorrow will be different from today and it is important to note those changes that are taking place.

The biggest single change taking place in our industry today is the computer—its ability and costs. It is changing every function and the industry is committing itself to the technology. It is said that 90% of all market functions and 95% of all

will be necessary, insurers will re-evaluate these positions and getting rid of those considered expendable, along with their attendant heavy expenses.

- Computer positions will be constantly created and the availability of able personnel in this area will be in short supply.

- Insurers will hire certain technicians, middle- and top-management people as replacements rather than creating new positions. Those replacements are much younger

than their predecessors.

- Underwriting and rating of commercial lines will tighten.

- Insurers will go out of business... as many as 30% by 1987.

The continual change demanded by the confrontation of the industry with the needs of society will necessitate constant change in computer programming. It also means the industry will employ more personnel in the computer area than all other areas combined—excluding sales people.

Agencies

- All too few agencies will make an effort to improve their chances of survival by being aggressive in sales or innovative in programs they offer to clients. Only a few of those who are aggressive and/or innovative will be successful in their efforts.

- Most agencies will wait to see what happens; therefore they are at the mercy of anything either positive or negative that comes along. They will not control their futures

by developing plans and executing them properly. There will be many reasons for management's failure to act.

Management will not be trained in research and innovative planning; management will engage in learning how to better manage what they have; management's time will be absorbed by the changes forced upon them; the cost will be erroneously considered an expense rather than a producer of

Continued on next page

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Mr. VonVille

agency functions can, and will, be computerized.

Let's take a look at some of the other influences affecting the industry today. First, a short-term, pre-1986 or '87 view:

Insurers

- The branch office system will fast become obsolete.

- Service offices will increase in number. They likely will be located in large-volume areas and consist of a claims person in charge, with or without additional claims personnel, a marketing person and clerical personnel supported by a computer network. Many of these offices will be housed in agencies.

- Many insurers will increase their use of independent adjusters.

- Managers, supervisors, underwriters and claims personnel will be affected largely by the dictates of branch-office mergers.

- Raters, coders, filers, supply and clerical personnel will decline in number, due to the shift to the computer and word processors.

- Insurers will hesitate to take on entry-level personnel, which often are unable to maintain long-term employment, and thereby reduce the cost of training.

- Insurers will relieve themselves from the overload of top executives. While a certain number

Louis F. VonVille is chairman and president of The House of Fament Inc., an insurance industry consulting firm based in Columbus, Ohio.

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How computers will affect agency futures

Continued from previous page
income; many executives will consider change as a threat to their security or image.

- Agencies will become much larger, usually through acquisition. The average agency will have around \$875 million in volume. Three years ago, the average agency volume was a little more than \$500 million.

- Many owners and managers are not willing to pay the price of dedication to change.

- Many owners and managers will be unable to manage change.

- Agency personnel in larger agencies will be trimmed, due to increasing costs and the expertise of managing executives, so only the efficient and productive people remain.

These agencies will be increasingly more quota-oriented in requirements they place on employees.

- Smaller agencies will be unable to alter their operations greatly at this time, especially relating to employee numbers and functions.

- An overwhelming consensus of industry advisors believes that 50% of existing agencies will be absorbed or cut of business by 1990. This does not mean fewer people employed in the agency area, as one may be led to believe. Merging of agencies will affect only a small number of employees.

- Agencies likely will average \$2 million in volume by 1987 and more than \$3.5 million by 1991.

And now, a long-term, post-1986-

87 view:

Industry

- Employment will increase as adjustments are made. Employees will be required to perform more effectively than they are now. Employer loyalty to employees will continue to decline as will employee loyalty to employers.

Markets

- The number of underwriters will decline substantially.

- Managers and many top-level executive positions will be terminated.

- Insurers will transfer most of their work load to agencies with a corresponding increase in volume.

- More managing general agencies will emerge.

- Computer personnel—at all levels—will increase in number. They will become the largest employee group in the insurance industry.

- Underwriters likely will handle only 10% to 15% of what they do today.

- The likely effects of change upon the number of employees at certain positions will mean the number of actuaries will increase; the number of investment analysts will increase; claims personnel will increase; the number of auditors and accountants will increase; there will be no change in the number of group insurance specialists; personnel administrators and their staffs will decrease; advertising and public relations staffs—will increase; the number of attorneys

will increase; secretarial personnel will increase; the number of safety engineers will decrease (the responsibility shifting to agencies and independents); and the number of field representatives will increase or stay level.

However, there will be no raters or coders left.

Agencies

- Personnel will tend to become more specialized.

- Computer terminal operators will be commonplace.

- Sales personnel will increase and likely operate out of their homes. They will be on draw/commissions/bonus programs.

- Personnel will be more involved in community activities.

- Agencies will be in a competitive marketplace and profit margins will decline.

- The likely effects of change upon the number of employees at certain positions at agencies will be that the number of managers, claims personnel, safety engineers, raters, inside salespeople, underwriters, personal lines customer service representatives, commercial lines customer service representatives and clerical personnel will all increase.

In addition, clerical personnel will become much more specialized.

While no one can guarantee the future, certain projections can be made with the knowledge of influences that are present. Plans can be built on such projections.

Unfortunately, most business failures can be attributed to instability in execution of a plan. It is necessary for both insurance and agency executives to take control of their destinies by studying the influences of society that are emerging, determining a workable plan and executing it effectively.

In this decade, survival will depend on it. ■

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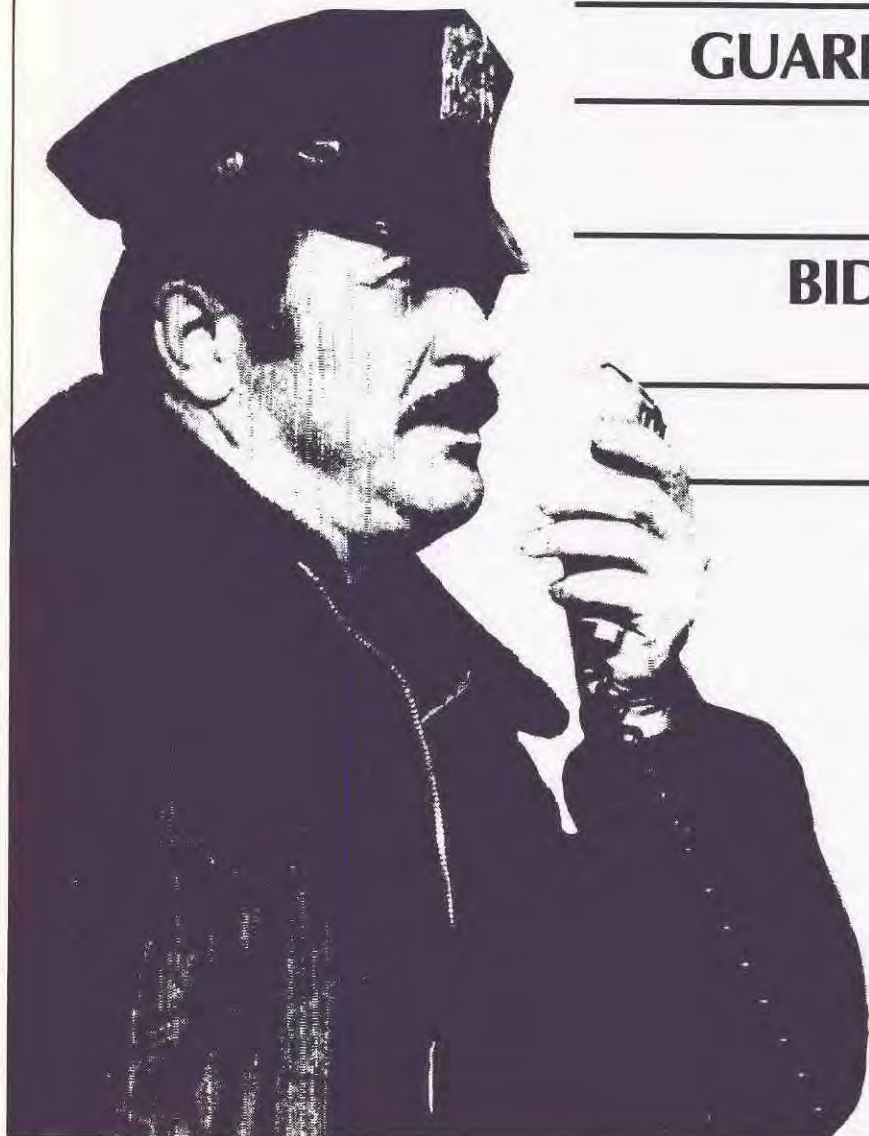
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Agency network relies on members' expertise

LOS ALTOS, Calif.—Eleven California agencies—including at least three former members of agency franchisor ISU Cos. Inc.—have formed their own group to share expertise and sell mass-merchandising programs.

The Pacific Network Group is an all-California group recently formed to position member agencies for the future, said Executive Vp Robert B. Clune. Pacific Network will not sell franchises; the 11 agencies will comprise the group for the near future.

The individual agencies control almost \$200 million in premiums.

The group, Mr. Clune said, will develop mass-merchandising programs; risk management services like third-party claims administering; and market clout with insurers based on the group's combined premium volume.

The first program offered by Pacific Network is a mass-merchandised shopping center coverage. The coverage is based on a package used by a Pacific member.

"The market the agency was using was not a success; we changed insurers and expanded the package," he said.

The group has not yet been able to use its combined premium base to leverage markets, Mr. Clune said. But, he adds, the group's California-only membership will aid the current negotiations because it will allow the group to seek more specific concessions and programs to aid all network members.

"Right now, we're a new group. We've only gotten off the ground the last 60 days. We're going to identify the group to clients to some extent; for instance, they will know of the group's existence through the mass-merchandising programs and some advertising.

"We will also highlight the fact that policyholders can be serviced through any of our membership statewide," Mr. Clune said.

Most of the 11 agencies had already been involved in mass merchandising before Pacific Network's formation. The group's activities will only expand that type of business, Mr. Clune said.

One of those agencies is Giddings, Corby, Hynes Inc. in Modesto, Calif. The agency is a former member of ISU, but it did not join Pacific Network simply because it left the ISU.

"I think, however, that this group will do for us much of what ISU originally wanted to do," said agency President Don Hynes. "We're satisfied with the present arrangement; this is like an ISU that we own.

"Everyone has different respon-

sibilities in this thing," Mr. Hynes continued. "We're getting the benefit of some expert knowledge on a volunteer basis and we're providing some financial management and personal insurance development expertise for the group."

Giddings, Corby is also a representative of Marketdyne, another mass-merchandising organization. Yet, Mr. Hynes sees no conflict in belonging to more than one group.

That view is shared by the group as a whole, said Mr. Clune. "We don't care if our members are part of any other group. We're exclusive in that we're 11 agencies that are trying to do the same thing. We will have some exclusive programs that will aid all our members." ■



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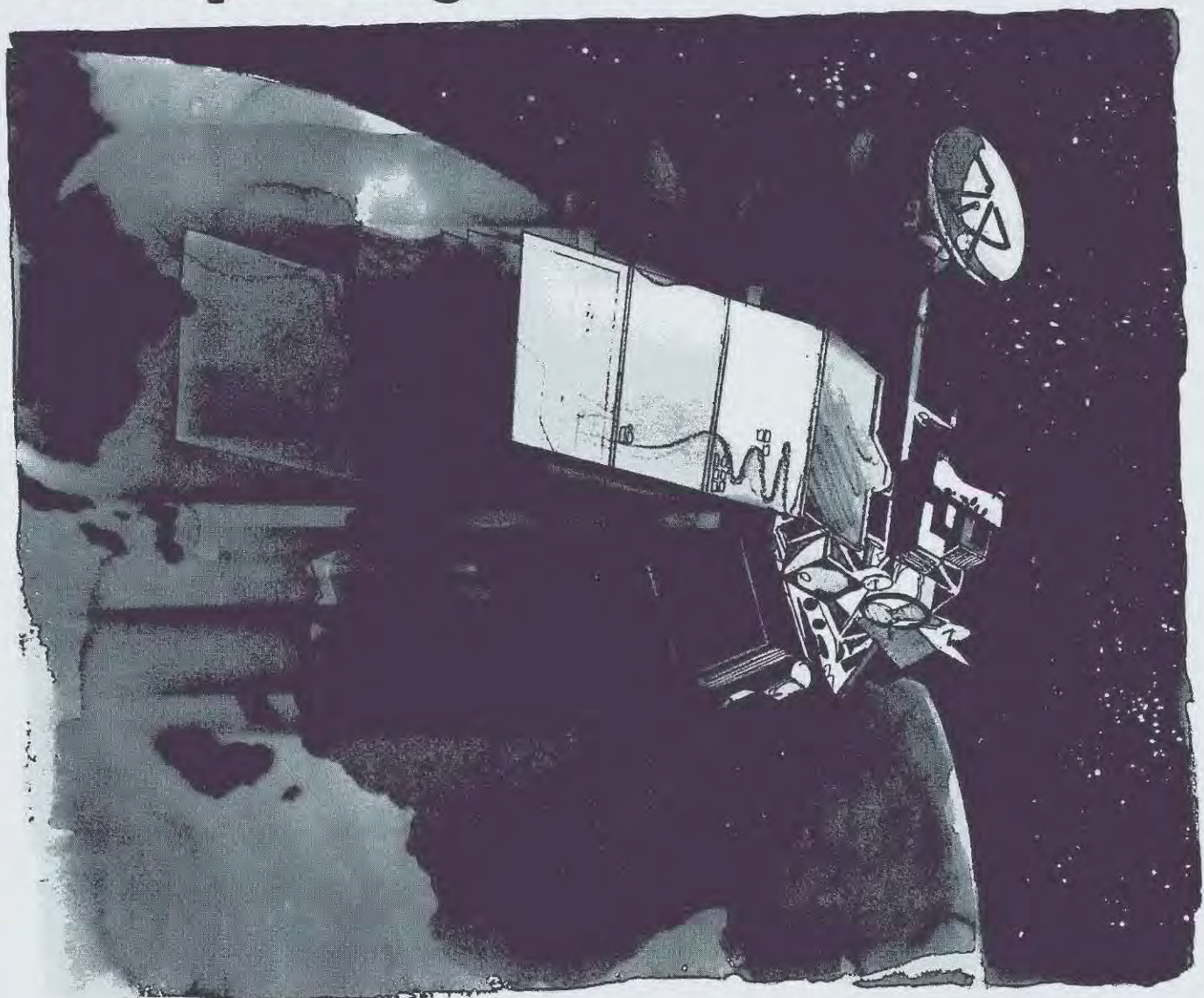
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Who's in control of Fred S. James?

To the editor: I read with interest the article entitled "Who's in control?" (*Agent/Broker Topics*, March 7). Many of the points are most valid but I do think it is incredible that nowhere in the articles was there any mention of the recent purchase of Fred S. James & Co. Inc. by an insurance company (Transamerica Corp.). This, to me, would be the ultimate in "Who's in control."

I wonder how the clients of Fred S. James will look at the independent status of their broker.

William S. Conover
President
Conover & Associates Inc.
Pittsburgh

Atlantic agents to share investment profits

By DAVE GALANTI

NEW YORK—Investment income has found its way into another profit-sharing agreement, but it is unclear whether agents for Atlantic Cos. will get a bigger slice of the profit pie as a result.

In a new profit-sharing and incentive program announced recently by the insurance group, agents will trade a bonus for low loss ratios and the risk of higher insurer expense charges for the inclusion of investment income on reserves into the profit-sharing formula.

The result, according to Senior Vp Dave LaPlaca, will be a more equitable slicing of the profit pie, but not necessarily a larger one. The winners will most likely be

Atlantic's larger agencies; the losers will be those producers with small books of business or very low loss ratios.

"We think that our new agreement is a fair way of allocating profits, although it may not result in a lot of increased dollars to agencies," Mr. LaPlaca said. "We wanted to bring together a more equitable way of slicing the pie, based on some requests that our producers have made through our National Agents' Advisory Council."

The new program includes three elements of compensation:

- A new profit-sharing plan in which profitability of a producer's book is calculated on premiums plus investment income on reserves.

- A bonus incentive that can pay for meeting targets in commercial, ocean marine and personal lines.

- Commissions, which remain unchanged.

The change will not affect agreements with brokers in New York City. Mr. LaPlaca said Atlantic is currently working on revisions for those contracts, which he said are different from the agreements with other independent agents.

Investment income on reserves already is used by Atlantic Cos. (Atlantic Mutual Insurance Co. and its affiliates) to determine policyholders' dividends and employee profit sharing. The inclusion of this income in producers' profit-sharing formulas was a natural step, said Atlantic President John J. Mack-

cwski.

Features of the plan include the following:

- The payout is determined by applying the producer's rate of profitability to a table scaled by the size of the book produced, then applying the resulting percentage to the producer's income, which is premiums plus reserve earnings.

- Reserve earnings are made up of investment income on loss reserves, loss adjustment reserves and unearned premiums.

- Reserve earnings available for sharing are capped by the lower of policyholders' dividends or half the company's net operating income, as shown in the annual report.

- Not included are premiums (and losses) on business written in pools and syndicates, involuntary

business or retrospectively rated non-marine business.

- Deficit carryforwards have been changed from two years to one.

- A stop-loss factor limits charges for losses to the larger of \$100,000 per occurrence or 10% of the producer's premium written for Atlantic.

- Company expenses will be charged at actual levels. Previously, these were capped at 20%. The company's actual expense was 21.4% in 1982, 20.4% in 1981 and 19.5% in 1980.

- Losses charged will be adjusted for recoveries, salvage, subrogations or reserve changes.

- Incurred-but-not-reported losses will not be charged.

- In most instances, agencies must produce \$100,000 in premiums to qualify.

- There is no loss-ratio bonus.

Mr. LaPlaca said members of Atlantic's agency advisory council were aware that agents with small books of business or very low loss ratios possibly would not fare as well under the new system as they had previously, but agreed the trade-offs were acceptable to fit reserves investment income into the profit-sharing equation.

One trade-off was the decision to charge actual company expenses against profits rather than cap them at the 20% limit, he said.

"In the past two years, (actual expenses) have been higher than 20%, but again we're only going with what our agents want—they like actual expenses. In the future, we expect that efficiencies caused by computerization, higher volumes and better relations with agents will bring the actual expense figure far below what it is today."

The new agency incentive plan, separate from the profit-sharing agreement, is geared toward rewarding growth in targeted market segments. These segments will be determined in discussions with individual producers, but will include commercial, personal and marine lines.

According to Mr. LaPlaca, the aim of the new program is to increase business from Atlantic's current force of more than 1,000 agencies nationwide. The firm will use the new profit-sharing and incentive package to entice new agents, but this will play a secondary role, he added.

"We try to be selective in the agencies we use. We do expect to add agencies as a result of the new agreement, but we remain selective in whom we choose. We do not have a large force compared to some companies, and we want to retain quality."

Reaction from independent agency associations was cautious. Robert S. Seltzer, chairman of the Independent Insurance Agents of America's Agency contracts committee, said the IIAA was still evaluating the new agreement.

Edward H. Akin, president of the Professional Insurance Agents, said the jury would be out on the contracts for at least a year.

"We really applaud Atlantic for looking at investment income," he said. "For many agents, current market conditions have resulted in their profit-sharing income going down the drain."

"However, many agents have gotten the feeling that insurance companies have only so many dollars that they want to give out to agents in this area, and what they add in one area they take away in another part of the equation. The Atlantic agreement may not be as good as before for the smaller agent, for example."

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Hawaii tries to cap soaring comp rates

Continued from page 3

Rep. Tungpalan said. She said in Hawaii there are chiropractics that charge three times as much as a general physician.

"Maybe we'll have to develop a fee schedule for them," she continued.

The Hawaii Insurers Council, a 19-member trade association, believes Rep. Tungpalan's proposed study does not address the issues and is narrow in scope, according to Margaret McC. Hogan, executive director.

The council has spent the past two months bringing in experts from the U.S. mainland to explain workers compensation principles to the legislators, Ms. Hogan explained.

"We have an extremely high fre-

quency (of work comp awards) in Hawaii."

Hawaii's temporary total is twice as high as the national average and permanent total is more than 10 times the national average, according to Ms. Hogan.

"We think that any study should include a comprehensive look at a wage-loss program.

Under a wage-loss system, injured workers do not receive permanent partial disability benefits except for extreme impairment. Instead they are given benefits only for proven lost wages after an accident.

The council also wants the legislature to look at the presumption of compensability section of the current statute.

Employers are now required to give "substantial evidence" if they do not think a work comp claim is legitimate. The council wants the legislature to remove the word "substantial" and insert the legal term "preponderance of evidence," an easier standard of proof and one that would give employers a fighting chance, according to Ms. Hogan.

"In lost-time benefits cases, out of every 1,000 workers, 60 receive benefits, compared with 25 countrywide," Ms. Hogan said.

The Hawaii Insurers Council and others would also like to see a lengthening of the waiting period before an injured worker can file for a claim.

The two-day period is the shortest in the country, Ms. Hogan ex-

plained.

The National Council on Compensation Insurance said that if the state added only one day to the waiting period, there could be a 5% decrease in premiums, Ms. Hogan said.

Rep. Russell Blair, a Honolulu Democrat, also says he believes Rep. Tungpalan's resolution is too specific and has introduced another resolution to study "pretty much everything.

"I want to have a study to address the concerns of the business community...to see if you can (change) factors without injuring the injured workers," Rep. Blair said.

Bills calling for open workers compensation rating and a state

fund already have died in committee, which could indicate the Legislature's reluctance to change the system without first having more information.

"That's (a study) the only way we're going to find out what we should do. Every segment here is making allegations," said Orlando Watanabe, administrator of workers compensation for the Department of Labor and Industrial Relations.

"People are looking at this problem, if you call it a problem, only from their perspective," Mr. Watanabe said.

"The problem here is that we only hear of the bad cases. I see these things everyday and, of course, the bad cases get played up," he explained.

ODECO sues to recover losses

Continued from page 1

the annual report's financial statements, confirms for the first time earlier reports that ODECO carried \$200 million worth of liability insurance at the time of the disaster, although it does not identify the insurers on the risk.

The report says that the insurers have "neither admitted nor denied" coverage for punitive damages arising from the accident. ODECO adds that it is confident it took no action that would result in award of punitive damages.

ODECO says the lost rig had a carrying—or book—value of approximately \$34 million at the time of the loss, but adds that the rig was insured for \$86.5 million. The company says it has placed the excess \$52.5 million paid by underwriters in a contingent reserve to pay liability claims.

Thus, ODECO's \$200 million in liability insurance and the contingent reserve of \$52.5 million fall short of the estimated \$284 million in pending compensatory damage claims.

The first \$1 million of ODECO's property coverage was with ODECO's Bermuda-based captive, Mentor Insurance Co. Ltd. The largest portion of the excess coverage, \$60 million, was insured by Bermuda-based OIL Insurance Ltd., a mutual insurer owned by 37 petroleum companies.

One of OIL's shareholders is Murphy Oil Corp., an El Dorado, Ark., company that owns 58% of ODECO.

The remaining \$25.5 million in property coverage was underwritten by various London and U.S. insurers.

According to the ODECO annual report, 75 lawsuits have been filed against the company by the families or estates of 71 deceased rig workers. It says 46 of the 84 workers killed were ODECO employees, while the rest worked for other companies, presumably including Mobil Oil Ltd. of Canada, which had chartered the rig for exploratory drilling.

Under admiralty law and the

ODECO alleges in the suit filed in New Orleans that last year's Ocean Ranger disaster, which killed 84 workers, 'was not caused by any fault or neglect on (the plaintiff's) part.'

Jones act, the survivors of ODECO employees killed on the Ocean Ranger are not barred by workers compensation statutes from suing the New Orleans-based company.

Although the annual report says the Ocean Ranger had a carrying value of \$34 million and that the company was paid \$86.5 million by property insurers, the lawsuit filed in New Orleans says the rig, its equipment, tackle and apparel had an estimated value "in excess of \$125 million." In addition, the suit says that the loss of the rig has cost the company an undetermined amount of operating revenue.

ODECO alleges in the suit that the Ocean Ranger disaster "was not caused by any fault or neglect on (the plaintiff's) part, but was caused by the combined and singular acts of fault, negligence and breaches of warranty, express and implied, on the part of the defendants..."

The suit requests from the defendants the replacement value of the rig—\$125 million.

Also, the suit adds, "As a direct consequence of the fault of the defendants, the plaintiffs may be liable for the removal of the wreck from its submerged position on the Continental Shelf of Canada, for which liability the defendants owe indemnity or contribution to the plaintiffs."

The 398-foot-wide, 262-foot-long rig lies upside down 190 miles off Newfoundland in approximately 265 feet of water. Divers who surveyed the wreck after the accident found the hull basically intact, but reported a porthole window in the ballast control compartment had been shattered.

The National Transportation Safety Board concluded Feb. 9 that

the breaking of the porthole probably caused heavy seas to short-circuit an electrical panel, which opened ballast valves. The floating rig then capsized and sank, the investigators concluded.

But, the NTSB pointed out, the ballast problem could have been controlled if the rig's crew had been properly trained in operating a manual backup system (BI, Feb. 14).

In another development, oral arguments are scheduled this week before U.S. District Judge Robert F. Collins in New Orleans on whether claims filed by the victims' survivors should be heard in U.S. or Canadian courts.

ODECO and other defendants want the cases heard in Canadian courts, where awards are generally lower than in the United States, while plaintiffs' lawyers are asking Judge Collins to handle their claims.

Book lists Illinois comp rates

A new publication that summarizes pricing activities in the Illinois workers compensation market is now available.

"The Illinois Filing Information Service," to be published every two months by the National Council on Compensation Insurance, will summarize insurers' rates and scheduled rating plans filed with the state Insurance Department, said Jim Nau, manager of products and services for the NCCI.

"With the advent of the competitive rating law in Illinois, we're

trying to let people know what's going on in the marketplace. It will be similar to Best's (A.M. Best Company Inc.'s) service. We're trying it in Illinois first," he said.

Competitive ratings laws have been adopted in eight states and this service may be expanded to some of those, he said, "but every state is somewhat different."

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Social Security reform to hike benefit costs

Continued from page 3

overhaul their current retirement and disability plans so they mesh with Social Security.

Non-profit employers will have to conduct a major communications effort to explain to their employees how their benefit plans will change, said Robert Kalman, an associate in the Washington office of William M. Mercer Inc.

The Social Security legislation also will increase the cost of 401(k) salary reduction plans.

Effective Jan. 1, 1984, wages deferred under 401(k) plans will be subjected to FICA taxes. Currently, because the money is paid directly into these cash-deferred plans by the employer rather than deposited by the employee, it counts as an employer contribution, not as part of an employee's taxable income.

If an employee makes less than \$35,700 (the wage base for computing FICA taxes this year), then any reduction taken in salary would have reduced both the employee's and the employer's FICA taxes.

For example, an employee who earned \$24,000 a year and had 6% of salary deferred into a 401(k) salary reduction plan, could have slashed both the employee's and employer's FICA taxes to \$1,512 from \$1,608, a savings of \$96 each.

By making wages deferred under 401(k) plans subject to the FICA tax, those Social Security payroll tax savings will be erased.

But experts don't think this will cause 401(k) plans to lose their luster. Employees still will be able to

shield contributions to 401(k) plans from federal income taxes until the contributions are withdrawn. Funds usually are withdrawn when an employee has retired and is in a lower income tax bracket.

"While the plans may not be quite as attractive as before, the enthusiasm of companies to adopt the plans will not diminish," predicts Michael Treacy, a consultant and attorney with The Wyatt Co. in Washington.

One proposed legislative change that could have dampened the growth of another increasingly popular benefit plan was defeated at the 11th hour—thanks to a vigorous lobbying effort by employers and consultants.

The House version of the Social Security legislation had originally called for imposing FICA payroll taxes on cafeteria benefit plans that gives employees a choice of tax-free benefits and cash (BI, March 14).

For example, under the House bill, if a cafeteria plan offered an employee a choice of family health insurance coverage or \$500, the employee's taxable wage base would have been increased by \$500—even if the employee selected the health insurance benefit.

By contrast, under current tax law, employees enrolled in cafeteria

'While (salary reduction) plans may not be quite as attractive as before, the enthusiasm of companies to adopt the plans will not diminish,' predicts Michael Treacy, a consultant and attorney with The Wyatt Co.

plans only pay taxes if they select a taxable benefit.

To avoid the FICA tax, companies with cafeteria plans probably would have eliminated the cash option and only offered tax-free options, like vision care and dental coverage.

That would have reduced the appeal of the plans. The ability to choose cash in lieu of benefits is very attractive to younger workers who may need the cash to make a down payment on a house and meet monthly mortgage payments.

However, subjecting cafeteria plans to FICA taxes was killed in a House-Senate conference committee in the face of a powerful employer lobbying effort led by groups such as the Washington-based Employers Council on Flexible Compensation.

"Congress was surprised at the extent of support for these plans," said Mr. Treacy.

Employers made Congress realize that cafeteria plans are one of the best ways to meet the benefit needs of an increasingly diverse workforce and that subjecting them to FICA taxes would not be good public policy, a consultant said.

While employers and consultants are relieved that the tax-free status of cafeteria plans was preserved, they say their victory proves that benefit developments in Washington have to be carefully watched.

"It is a signal to employers to monitor the Washington scene more closely," said Mr. Treacy.

Vigilance will be needed in the months ahead to stave off new tax assaults on employee benefits. In fact, the Social Security legislation may have laid the groundwork for the expansion of the FICA wage base to include benefits.

The legislation says that an item can be considered wages and thus counted as part of the Social Secu-

urity wage base even though it may not be treated as wages for income tax purposes.

Currently, tax law says that only compensation that is subject to income tax withholding can be included in the FICA tax base.

"Whether benefits should be taxed will be visited and revisited in 1983 and 1984," said Michael Romig, director of employee benefits at the U.S. Chamber of Commerce.

And some experts believe the bailout legislation is only buying time before new Social Security problems develop.

For example, the Medicare trust fund, which is also financed by the Social Security payroll tax, may run out of cash in a few years because of soaring health care costs and continued increase in the number of Medicare beneficiaries, said Haeworth Robertson, a former chief actuary for the Social Security Administration and now managing director with William M. Mercer Inc. in Washington.

A provision in the Social Security legislation that fixes in advance, based on a patient's diagnosis, the amount of money Medicare will pay a hospital only will delay and not prevent the Medicare trust fund from running out of cash, Mr. Robertson said.

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Illinois court rejects dual-capacity suit

Continued from page 2

site where Mr. Sharp worked. Messrs. Gallagher and Henry moved to dismiss the initial lawsuit on the basis that, since they were Mr. Sharp's employers, they could not be sued under common law or under the 1907 Structural Work Act.

The Structural Work Act, also called the Scaffolding Act, is believed to be the only law of its kind in the nation. It says that whoever is in charge of the worksite—contractor, subcontractor, foreman—is totally liable for employee injuries.

When the workers compensation law was enacted, the structural work rule should have been repealed but organized labor argued effectively against that, said Mr. Day of the state Chamber of Commerce.

The Supreme Court opinion in Sharp vs. Gallagher said that since the facts in the case show that the employer and the landowner are a single legal entity, the dual-capacity doctrine can not be applied.

That doctrine, which has been narrowly applied in Illinois, permits employee suits when the employer and employee step out of those roles and into another rela-

tionship. This circumvents the exclusive remedy provision of the workers compensation system, designed to pay benefits to injured workers without determining fault.

A state appellate court had found that the employer did operate in a dual capacity as employer and landowner. It allowed Mr. Sharp to sue Messrs. Gallagher and Henry as landowners, not employers.

But the Supreme Court opinion, delivered by Justice Thomas J. Moran, said: "In response to a question at oral argument, plaintiff admitted there is only one legal entity—the Gallagher and Henry partnership doing business as Orchard Hill and Farmingdale."

The court opinion also cited text from a widely used workmen's compensation treatise written by Arthur Larson, a professor at Duke University in Durham, N.C., and a practicing attorney.

"(It) has been stated by Professor Larson: 'It is held with virtual unanimity that an employer cannot be sued as the owner or occupier of land, whether the cause of action is based on common-law obligations of landowners or on statutes such as safe place statutes or structural work acts.'

"Apart from the basic argument that mere ownership of land does not endow a person with a second legal persona or entity, there is an obvious practical reason requiring this result. An employer, as part of his business, will almost always own or occupy premises, and maintain them as an integral part of conducting his business. If every action and function connected with maintaining the premises could ground a tort suit, the concept of exclusiveness of remedy would be reduced to a shambles."

Mr. Larson at one time advocated the dual-capacity doctrine but changed his position last year when he revised part of the 10-volume treatise that originally was written in two volumes in 1952. The treatise is the standard text on workers compensation used by practicing lawyers, he said.

"The dual-capacity doctrine was simply run into the ground by people," Mr. Larson said. He admitted there might be appropriate cases to use the doctrine, "but several states, notably California and Ohio, went off the deep end. My original treatment (of dual capacity) was badly misunderstood by some courts."

California courts started applying the dual-capacity doctrine in the 1950s, but the state Legislature revised the law in August to restrict such suits (BI, Aug. 16, 1982).

"There's only one state left that has this extreme dual-capacity de-

cision—Ohio," Mr. Larson said.

Although the Illinois court decision rules out landowners as the object of future dual-capacity suits, it did not address other third-party lawsuit possibilities, to the disappointment of many employers.

Several cases are pending in Illinois in which an employee is suing an employer in the dual capacity as the manufacturer of some product that injured the worker, said William A. Price, director of the governmental affairs division of the Chicago Assn. of Commerce & Industry.

The association, along with the Illinois Construction Industry Committee, the Assn. of Commerce & Industry of McLean County, the Mid-America Legal Foundation, Republic Steel Corp. and U.S. Steel Corp., filed statements with the court citing the additional costs that many Illinois employers would experience if the appellate decision were left to stand.

Attorney Mr. Davidson had hoped the Supreme Court would kill the dual-capacity doctrine altogether. "We were hoping that the court would have elaborated about dual capacity," he said, referring to the brief four-page opinion.

Because the opinion deals with an issue of state law, it cannot be appealed to the U.S. Supreme Court. Mr. Sharp's attorney, William Harte, said he does not now intend to ask for a rehearing, which is his only recourse.

Fox appointed Wisconsin regulator

MAIDSON, Wis.—The Wisconsin Insurance Department is expected to become a leader in the drive to contain health care benefit costs, according to its newly appointed commissioner.

Thomas P. Fox, 36, began a four-year term last month. The former attorney was appointed by the new governor, Anthony Earl. Mr. Fox succeeds interim commissioner Ann Haney.

"One of the major issues in this state and for this office will be getting involved in the general area of cost containment," Mr. Fox said. "It seems to me that it's been a continual upward spiraling... it will have to stop; society can't continue to af-

ford this rapid rise."

A special group of Insurance Department staff members will work on cost-containment issues in conjunction with other state agencies, Mr. Fox said.

Before his appointment as commissioner, Mr. Fox was assistant general counsel for American Family Insurance Co., a mutual insurance company located in Madison. In addition, Mr. Fox has served as the governor's legal and pardon counsel and as district attorney in Bayfield County.

Mr. Fox also served as chairman of the Wisconsin Department of Natural Resources Board and was a University of Wisconsin regent.

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Several Lloyd's syndicates close

Continued from page 2

capital they contributed to the syndicate, Spicer & White confirmed.

The underwriting agency tried to cap the losses nine months ago when it discovered that the syndicate's former underwriter, Bryan Spencer, had overwritten the premium limit of 5 million pounds, a spokesman for the company said.

Spicer & White dismissed the underwriter, closed the syndicate and informed Lloyd's, he said, adding that a new underwriter is running off the business.

Other syndicates—including aviation Syndicate 244 and marine Syndicate 275—have also closed because of mounting losses, said Oliver Carruthers, managing director of the Assn. of Members of Lloyd's.

But at least 12 syndicates have been dissolved in light of the allegations that underwriters for Alexander Howden Underwriting Ltd. and P.C.W. Underwriting Agencies Ltd., a subsidiary of Minet Holdings P.L.C., had financial interest in the syndicates' reinsurers.

For example, the business of 10 syndicates is being run off by new P.C.W. underwriters. In addition, two syndicates formerly managed by Ian R. Posgate, Syndicate 126 and 127, Lloyd's largest marine syndicate, are being run off (BI, Nov. 15, 1982).

Alumni group

Continued from page 2

cussions of risk management concerns with no strings attached.

"The alumni association serves a real need," said Ms. Lichota. "Risk managers are constantly looking for technical programs to help improve their credentials. This group comprises the technical expertise that is available. This is a formal mechanism for making it available. It's a chance for us to share our skills that may not be used day to day."

"Risk management is still developing. Those of us in the activity for many years helped in that development. Now we are in a position to help it develop further."

An organizing committee of 11, including Ms. Lichota and Ms. Peske, are planning the April meeting. Committee members are:

- Richard Bureson, now with Corroon & Black Research & Development in Nashville, Tenn., and former risk manager for Greyhound Corp.

- Richard Cantrell, now with Alexander & Alexander Inc. in New York and former risk manager for Exxon Corp.

- Miles Chenault, now with Midland Insurance Co. in New York and former risk manager at Luby Leasing Co.

- Thomas Hallett, now with Frank B. Hall & Co. Inc. in Briarcliff Manor, N.Y., and former risk manager for General Motors Corp.

- Ronald Kaiser, now with BRI Coverage Corp. in New York, formerly with Lavino Shipping Co.

- Edward Lalley, now with Ideal Mutual Insurance Co. in New York and formerly with Kraft Inc.

- Hunter Long, now with Frank B. Hall in Briarcliff Manor, formerly with Exxon Corp.

- John Oison, now with Fred S. James & Co. Inc. in New York and formerly with Ingersoll-Rand Co.

- James Tobin, now with Johnson & Higgins in New York and formerly with Sun Chemical Corp.

"What we want to find out at the April meeting is whether there's an interest for this kind of group, and if so, what the needs are," Ms. Peske said.

Interested persons are invited to attend the meeting. For information, contact Charyl Peske, 324 E. Wisconsin, Eighth Floor, Milwaukee, Wis. 53201; 414-271-4292.

A Lloyd's spokesman explains that syndicates are commonly closed and new syndicates are formed by underwriting agencies when underwriters are dismissed.

In addition to the syndicates folded because of high losses or dismissed underwriters, several so-called "baby" syndicates have also been closed, said Mr. Carruthers.

"A whole lot of them have probably gone," he said.

Critics of baby syndicates maintain they are used by underwriters to direct the most profitable business handled by their agencies to a select group of Lloyd's members.

Many of the baby syndicates are now being absorbed by larger syndicates managed by the same agencies, "which is a good thing," Mr. Carruthers says, although he could not identify how many of the syndicates have been closed or which

underwriters have taken this course of action.

A Lloyd's spokesman adds that the syndicate closings does not mean the market's capacity is contracting. In fact, he says, capacity at Lloyd's is still growing.

Twenty-three new Lloyd's syndicates are opening this year, including 14 to replace the 12 syndicates that Howden and P.C.W. closed, he says. In addition, another 1,700 people have become Lloyd's members in the last year, further boosting its premium capacity.

"This kind of purging happens every year," Mr. Carruthers says. "You can reckon that 1% of all Lloyd's syndicates will have disastrous years, but you hope as a member that it is not yours."

"It would be nice, though, if there was an early warning system to see the disaster coming."

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Insurers may be final asbestos victims

Continued from page 1
other toxic substances.

"Insurance companies are not capable of handling these (claims) on a direct basis," says William E. Bailey, CU's senior vp and claims counsel.

And even those who don't believe the insurance industry as a whole will fail agree that some individual insurers, especially less-capitalized excess insurers and reinsurers, may fall. A major problem, almost all agree, is that no one has a good handle on what the in-

dustry's ultimate liability will be.

"The variables are just unbelievable," says Kent Wilson, a defense attorney with the Chicago law firm of Peterson Ross Schloerb & Seidel.

Before any real determination can be made, the industry must know the number of future claims, how much they will cost and how the risk will spread out among primary and excess insurers and reinsurers.

In addition, much will depend on insurers' financial strength, their reserving practices and, in some

cases, if they are liable for punitive damages sought by policyholders contesting coverage.

The actions taken by Congress and the bankruptcy courts handling reorganization petitions filed by several asbestos companies also must be considered.

At least two major studies have tried to assess the potential impact of asbestos claims on the insurance industry. Although they reached far different conclusions, both said the impact will be enormous.

One by Paul W. MacAvoy, a professor at the Yale University School of Organization and Management, says the estimated indemnity cost will be \$38.2 billion, compared with a net worth of \$11.5 billion for the major insurance companies involved.

"The large payments that will result from asbestos product liability suits are likely to go beyond the financial capacity of the insurance industry to meet them as well as their other obligations," Professor MacAvoy concludes.

"Unless public policy action is adopted, some future claimants will remain uncompensated while cer-

tain asbestos and insurance firms will go bankrupt."

A study by insurance industry analysts Conning & Co. published late last year estimates the potential impact at a much smaller \$4 billion to \$10 billion. Conning does not foresee the entire industry going under, but says some insurers could possibly fold.

"Generally, the impact on the insurance industry is not expected to be catastrophic because of the long period over which the claims will be experienced," it says.

"However, the impact upon individual companies could well be severe since there appears to be significant concentrations of coverage in a limited number of insurance companies and their reinsurers."

These studies only estimate the indemnity costs to insurers. Add to this the billions of dollars in legal and administrative costs and the question of insurance company ability to survive comes into sharper focus.

Which insurers are in the most danger? Most underwriters won't reveal how much coverage they've underwritten for asbestos defen-

dants, although all say publicly that they are adequately reserved.

Industry sources do say, however, that any analysis of an insurer's potential liability would depend on:

- Whether it provided primary, excess or reinsurance coverage.
- The amount it has ceded to reinsurers.

- And, perhaps most importantly, under what coverage theory it will have to pay claims.

Courts have so far delineated three major theories determining how coverage would apply.

Most courts that have decided the issue have adopted the exposure theory, under which all insurers on an asbestos risk at the time the victim is exposed to or inhales asbestos are liable. Insurers providing coverage in the 1940s, '50s and '60s would bear the substantial burden under this theory.

Other courts, under the manifestation theory, have ruled that those insurers on the risk at the time asbestos-related disease is discovered—or is capable of being discovered—in the victim are liable. This in-

Continued on facing page

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Business Insurance

Circulation Breakdown*

Commercial Consumers	
Administrative Management: owners, presidents, vps, etc.	6,497
Financial Management: chief financial officers, vps of finance, secretaries, treasurers, etc.	9,634
Insurance Management: vps, directors, managers of insurance, risk, benefits, compensation, safety, security, etc.	5,948
Government, Associations, Unions, Educational Institutions	1,004
Commercial Consumers Sub-total	23,083
Insurance Agents & Brokers	9,629
Insurance Cos.	4,944
Financial Institutions	314
Actuaries, Attorneys, Adjusters, Appraisers & Consultants	2,408
Others allied to the field	854
TOTAL	41,232

*Source: Business/Occupational breakdown of qualified circulation, May 3, 1982 issue, as submitted to BPA for June 1982, BPA Publisher's Statement.

Continued from facing page
 terpretation would shift the burden to insurers providing coverage in the last 15 years.

The third theory, the so-called triple-trigger approach, was first espoused in the Keene Corp. vs. INA decision in 1981 and provides the broadest coverage. It says that all insurers from the time of exposure through manifestation of the disease—including the intermittent latency period—are liable.

Currently, the insurance industry is split over what theory it supports, with some insurers supporting the exposure theory and others manifestation. Almost all oppose the Keene theory.

CU's Mr. Bailey has argued that the exposure and triple-trigger theories not only threaten the insurance industry financially, but are contrary to the way in which insurance has traditionally been written, violate basic principles of contract law and threaten the tort system and the ability of buyers to obtain product liability insurance.

Besides not being able to agree on a coverage interpretation, the industry cannot answer a much more straightforward question: How much coverage has been written? The answer to that question lies in the murky world of differing interpretations of contracts and uncertainty over whether insurers wrote policies for particular insureds.

In many cases, insurers have to go back 40 years to determine their exposures. And in some cases, policies have been lost or destroyed.

It is fairly easy, however, to identify the primary insurers that will share much of the burden.

The Conning study lists the following primary insurers as having the greatest exposure: Aetna Life & Casualty Co., Chubb Corp., Commercial Union, General Accident Fire & Life Assurance Corp. P.L.C., Hartford Insurance Group, Insurance Co. of North America, Liberty Mutual Insurance Co., Reliance Insurance Co., The Travelers Corp. and Zurich Insurance Co.

Of these, CU says it has a total exposure net of reinsurance of "substantially less" than \$135 million. However, Manville Corp., one of CU's policyholders, contends that it has \$200 million of insurance with CU alone.

Liberty Mutual has estimated its liability in the "low tens of millions," much less than \$50 million.

Some of these insurers have already paid a substantial sum. The Travelers Corp. said in court papers recently that it paid more than \$32 million in defense, indemnification and administrative costs as primary insurer for Johns-Manville Corp. (now known as Manville Corp.) between 1947 and 1976.

The Travelers reportedly has paid out another \$10 million in claims as the primary insurer for Pittsburgh-Corning Corp.

INA, which is the primary insurer for GAF Corp., has paid more than \$27 million since September 1979 including more than \$10 mil-

lion in indemnity and \$17 million in defense costs, according to one attorney.

While insurers normally don't say how much exposure they have, many admit they wrote CGL policies for asbestos defendants for many years.

For example, Aetna Casualty & Surety Co., a unit of Aetna L&C, has written primary coverage for more than 70 years for such major asbestos defendants as Keene Corp., Celotex Corp., Armstrong Cork Co., American Optical Corp., Amatek Corp., Owens-Illinois Corp. and Owens-Corning Fiberglas Corp.

INA has provided more than 44 years of coverage for such major asbestos defendants as 48 Insulations Inc., Keene, Nicolet Industries Inc. and GAF.

The number of years on the risk, however, is at best only an incomplete indication of how much exposure a company has. It does not automatically mean that a company's exposure is significant.

Even though some have insured asbestos firms for many years, many experts believe the large primary insurers won't bear the major asbestos burden because:

- These insurers generally wrote policies with relatively low general or product liability limits.

- Any claims that they do pay will be paid over a 20- to 30-year period and much of these payments can be offset through investment gains.

- A significant portion of the risk has been ceded to reinsurers.

Most limits on primary policies written for asbestos companies were for relatively small amounts and probably well within the abilities of a major insurer to handle, even if the coverage was provided over many years.

From the 1940s through the 1970s, limits on primary policies were often \$500,000 or \$1 million per occurrence and aggregate for each policy year.

For example, Liberty Mutual insured Armstrong Cork, now called Armstrong World Industries Inc., for approximately six years in the 1970s for \$1 million per occurrence with a \$1 million aggregate each year.

Similarly, between 1964 and 1970, Bituminous Casualty Co. wrote \$500,000 annual per-occurrence and aggregate policies for Unarco Industries Inc.

But some of these insurers could be seriously hurt by liberal court interpretations of policies that did not contain aggregate limits for either liability or defense costs.

"A few insurance companies years ago wrote policies without an aggregate," said Nicholas Dutchak, manager of the casualty department of broker Alexander & Alexander Inc. "If so, they could be on the hook forever."

"Some policies were without aggregate limits and some were without (aggregates) on defense costs," adds Dan Williams, an attorney for GAF and Nicolet.

Among the policies that allegedly did not contain limits were those written for Johns-Manville between 1934 and 1948 by Employers Liability Assurance Corp. Ltd., which subsequently merged with Commercial Union.

Manville contends the ELAC policies contained limits of \$150,000 per person and \$250,000 per occurrence without an aggregate.

Thus, under this coverage, an unlimited number of claimants could recover up to the per-person or per-occurrence amounts if this interpretation is upheld, says Curtis Caton, an attorney for Manville with the San Francisco firm of Heller Ehrman White & McAuliffe.

In addition, Manville also asserts that Lloyd's of London underwriters wrote policies without aggregates during the 1950s.

Some primary insurers are also faced with the threat of paying unlimited defense costs.

A federal court in Philadelphia recently ruled that primary policies written before 1966 by The Travelers for Pittsburgh-Corning Corp. should continue to pay defense costs even though their limits were exhausted.

"Almost all pre-1966 policies had no aggregate on defense costs," being silent on the issue, says defense attorney Mr. Williams. "We have many, many like that."

This interpretation could put primary insurers on the hook for defense costs beyond the limits of their policies, a particularly devastating blow since in many cases defense costs are higher than indemnification costs.

However, many say the impact of asbestos claims may not be that great on primary insurers because the claims they will be forced to pay will be spread over a long period of time and are substantially reinsured.

A large insurer would be able to afford even billions of dollars of liability if it were spread over a 30- or 40-year period, many experts say, since it would be earning interest on the reserves for all those years.

Also, the fact that the final liability for asbestos claims could be spread to reinsurers worldwide will also reduce the burden primary insurers must bear.

"If it's spread worldwide, it (projected liability) is not really an awful lot of money," contends Leslie Cheek, vp of federal affairs for Crum & Forster.

For example, Continental, which says it has about \$40 million in asbestos exposure, says it retained only about \$20 million.

But insurers in some cases are in much the same boat as their insureds: They're not sure how much their reinsurers will pay.

For example, General Accident last year sued reinsurers and underwriting managers, alleging they had wrongfully failed to pay more than \$7 million in claims (*BI*, Nov. 1, 1982).

Experts say that reinsurers could dispute coverage much like insurers have, questioning what event—exposure or manifestation—triggers a reinsurance claim. They could also question treaty wording and whether an insurer must pay a retention for each individual asbestos claim paid.

Also, industry observers question whether some small, undercapitalized reinsurers would fold when it's their turn to pay for the asbestos problem (see story, below).

While the ultimate impact of asbestos litigation on primary insurance companies is still very uncertain, some experts contend that the stakes could be even higher for excess insurers.

"I think it will be more of a problem for excess rather than the primary companies," says John P. Macscotte, Continental's president and chief operating officer.

The Conning study cites the following excess insurers as having significant potential liability: Aetna Life and Casualty, American International Group Inc., CNA Financial Corp., Commercial Union, The Home Insurance Co. and INA.

Like the primary companies, excess insurers' liability will depend on a number of factors, including which layer of a particular risk they are on, how much reinsurance they have and which coverage theory ultimately prevails.

Since in many cases, excess insurers wrote significantly higher limits than primary insurers, some feel they have the most at stake.

Northbrook Excess & Surplus Insurance Co., for example, wrote about \$60 million in annual excess insurance for just three major asbestos defendants—Raybestos, Celotex and Manville, according to an attorney involved in the litigation.

In addition, according to court papers, Northbrook also provided an unknown amount of excess coverage for a host of other asbestos defendants including Pittsburgh-Corning, Flintkote Corp., Burlington Industries Inc., Certain-Teed Products Corp., Combustion Engineering Inc., General Dynamics Corp., Unarco and Nicolet.

Another problem excess insurers face is that they often don't have as clear an idea of how many claims they face as primary underwriters do, an attorney says.

In many cases, excess insurers have not had the chance to investigate the claims or are not equipped to do so, he said.

However, some observers believe excess insurers won't bear the major portion of the burden.

For example, even if the excess carriers on the top layers of a policy wrote huge limits, some say claims will never reach that high.

And, because excess policies did not become popular until the 1960s and 1970s, they could escape liability if the courts adopt the exposure theory that places liability on earlier policies.

Moreover, excess companies usually don't have to worry about enormous legal and defense costs,

as primary insurers do.

Under most excess policies, the company does not have to provide a defense for the insured but has to pay the "ultimate net loss," attorneys say. This has been construed so that both defense and indemnity costs are included in the excess policy limits.

"Most excess contracts do not have the duty to defend," adds Mr. Wilson of the Chicago firm of Peterson Ross.

The difficulty in determining whether excess companies will bear the brunt of the liability can be illustrated by an example.

An attorney for a major excess insurer cites the case of an asbestos defendant whose primary insurer believes in the exposure theory, but whose excess underwriter supports the manifestation theory.

The primary insurer pays claims for the periods in which the injured were exposed to the asbestos. This broadens the primary insurer's liability and it soon hits its policy limits.

But because the excess insurer contends that coverage extends only to the periods when the disease manifests itself, it disputes the primary carrier's contention that it has exhausted its policy limits.

According to several insurers, a combination of factors would have to accrue for excess insurers to be threatened including a significant amount of low-layer coverage and promulgation of a coverage theory that makes them liable.

An attorney for one excess insurer says a company could be in serious trouble if it was newly organized, heavily involved in asbestos risks and the manifestation theory prevails.

"It's a matter of timing," the attorney said, explaining that small companies on the wrong risk for the wrong years might be in trouble.

A spokesman for a major excess asbestos insurer agreed that the potential for substantial risk is there, but it is too early to tell what the risk will be.

"Obviously, we have a problem; we're very concerned," says Dennis Busti, president of American Home Insurance Co., an AIG subsidiary. "We are reserving for it. We have reserved as best we can."

But while AIG has a very substantial exposure, it is heavily reinsured, he adds.

Mr. Busti also says that it is difficult to generalize that excess insurers will be hurt the most because excess policies differ and the extent of their liability is not yet known.

Moreover, some excess layers are so high they may never be tapped, he says. But if total limits are combined, excess insurers have greater potential exposure than primary carriers, he acknowledges.

And for some insurers, including INA, Aetna and Commercial Union, who pays—primary or excess insurers—is elementary: They provided both kinds of coverage to asbestos defendants.

Asbestos could hit reinsurers hardest

By STEPHEN TARNOFF
 and STACY SHAPIRO

While no one knows the exact impact asbestos claims will have on the insurance industry, the effect on reinsurers is even harder to pin down.

Yet, for a variety of reasons, many observers believe that asbestos could be even a bigger problem for reinsurers than it is for primary and excess insurers.

They especially fear that new and somewhat financially suspect players in the world reinsurance market may collapse under the weight of asbestos claims, which could also jeopardize the stability of the ceding companies.

Just as the liability of primary and excess insurers may well depend on the particular coverage theory that is ultimately applied by the courts (see story, page 1), so will the

liability of reinsurers.

"We face the same problems as the insurance companies," a spokesman for one reinsurer says. "We're just one step further removed."

At a reinsurance conference last year, Peter Armour, vp of the reinsurance department at consultant Towers, Perrin, Forster & Crosby in Philadelphia, said reinsurers will wait and see how claims are paid on the primary level before they know where they stand.

"It is premature for the reinsurance market to take any stand," he said.

Reinsurance underwriters in London also say they must wait, just like American insurers, for courts to choose between the exposure theory, which would place the coverage burden on insurers providing coverage when workers were exposed to asbestos, or the manifestation theory, which says coverage is triggered when the disease is diagnosed.

"It is giving the London market some headaches in deciding how claims should be paid," said Peter Wilson, chairman of H.S. Weavers (Underwriting) Ltd.

Mr. Wilson says his company is willing to pay claims according to either of the theories, but he and other leading Lloyd's underwriters say they support manifestation.

"We feel as a company that the only basis for settlement is manifestation," said Mr. Wilson. "Our interpretation of the policy makes us feel this is the only way to handle claims."

Also, just like the direct insurers, it's not known which reinsurers face the greatest asbestos liability since most will not reveal how much asbestos risk they have assumed.

Most observers say the large American reinsurers and Lloyd's underwriters have the greatest share of the asbestos reinsurance market.

"Far and away, they had the lion's share of the market," one reinsurer said, adding that these companies were the reinsurers doing business decades ago when the use of asbestos was widespread.

Many of the established direct insurers retained much of the risk, but what they ceded went to the large reinsurers, adds Richard E. Foss, president of National Underwriting Agency in Chicago. The big companies dealt with the big

Continued on next page

Reinsurers' role

Continued from previous page
reinsurers, he sums up.

Much of the reinsurance is believed to be with Lloyd's underwriters. In closing out the books for the 1979 policy year last summer, various Lloyd's syndicates set aside \$20 million for asbestos risks for that policy year alone (BI, Aug. 30, 1982).

"Auditors of various syndicates (asked) for specific information on asbestosis and underwriters did put aside a larger amount in 1979 than in previous years," said D.P. Taylor, underwriter for A.G. Wrightson Syndicate. "Ever since asbestosis started, we have discussed it with our auditors. But with the growing problems and increasing numbers, you put more aside for it."

But most observers say they are not concerned with the ability of major reinsurers, like Lloyd's underwriters, to handle the asbestos claims. Rather, they are concerned about the stability of the smaller reinsurers that have cropped up in recent years or the stability of retrocessionaires in faraway markets.

Some believe these reinsurers and retrocessionaires are not nearly as well-reserved as the large reinsurers and question whether or not they could pay substantial claims.

Reinsurers more concerned about maintaining high premium volume than accepting quality business may not have assessed their potential liabilities well enough, one reinsurer said.

"(An asbestos claim) could wipe out five years of premium with one loss," another added.

The failure of these reinsurers could have a domino effect on the rest of the insurance industry, according to one scenario. If a number of these reinsurers should fail, unreserved primary and excess insurers would be faced with the same asbestos claims that had thought they had ceded, forcing them, too, into bankruptcy.

Talks could lead to coverage pact

Continued from page 1

Kreindler & Kreindler said recently that "very significant advances have been made since November."

"We've made tremendous progress in the last several months," he said. "There is a greater desire on everybody's part to have something worked out."

"There have been hard, hard negotiating sessions with people giving up firmly held positions," an industry source added. "People who were fighting tooth and nail are making an honest, good-faith effort to achieve a meeting of the minds."

One industry official said that an agreement will probably have to be reached within 60 days or not at all. "The momentum can only be kept up so long," the source said.

Others, however, believe that an agreement won't be reached in 60 days.

"I'm optimistic about it, but not optimistic about 60 days," another source close to the negotiations said. "That's a little wishful thinking."

One of the goals of the negotiations is to agree upon a single interpretation of when coverage is triggered for long-latent disease claims.

Some courts have espoused the exposure theory, which says coverage is triggered when the victim is exposed to a toxic substance, like asbestos. Other courts have supported the manifestation theory, which holds that coverage is triggered at the time symptoms of disease appear.

One court, in the so-called triple-trigger decision, said that all insurers on the risk from the time of exposure through manifestation, including the intermittent latency period, should provide coverage.

An agreement stemming from the negotiation would be strictly voluntary, the parties point out. Insurers, asbestos defendants and plaintiffs could all "opt in" to the plan or pursue resolution of their claims through continued litigation.

Estimates vary as to what level of participation would be needed from each group for an agreement to work. Once source said at least two-thirds of the large primary insurers involved in the litigation would be required for a claims-handling facility to be feasible.

If that many primary insurers agree, excess underwriters and

UNR's plan for resolving future claims rejected

CHICAGO—Asbestos companies that have filed for reorganization to seek relief from injury suits received a setback last week when a federal judge rejected a request to name a legal representative to act on behalf of future claimants.

U.S. District Court Judge William T. Hart ruled that, under current bankruptcy law, UNR Industries Inc. could not name such a representative and that the resolution of future claims should be determined by Congress.

UNR, Manville Corp. and Amatec Corp. have all filed for reorganization under Chapter 11 of the Federal Bankruptcy Act. All have asked bankruptcy courts to deal with claims that have not yet been filed.

In his decision, Judge Hart noted that including future claimants in a bankruptcy proceeding could result in other companies filing similar petitions to escape liability for toxic torts.

He also noted, however, that additional asbestos companies could go out of business if future claims are not settled soon.

A spokesman close to the asbestos litigation said the decision is important because asbestos companies, like Manville, principally file for bankruptcy so they can deal with future claims.

"It is quite a significant decision," he said. The ruling is not a legal precedent in Manville's case, he added, "but it is another case with the same issue."

Manville Senior Vp G. Earl Parker agreed the ruling has no binding effect on his company's reorganization proceeding.

"Under one interpretation the ruling would appear to be contrary to well-established precedent in bankruptcy law," Mr. Parker said. "Judge Hart's comments on the class action (future claimants) are completely irrelevant to the Manville petition."

"We are not asking the court to bind the injured persons, as Judge Hart seems to think, but only to estimate the amount of the allowable claims of the injured group. That is a procedure specifically provided for in a separate section of the bankruptcy code."

UNR is expected to appeal the decision.

reinsurers would follow, he said.

Several officials suggest that they think a plan could be attractive to 70% to 80% of the insurers, 90% of asbestos producers and 90% of the plaintiffs.

Those close to the negotiations say all three parties will have to make compromises on the positions they have taken so far in the asbestos litigation.

Under proposals now being considered, plaintiffs would give up the right to seek punitive damages from asbestos companies, which, in turn, would no longer seek punitive damages from their insurers in the coverage litigation.

Some of the sources also say that insurers would agree to "a standard grant of coverage," probably along the lines of the exposure theory, the coverage interpretation that most policyholders have sought. However, some insurers have also favored the exposure theory over manifestation.

Those close to the negotiations say it's unlikely the triple-trigger approach, which maximizes coverage for policyholders, would be adopted.

"There is significant progress in trying to get insurance companies to yield on coverage in exchange for concessions in other areas," William E. Bailey, senior vp of Commercial Union Insurance Co., said last month at a conference on asbestos coverage.

"No one of us is giving up his position. We are simply compromising for the purpose of putting up with an out-of-court resolution," Mr. Bailey said, adding that he thought an agreement could be reached in 60 days.

Also important to the plan would be the establishment of a central claims-handling facility that would more quickly settle and administer claims brought by asbestos victims and significantly reduce legal costs for all the parties.

Mr. Levy, the plaintiffs' attorney, said that the negotiators have been dealing with ways to reduce the astronomical expenses of asbestos litigation, adding that a plan could contain significant improvements in the way claims are being handled and reduce costs.

A claims facility could "build confidence" and establish credibil-

ity between the parties leading to a resolution of the coverage questions, another source said.

One proposal being considered would allow plaintiffs to submit claims to the facility but would allow them to withdraw and take their claims to court if they are not satisfied with the result.

Also, to avoid statute-of-limitations problems that have often forced plaintiffs to file claims before they are very sick, victims who are in the initial stages of asbestos diseases could file a claim with the central facility, which would then be placed on suspended status. If and when the plaintiff suffers subsequent illness or impairment, he or she can then press the claim without worrying about statutes of limitation.

In addition, a plaintiff whose condition deteriorates over time could come back to the facility for further compensation.

Despite the optimism, all the parties agree that many issues still have to be worked out. "There's still a hell of a lot of hard issues," one source said.

For example, asbestos defendants and their insurers still dispute whether some insurance policies claimed by the defendants actually existed. "It's hard to compromise on the existence of policies," the source said.

He emphasized also that the parties are now only discussing basic concepts and that implementation would take a long time once an agreement in principle is reached.

For example, home and regional claims offices would have to be established for the claims-handling facility. Funding would have to be arranged and personnel would be needed.

"The mechanics of those (details) have not been worked out," the source said.

Another thorny problem that must be addressed involves the asbestos defendants that have filed for reorganization, including Manville Corp., which faced the largest number of asbestos claims before it filed under Chapter 11 of the Federal Bankruptcy Act last August. That filing stayed all claims against Manville.

Despite Manville's reorganization activities, the parties believe it

could still be part of any settlement plan.

Manville could include the establishment of a central claims facility and an agreed-upon coverage theory in its reorganization plan and possibly become a party to any wide-ranging agreement negotiated.

Some of the insurers that have been sued in California by Manville over its coverage are involved in the current negotiations with other defendants and plaintiffs.

"There is cross-fertilization," Mr. Stahl of The Travelers said.

Manville is scheduled to file its reorganization plan this week, although sources point out the deadline has been delayed several times already and could be delayed again.

Another crucial issue for many of the insurers is the elimination of the punitive damage claims filed against them by asbestos defendants in the coverage litigation.

A number of the asbestos producers are seeking billions of dollars in punitive damages for the alleged bad faith of insurers. Manville, for example, amended its complaint against its insurers shortly after it filed for bankruptcy to include a \$5 billion punitive damage claim.

The pace of the negotiations quickened, some of the parties say, after the judge in the California coverage litigation—which includes Manville, other asbestos producers and a host of insurers—ordered a speed up in discovery proceedings.

Some feel that this could be a major factor in pushing insurers to settle quickly.

Some of the insurers may not want the asbestos companies to see some of the documents included in the discovery order, one insurance company spokesman said, explaining that some insurers may have taken contradictory coverage positions for different policyholders.

"Insurers see the production order as so horrendous that no insurer wants to do it," he added, noting that it would tie up hundreds of insurance company employees. "It tends to hasten their desire to reach an accommodation with manufacturers."

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Citicorp agrees to buy bank in South Dakota

NEW YORK—Citicorp, the giant bank holding company, is throwing down the gauntlet to the insurance industry with its purchase of a tiny South Dakota-chartered bank.

Citicorp said last week it had agreed to buy a controlling interest in the American State Bank of Rapid City, S.D., which has assets of \$15.4 million and deposits of \$13.7 million. Citicorp's assets at year-end were \$130 billion.

Under a new South Dakota statute, state-chartered banks can write all forms of insurance as long as they do not work to the detriment of agents and brokers in South Dakota (BI, March 28).

Observers interpret the statute as an attempt to give large banks a like Citicorp an opportunity to circumvent the federal Glass-Steagall Act of 1933 and sell insurance na-

tionwide through a South Dakota-chartered subsidiary.

A Citicorp spokeswoman said last week it has not yet formulated any specific plans for the bank should the acquisition receive state and federal approval. However, Citicorp had heavily lobbied South Dakota Gov. William Jankow to propose and sign the law allowing state banks to enter the insurance business.

CU's competitiveness eats into profits

By ALAN H. CLIFTON and PHILIP V. OLSEN
Special to Business Insurance

A SURVEY OF U.S. independent insurance agents conducted last summer found that the most competitive property/casualty insurer in their eyes at that time was Commercial Union Insurance Cos., the U.S. operation of Britain's Commercial Union Assurance P.L.C.

If this perception still holds true this year, those same agents could be forgiven for thinking, "We told you so," when CU's financial results were published in February.

CU's aggregate net income last year on worldwide premium of 1,808 million pounds (approximately \$2.75 billion) was just 29 million pounds (\$44 million). And in the United States, Commercial Union reported a net loss of some 80 million pounds (\$122 million).

Against an industry combined ratio on property/casualty business in 1982 of roughly 110%, CU posted 122%. On personal lines, CU's combined ratio was 114.9%, while on its commercial lines classification it was 113.5%. The real disaster, however, was its largely broker-produced "special underwriting" business, which ended with a combined ratio of 150.5% and an underwriting loss of \$124 million on premiums of \$239 million.

Commercial Union has taken stern action in recent months to halt its slide into horrifying losses, with stringent expense controls and tougher pricing policies. With market conditions remaining intensely competitive, though, it may be some time before this action is rewarded by better loss experience.

Britain's other major insurance groups—Royal Insurance P.L.C. and General Accident Fire & Life Assurance Corp. P.L.C.—reported much better results in the U.S. insurance market last year than CU. Royal posted a combined ratio of 111% for its U.S. business, while General Accident again outperformed the industry aggregate with a 108% score.

In 1983, we expect General Accident once more to produce better-than-average results, specifically because its orientation is toward personal lines. We believe that personal au-

tomobile and homeowners lines will likely be more stable classes of business than commercial lines, which will still be suffering from soft market conditions. We expect the sharpest deterioration in workers compensation insurance this year.

Outside the United States, Commercial Union's, Royal's and General Accident's results all show that the markets in Australia and Canada are beginning to turn, while underwriting continues to deteriorate in Europe and Britain.

The good news first. Both Canada and Australia showed substantial underwriting improvements last year, the result of firm remedial action during 1981. Combined ratios in Canada were reduced by about 12 percentage points to the 110% level, while in Australia the recoveries were similarly great, with losses just about halved.

Further improvements may be hard to achieve because competition remains fierce and events like the recent brush fires in southern Australia can all too often upset calculations.

But in continental Europe and the United Kingdom, underwriting conditions worsened savagely last year, exacerbated by the effects of an exceptionally hard winter. Insurance companies rarely seem able to make underwriting profits in Europe, but Britain in the past has been a very benign territory for property/casualty insurers.

Last year, however, changed all that. Premium rate competition became intense and market discipline was lost. The most fierce rate competition was seen in commercial lines; but rate hikes were even foregone in personal auto coverages despite worsening experience and claims frequency.

The upshot for CU, Royal and General Accident was aggregate losses in the United Kingdom last year of 155 million pounds (\$235 million), more than 25 times the losses reported in 1981 and indicating a theoretical combined ratio of some 110%.

The evidence of 1982's operating results suggests no early change for the better for insurers in the major underwriting markets of the world. Our analysis and observations lead us firmly to the opinion that experience will worsen further in 1983. There is still too much insurance capacity, and it shows all too few signs of diminishing.

Turning to the brokers, the recent publication of Sedgwick Group P.L.C.'s 1982 results marks the first confirmation of the expected good progress of the major Lloyd's brokerage

companies.

Sedgwick, the largest British-based insurance broker and the second-largest worldwide in profit terms after Marsh & McLennan Cos. Inc., recorded pretax profits of 73 million pounds (\$111 million), a 29% increase from 1981's 56.4 million pounds.

Such an earnings improvement—far better than anything produced by the U.S. insurance broking fraternity—would not have been possible without the weakness of the British currency during the year.

This weakness has meant that the foreign revenue earned by Sedgwick's London-based subsidiaries was worth about 7 million pounds when exchanged into sterling and this benefit, together with an extra 2 million pounds or so from the more favorable translation rates applied to the results of the group's substantial non-U.K. subsidiaries and affiliates, combined to embellish the pretax total by 9 million pounds.

Sedgwick's underlying profit growth of more than 13% was extremely good in a tough market and reflects a real revenue advance of about 16% from 168.8 million pounds to 195.4 million pounds (\$297 million). That compares with Marsh & McLennan's 8% revenue gain to \$710 million.

While Sedgwick's highly competitive domestic retail business has shown relatively modest growth and the group's South African interests have been similarly restrained, its Australian and European subsidiaries and affiliates have grown more rapidly. There has also been substantial growth in the reinsurance and wholesale businesses based on London.

Sedgwick does not release its investment income figures, but that income—based on both the group's own cash resources and on the premium float—is believed to have increased by more than 28% despite lower interest rates, and probably amounted to more than 30 million pounds (\$45 million).

In coming weeks, Willis Faber P.L.C., Minet Holdings P.L.C., Stewart Wrightson Holdings P.L.C. and other Lloyd's brokers will show how the "lesser" mortals amongst the group fared last year.

In the meantime, an assessment of the broad outlook for Lloyd's brokers' profitability in the current year suggests that real growth may be muted but the pound's weakness could promote a 10% to 15% profit improvement.

In the few months since two U.S. brokers, Fred S. James & Co. Inc. and Rollins Burdick

29 Mar Companies	Price pence	P/E	Div. pence	Yield %	1 Week	
					High	Low
Comml Union	130	39.4	16.86	13.0	134	127
Eagle Star	365	14.5	24.29	6.7	380	365
Genl Accident	382	12.2	24.29	6.4	399	382
Gdn Royal Exch	410	11.7	25.00	6.3	424	410
Phoenix	310	16.3	24.00	7.7	314	300
Royal	493	12.7	37.86	7.7	510	493
Sun Alliance	960	16.0	61.43	6.4	975	960

CE Heath	105	10.1	18.71	5.3	355	352
Hogg Robinson	105	8.1	8.57	8.2	107	104
JH Minet	127	11.5	5.43	4.3	133	127
Sedg Grp	232	13.2	10.00	4.3	232	223
Stenhouse Hldg	106	9.9	7.86	7.4	107	106
Stew Wrightson	255	9.1	18.57	7.3	257	255
Willis Faber	560	14.8	25.00	4.5	560	547

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

Hunter Co., were acquired, there has been no other major mergers in the brokerage industry, but it is difficult to believe that this relative calm will continue for much longer. Expansionist managements, keen to enter the brokerage business or become a larger player, are unlikely to risk waiting for premium rates to recover.

Financial briefs Alexander & Alexander

Alexander & Alexander Services Inc. has declared a regular quarterly dividend of 25 cents per share of common stock, payable May 31 to shareholders of record May 2.

N.Y. Insurance Exchange

The New York Insurance Exchange reported premium volume of \$156.4 million in 1982, up 115.7% from the \$72.5 million in premium volume reported in 1981. Fourth-quarter 1982 volume rose 130.6% to \$54.2 million from \$23.5 million.

The combined surplus of the exchange's 35 underwriting syndicates climbed to \$159 million at the end of 1982, up from 126.4 million on Dec. 31, 1981.

The exchange's security fund, which protects the policyholders of all exchange syndicates, grew 44% to \$18 million from \$12.5 million.

BI Industry Stock Report

Insurance Cos.	MAR. 29, 1983								3/23/83 THRU 3/29/83								Low	High	Yield %		
	Price	Chg	P/E	S.D.	Yield	High	Low	Vol	Price	Chg	P/E	S.D.	Yield	High	Low	Vol					
Aetna Life & Cas Co	NYSE	39.13	1.6	6.7	2.64	6.7	39.63	39.00	801.0	Travelers Corp	NYSE	31.25	3.3	8.5	1.80	5.8	31.75*	31.00	1,086.7		
American Bankers Ins Group	OTC	13.00	-2.8	10.2	0.50	3.8	13.13	13.00	133.3	United Fire & Cas Co	OTC	31.50	0.0	10.3	0.88	2.8	31.50	31.50	0.3		
American Gen Ins Co	NYSE	67.13	1.1	9.1	2.20	3.3	67.25	66.25	193.5	United States Fid & Gty Co	NYSE	49.38	-2.0	12.4	3.84	7.8	50.38	49.25	155.3		
American Indty Fintl Corp	OTC	22.75	0.0	22.5	1.12	4.9	22.75	22.75	1.0	OTC	20.00	-0.6	6.0	1.00	5.0	20.38	20.00	24.1			
American Intl Group Inc	OTC	85.50	-3.7	12.2	0.48	0.6	90.38*	85.50	358.2	Uslife Corp	NYSE	24.25	3.2	6.5	0.88	3.6	24.50	23.63	287.5		
American Natl Ins Co	OTC	18.88	-1.9	7.9	0.84	4.5	19.13	18.88	62.7	Washington Natl Corp	NYSE	27.50	17.0	13.3	1.08	3.9	27.50*	24.00	340.0		
American Svs Life Ins Co	OTC	27.00	1.9	7.7	0.88	3.3	27.00	27.00	2.7	Zenith Natl Ins Corp	OTC	20.00	9.6	10.0	0.80	4.0	20.00	18.25	21.9		
Aneco Reins Ltd	OTC	4.00	0.0	0.0	0.00	0.0	4.00	4.00	58.0	INSURANCE COMPANIES								AVERAGE	10.4	3.9	
Aveaco Corp	AMEX	16.00	4.1	9.3	0.58	3.6	16.00	15.25	6.4	Agents/Brokers											
Banks Iowa Inc	OTC	42.00	0.0	11.7	1.52	3.6	42.00	42.00	0.5	Alexander & Alexander Svcs	NYSE	21.88	1.7	0.0	1.00	4.6	22.13	21.50	266.0		
Bitco Corp	OTC	40.00	0.0	7.0	2.00	5.0	40.00	40.00	5.7	Baldwin & Lyons Inc	OTC	41.50	0.0	7.5	0.80	1.9	41.50	41.50	5.0		
Carolina Cas Ins Co	OTC	7.25	0.0	10.7	0.32	4.4	7.25	7.25	3.5	Corroon & Black Corp	NYSE	26.38	-1.4	12.6	1.80	6.8	26.50	26.38	14.6		
Chubb Corp	OTC	58.00	0.0	9.6	2.92	5.0	59.13	58.00	127.8	Crump E H Cos Inc	OTC	10.00	0.0	14.3	0.40	4.0	10.00	10.00	14.9		
Combined Intl Corp	NYSE	32.13	-1.2	10.9	2.00	6.2	32.63	32.13	181.2	Erett & Chandler Cos Inc	OTC	11.00	1.1	0.0	0.00	0.0	11.00	10.88	6.3		
Continental Corp	NYSE	34.25	-2.8	16.8	2.60	7.6	36.13*	34.25	601.8	AGENTS/BROKERS								AVERAGE	14.2	3.6	
Crawford & Co	OTC	19.50	-1.3	14.6	0.57	2.9	19.75	19.50	43.3	Hall Frank B & Co Inc	NYSE	30.50	2.1	14.7	1.70	5.6	31.50	30.50	200.2		
Crown Life Ins Co	OTC	97.00	2.1	6.3	3.10	3.2	97.00*	97.00	0.5	Integrated Res Inc	AMEX	44.38	2.0	12.3	0.00	0.0	46.25*	44.38	276.5		
Employers Cas Co	OTC	36.00	0.0	7.6	1.20	3.3	36.25*	36.00	2.5	Marsh & McLennan Cos Inc	NYSE	40.88	2.2	12.2	2.20	5.4	41.00	40.50	226.0		
Equifax Inc	NYSE	31.13	3.3	15.3	1.40	4.5	31.25*	30.50	32.2	Poe & Assoc Inc	OTC	6.75	1.2	63.1	0.40	5.9	6.75	6.67	1.6		
Excelsior Ins Co	OTC	11.00	0.0	0.0	0.70	6.4	11.00	10.50	2.2	Reed Stenhouse Cos Ltd	OTC	15.25	-2.4	14.5	0.60	3.9	15.75	15.25	2.6		
Farmers Group Inc	OTC	41.75	0.9	11.3	1.36	3.3	42.25*	41.63	324.6	AGENTS/BROKERS								AVERAGE	14.2	3.6	
Foremost Corp Amer	OTC	48.25	4.3	15.3	1.24	2.6	48.25*	46.75	32.8	Conglomerates/Holding Cos.											
Freight Gen Corp	OTC	22.25	-1.1	41.2	0.48	2.2	24.38*	22.25	551.9	American Express(Fireman's Fd)	NYSE	61.88	7.4	13.7	1.80	2.9	63.00*	60.38	2,058.3		
Great West Life Assurn Co	OTC	188.00	0.0	15.3	10.00	5.3	188.00	188.00	0.0	Anderson Clayton(Ranger/PanAm)	NYSE	29.75	4.4	12.3	1.32	4.4	29.75	29.00	66.9		
Hanover Ins Co	OTC	45.25	4.0	6.8	0.88	1.9	46.00*	43.50	75.2	Arco Inc	NYSE	18.50	-0.7	0.0	0.80	4.3	19.13	18.50	378.2		
Hartford Steam Boiler Insptn	OTC	48.00	-11.1	10.6	3.00	6.3	53.00	48.00	21.4	City Investing Co. (Home Ins.)	NYSE	30.88	-3.1	8.5	1.80	5.8	33.00*	30.88	785.1		
Jefferson Natl Life Ins Co	OTC	45.50	0.0	11.8	0.76	1.7	46.50*	45.50	27.7	CNA Fintl Corp (CNA)	NYSE	19.13	-0.6	7.9	0.60	0.0	19.13	19.00	10.3		
Keener Corp	OTC	41.63	-0.9	7.9	1.80	4.3	42.88	41.63	167.1	Control Data (Comal. Credit)	NYSE	48.25	0.0	11.7	0.60	1.2	49.13	48.25	575.5		
Lincoln Natl Corp Ind	NYSE	51.00	3.8	9.0	3.00	5.9	51.50	49.13	159.9	General Re Corp	NYSE	68.50	-0.9	14.7	1.28	1.9	73.00*	68.50	221.0		
Mission Ins Group Inc	NYSE	35.75	-1.4	8.9	1.00	2.8	36.75	35.38	108.3	Gulf Utcl Corp	NYSE	27.38	-2.7	8.8	1.32	4.8	27.88	26.88	382.6		
Nationwide Corp Ohio	OTC	41.50	0.0	15.3	0.70	1.7	41.50	41.50	1.8	Cigna Corp	NYSE	47.00	0.8	7.0	2.48	5.3	48.75	46.88	751.5		
Northern Natl Life Ins	OTC	35.75	2.9	35.0	1.50	4.2	35.75*	34.75	30.2	ITT (Hartford Group)	NYSE	36.50	3.9	7.7	2.76	7.6	37.63*	35.88	2,194.4		
Ohio Cas Corp	OTC	48.88	-5.1	10.0	2.52	5.2	50.75	48.88	158.4	Optinum Hldg Corp	OTC	8.88	-2.7	8.5	0.00	0.0	9.00	8.88	3.8		
Old Rep Intl Corp	OTC	32.75	9.2	8.4	0.92	2.8	32.75*	31.31	216.2	Sears Roebuck & Co. (Allstate)	NYSE	35.25	-1.4	14.3	1.52	4.3	36.25	35.13	1,913.4		
Orion Cap Corp	NYSE	22.88	14.4	12.2	0.66	2.9	22.88*	20.25	137.8	Baldwin Utcl Corp	NYSE	14.38	-13.8	2.9	0.88	5.9	19.13	14.88*	2,148.3		
Preferred Risk Life Ins Co	OTC	30.50	-0.8	8.2	1.00	3.3	31.50*	30.50	5.7	Teledyne Inc (Argonaut)	NYSE	149.25	-3.0	11.8	0.00	0.0	156.25	149.25	558.5		
Provident Life & Acc Ins Co	OTC	60.50	0.0	8.4	2.60	4.3	60.50	60.50	12.1	Transamerica Corp (Occidental & Fred S. James)	NYSE	28.00	1.8	9.8	1.50	5.4	28.50*	27.75	1,243.9		
St Paul Cos Inc	OTC	68.88	0.9	7.1	2.80	4.1	70.00*	68.75	197.0	CONGLOMERATES/HOLDING COS.								AVERAGE	10.5	2.9	
Safeco Corp	OTC	54.13	-3.8	12.9	2.40	4.4	56.25	54.13	74.2	*Record high/low since Jan. 1, 1982											
Sri Corp	OTC	46.50	1.6	9.4	1.12	2.4	47.50*	46.00	48.0	System design: Altman Information Systems											
Seibels Bruce Group Inc	OTC	25.13	-2.9	12.4	3.80	3.2	26.13	25													

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