Firms 'name' fiduciaries, try to limit liability risks

By SUSAN ALT

CHICAGO—Corporations appear to be hurriedly revising their pension and welfare plan rules to limit fiduciary liability of directors and officers, and to pare down the number of persons with fiduciary roles.

But these efforts to limit liability of certain persons in corporations under the federal pension reform law may be useless, according to pension experts.

Three panelists speaking at the American Management Assn. fiduciary liability conference here believe the courts will interpret the Employe Retirement Income Security Act of 1974 (ERISA) broadly when and if it is tested, meaning that what may appear to be iron-clad corporate designations of responsibility to "named" fiduciaries may not relieve other persons, such as boards of directors, from ultimate liability if a plan is sued for mismanagement.

"In the present social climate, it is the act (of a person) that will determine a fiduciary and the liability, not the words in the benefit plan document," James H. Pollard of Baltimore-based James H. Pollard & Associates Inc. told the audience of nearly 100 risk managers, benefit managers, bank trust officials, and interested insurance industry personnel.

ERISA specifies that a company can designate certain named fiduciaries as responsible for certain areas of plan managemnt. The potential liability of directors appears to be the area most concerning corporate managers, judging from remarks about activity in the area of document revisions, and questions directed at the speakers.

In addition to Mr. Pollard, Rian M. Jaffe, senior vp with S.M. Hyman Co. in Baltimore, and Peter J. Brennan, vp and trust counsel for Harris Trust & Savings Bank, Chicago, stated their beliefs that directors will retain their potential liability as fiduciaries despite the presence of documents stating that only certain persons are named fiduciaries.

"Many companies are working to change" their documents to limit liability for plan administrative to one administrator instead of a committee, said Mr. Yaffe.

Answering a query about the "acceptability" of one

Continued on page 29

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Steelworkers won dental insurance coverage, a steel industry precedent, as a fringe benefit in last year's contract negotiations.

U.S. Steel dental goes to three group insurers

By MARIE KRAKOWIECKI

PITTSBURGH—United States Steel Corp. split what will surely add up to a multi-million dollar premium package between the Equitable Life Assurance Society, the Metropolitan Life Insurance Co., and Blue Shield, by awarding each a segment of the one-year dental plans negotiated in labor talks last year.

Equitable won the account for 90,000 non-management workers (and their dependents) who are employed outside the state of Pennsylvania.

Metropolitan Life picked up the contracts for all U.S. Steel management personnel across the country, while Blue Shield nabbed the business for non-management workers in Pennsylvania.

ROBERT ALBRIGHT, who manages employe benefits for U.S. Steel, said cost estimates were not yet available on the three contracts. However, some idea of the scope of the expenses is apparent from a cost range from Metropolitan Life.

Philip Briggs, the Met's senior vp in charge of group insurance and pensions, said for a dental plan of the steel type (based on "reasonable and customary" fees rather than a scheduled approach) costs could range anywhere from $16 a month per employe and dependents on a composite basis to $27 a month.

Just for the 22,000 management employes for whom Metropolitan won the contract, that would bring costs between $194,000 to $352,000 a month, for a possible yearly high cost of $2.3 million. And Mr. Briggs said although he had no firm estimates on the cost for the contract yet, he suspected it would be towards the higher end of the range.

The contract sparked heavy competition between underwriters who wanted the business.

According to John H. Goddard, vp of group insurance at the Equitable, his firm won the U.S. Steel contract for the non-management workers outside Pennsylvania after about three months of competitive bidding. ■

Employers object to required HMO option for all branches

By RICHARD L. GORDON

WASHINGTON—Officials at General Motors, Westinghouse Electric, and Uniroyal have urged that the Health Maintenance Act of 1973 be amended by Congress to raise to 25 from one the minimum number of employes at a branch location who must be offered a prepaid health maintenance plan as an option to traditional health insurance.

The request was made in comments filed with the Health Education and Welfare (HEW) Department in response to regulations proposed by the department.

THE PROPOSED regulations flesh out Section 1310 of the 1973 law, which specifies under what circumstances employers must offer prepaid health plans, usually through health maintenance organizations (HMOs), to employes.

The law, as passed by Congress, requires that employers with 25 or more employes enter into an agreement with a qualified HMO if even one employe resides in the HMO's service area.

"We feel this provision that a qualified HMO must be recognized for the dual choice option if only one employe resides in the service area is the single most serious problem raised by the act and the proposed dual choice regulations offer no relief," wrote General Motors vp Robert F. Magill.

"It is strongly recommended that a technical amendment to the act be passed by the current Congress requiring that at least 25 employes must reside in an HMO's service area before an employer is obligated to make the option available," Mr. Magill said.

"Otherwise this provision would place an extremely heavy administrative burden on employers, especially employers with multiplant locations on a nationwide basis," he said.

A top official at a leading national insurance brokerage who asked not to be identified, also urgued that the minimum number of employes at one site should be raised at least to 10.

"We would not anticipate an HMO seeking out an employer with only one eligible employe in their area," he said, "but it might do so for the sales and advertising effect if the employer is a 'name' employer (AT&T, Ford Motor, Eastman Kodak, Texas Instruments, etc)."

Encyclopaedia Britannica, in Chicago, which has numerous small sales offices across the country, also told HEW that it would have problems if forced to offer HMOs as a dual option for their employes nationwide.

To require less than three employes as the minimum for the HMO option "would add considerably to our overall administrative costs," said Raymond C. Bevans, the company's assistant treasurer.

JOINING GM in recommending the 25 employe minimum were Donald J. Povejail, vp-personnel and administration for Westinghouse Electric, and R. F. Lawler, director of employe benefits for Uniroyal.

While raising the minimum employe level to 25 requires an amendment to the law itself, the companies responding to HEW's request for comment also expressed concerns about portions of the proposed regulations.

One section (802 /b/) limits to 90 days the period allowed employers and unions to evaluate and choose from among the qualified HMOs seeking inclusion in the company's dual option program.

General Motors' Mr. Magill urged that this period be expanded to at least 180 days.

"Such additional time," he said, "is desirable because 90 days may not provide adequate time for the employer and the union to investigate the relative merits of competing HMOs and also sufficient time to enter into and conclude necessary collective bargaining agreements."

Additional pleas for at least

Continued from page 2

Sears plan involves risk-sharing by 35 insurers

Fiduciary liability insurance purchases told

By MARGARET LeROUX

NEW YORK—Three major U.S. corporations have recently negotiated fiduciary liability policies: two of them, Sears Roebuck & Co. and American Airlines signed $10 million policies with Lloyd's of London through Professional Indemnity Agency Inc., and United Brands Co. signed a $5 million policy with National Union Insurance Co., a member of the American International Group through Frank B. Hall, *Business Insurance* learned.

The United Brands policy carries an annual premium of $14,000, a company spokesman said; Sears and American Airlines declined to comment on the size of premiums involved in those policies.

LLOYD'S IS covering $1 million of the limit on the Sears policy with the balance involving participation by "approximately 35 American companies," sources close to the negotiations said.

A spokesman for American Airlines said he thought that policy was similarly negotiated.

Sears is known to be seeking substantially more fiduciary liability coverage than purchased so far. The amount of coverage sought is thought to be an excess cover for an additional $30 million. Some insurance experts believe Sears will have trouble obtaining that much insurance because of past problems with disgruntled participants in benefit plans, and the fact several underwriters declined to participate even in the $10 million policy as a result of their assessments of the risks.

One of the companies participating in the Lloyd's policy is Northbrook Insurance Co., a division of Allstate Insurance, which is a subsidiary of Sears. Northbrook has an exclusive agreement with Professional Indemnity to write fiduciary coverage.

Sears has a $117 million pension plan supplementing its $3 billion profit sharing plan. American Airlines' pension fund has assets of approximately $600 million.

United Brands has $150 million to 175 million in pension fund assets, a company spokesman said.

In 1973, the Sears profit sharing plan had 227,225 participants and the supplemental pension plan had 10,514 participants. ■

Required HMOs...

Continued from page 1

180 days came from Uniroyal, Encyclopaedia Britannica, the Southern Railway System, and from Moore Products Co., of Spring Hill, Pa.

General Motors and Uniroyal also raised concerns about Section 803(b)(1) of the proposed regulations, which permit selection of benefit and co-payment levels by the employes' collective bargaining agent once a particular HMO is agreed upon.

General Motors said this should be modified to provide that this shall be done by the collective bargaining process, rather than unilaterally by the union.

GM also objected to the required use of "positive" enrollment technique for the initial open enrollment period for HMOs. Such procedure would require employes to make an affirmative written selection between their existing health benefits plans, the new one or dual choice alternatives.

GM said this method of selection should be determined by the employer and the individual employe.

"At the very most, this regulation should require the employer to make only one follow up effort after the original distribution of enrollment materials," GM's Mr. Magill said.

Other areas of concern involved HEW's tentative decision to allow employes to decline payroll deductions to pay for HMO coverage, which the companies said would cause tremendous administrative problems.

GM ALSO urged that HEW allow employers to evaluate and approve all HMO promotional enrollment materials before they are distributed to employes. The current proposed regulation only allows employers to "review" such material.

GM also said that the companies already contracting with HMOs that are not yet on HEW's qualified list (no one has yet been 'qualified,' HEW says) are left in an exposed position. Under the regulations, they would be required to add any "qualified" HMO to their dual option program, if such an HMO sought inclusion.

GM said that any employer that currently has an agreement with an HMO that is moving to meet HEW requirements should be protected "against being forced to add another fully qualified HMO within the same service area."

THE REPLIES indicated that many companies were still uncertain about what their financial obligations would be under the preposed HMO rules.

The law states that employers will not be required to contribute any more toward HMOs than they already pay for conventional health insurance.

The insurance brokerage official asked, "If the qualified HMO has a $70 family rate and the employer is paying $80 with a commercial carrier, does the employer pay $80 to the HMO or $70?"

He said there could also be problems like this—the employer health plan is Blue Cross-Blue Shield and the cost is divided 50-50. Employes at various locations opt for the HMO in the area. Two years later, the employer makes major medical available and, again, the cost is divided 50-50.

What is the employer's cost obligation for those employes in the HMO? Must he assume that 100% (most unusual) would have signed for the major medical and increase his contribution accordingly? What is his cost obligation for employes opting for an HMO in the future?

HEW officials said they didn't expect to have final answers to these problems, in the form of final regulations, until late this summer or early fall. ■

Show more pensions are paid in full by employers

NEW YORK—More employers than ever are paying the full cost of retirement benefits, a Bankers Trust Co. study of corporate pension plans revealed.

The study spots trends in pension plans of the nation's largest employers. The tenth in a series, it analyzes 271 pension plans of 190 companies, covering 8.4 million employes. That is equal to about a quarter of all employes covered by pension plans in private industry in the United States.

More than two-thirds of the pension plans under study neither required nor permitted employe contributions. Bankers Trust said before 1970, 44% of the plans took employe contributions to qualify for full retirement benefits.

OTHER BENEFIT trends spotted by the study included an increase in pension benefit rates and use of a benefit base of average compensation paid during the employes' final five years of service.

Benefit payouts were up in more than 25% of the plans. Moreover, 73% now use the final five-year base as opposed to 50% which did so in 1970, the study found.

Early retirement provisions are available from 88% of the plans compared with 76% five years ago.

The study found the most common provisions of the largest corporation pension plans to be:

- normal retirement at age 65 with benefits based on final five-year-average pay;
- early retirement options available at age 55 and 10 years' credited service;
- early retirement benefits in excess of "actuarial equivalent";
- pre-retirement death benefits that include a spouse's pension;
- vesting of 100% after 10 years' credited service;
- no employe contributions.

The 301-page study, in addition to spotting general benefit trends, also details each company retirement plan individually. Without naming the specific corporation, it identifies each one according to type ("finance company," "electrical equipment and electronics company") and lists the number of plan participants, and describes basic benefits and supplemental benefits. ■

IU Int'l Corp. files for new Colorado captive

DENVER—IU International Corp., under the auspices of its wholly-owned subsidiary IU North America, filed for registration of a captive insurance company to handle property/casualty risks, *Business Insurance* learned.

The new captive will be called The Coachman Insurance Co. Once it gets final approval from the Colorado insurance department, it will be the Philadelphia-based conglomerate's second such insurance subsidiary.

IU International's shipping subsidiary, Gotaas-Larsen, operates a captive called Salem Assurance Co. Ltd. in Bermuda.

GERALD M. BROWN, director of risk management, said IU International put up capitalization for the formation of The Coachman Insurance Co. in excess of what is required under Colorado law. The minimum requirement is $400,000 paid in capital plus $350,000 in surplus.

The computer technology required in setting up the new captive was handled by Anistics division of Alexander & Alexander. Anistics will manage the captive.

At this writing, the Colorado secretary of state has approved the new captive. However, insurance commissioner J. Richard Barnes said the company had not yet filed documents indicating what coverages the captive will underwrite.

Mr. Brown said the Colorado secretary of state has already approved the formation of The Coachman Insurance Co., and that final approval is pending from insurance commissioner Richard Barnes, subject to study of the final documents IU has been asked to file. "We've got 90% of the clearance already," the risk man said. "Right now it's just a matter of finalization."

ALTHOUGH HE underplayed the captive's potential function in providing malpractice or professional liability coverages, Mr. Brown said IU International "is not precluding" any major corporation exposure (with the exception of employe benefits) as an area of operation for the new captive once it is licensed.

The company expects licensing for the captive to go through some time this summer. ■

GUIDE TO FEATURES

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Costs 'level off' since open rating began in NY

By MARIE KRAKOWIECKI

NEW YORK—Property and liability insurance costs in New York state have leveled off and even dropped in some cases since competitive pricing ("open rating") began in 1969 on an experimental basis.

This is the conclusion of a 126-page report issued by the New York Insurance Department just before Lawrence W. Keepnews became superintendent, replacing Benjamin Schenck. It was during Mr. Schenck's term that most of the controversy and emotion surrounding the issue of open rating burst upon insurance consumers' consciousness.

THE REPORT, called "Cartels vs. Competition: A Critique of Insurance Price Regulation" measures the impact the competitive pricing system had on insurance prices compared to that of the prior approval system, which permitted concerted rate-making activities by insurance companies.

The report found insurance price increases were substantially larger under the prior-approval system, and that insurance price increases under competitive pricing have been far smaller than increases in the consumer price increase.

Based largely on these findings, the report states that competitive pricing "performs much more effectively than its regulatory alternative, the pro-cartel, prior-approval system" and should therefore be continued.

For personal and homeowner lines, these results seem evident from the report. For the corporate buyer of insurance concerned with commercial price movement, however, the picture may not be as clear.

The insurance department was self-admittedly "unable to construct a reliable index system for recording overall commercial insurance price level changes" because of complexities of commercial policies, their specialized tailoring and latitude of pricing based on judgment factors.

So in lieu of using statistics on commercial price increases, the department attempted to measure the level of competition in commercial lines by using testimony of insurance producers and buyers, plus the results of a questionnaire.

THE QUESTIONNAIRE was developed with an eight-member consumer advisory council and was sent to a sample of medium-sized commercial risks. The sample was selected on the advice of representatives of the American Society of Insurance Management, (now the Risk and Insurance Management Society) whose official stance is supportive of open rating.

But as the report states, "there were only a few responses to the questionnaire, and the quality of the responses received varied so much that the department determined the data provided by the survey was insufficient to provide any meaningful conclusions."

A part of the report which is perhaps clearer is that dealing with insurance company profits under various regulatory systems. It shows evidence suggesting that competitive pricing has resulted in higher loss ratios and lower profitability than prior approval for most of the lines of insurance examined."

Lawrence O. Monin, acting superintendent of insurance when the report was issued earlier this month, told *Business Insurance* that the report's discovery of higher loss ratios under competitive pricing did not conflict with its endorsement of the system as a means to encourage the loss prevention function of insurance.

HE EXPLAINED that a higher loss ratio represents a larger percentage of premiums being expended to payment of losses and adjustment expenses, not necessarily an erosion in a company's loss prevention program, although an erosion in profits would show up.

Mr. Monin said that if lower premiums result from competitive pricing, it would be to the insurance company's profit advantage to hold losses at a minimum and enhance its loss prevention function.

So although the report (which also examined competitive pricing in California, Illinois and Georgia) found that four competitive pricing states showed the largest gains in loss ratios, it was still able to assert later that the "loss prevention function can only be effectively performed in a competitive environment."

What may be ultimately of most interest to commercial insurance buyers is the correlation drawn between the competitive pricing system and the aggressive policing powers it confers upon the insurance department to regulate excesses of the insurance companies.

Under the older prior approval system, even though the insurance companies had to have their rates approved by the superintendent of insurance, they had relatively more freedom from regulation once the rates were established.

But under competitive pricing, the state insurance department has been able to step in with more enforcement devices. One dramatic case the report details was in the celebrated malpractice tangle sparked off when Argonaut Insurance Co. demanded an immediate 196.8% increase in malpractice premiums in New York, threatening withdrawal from the state unless it got them.

According to the report, the insurance department responded by invoking its powers under the competitive pricing law and under the state's unfair insurance trade practices act. It suspended the rate increase, ordered Argonaut to justify the increase and to show cause why competition in medical malpractice insurance was not sufficient to assure rates would not be excessive and subject to prior approval.

ARGONAUT WOUND UP making an agreement with the N.Y. Medical Society to provide coverage without a rate increase until June 30, 1975.

The report on competitive pricing cited this as an example of how the system provided time to permit new alternative, including

Continued on page 4

Inflation, ridiculous suits blamed

Rates soar for products liability

BOSTON—Product liability rates will probably leap upwards between 100% and 300% above last year's cost to insure large risks.

This was a general industry prediction from Allan L. Dow, vp in charge of business markets for Liberty Mutual Insurance Cos. Mr. Dow foresees that burgeoning rate hikes in products liability "will be particularly true for smaller cases involving risks of about $25,000."

Even with good experience, manufacturers will have to expect their product liability rates to rise because of inflation, Mr. Dow said.

He pinpointed birth control pills as particular problem products for this type of coverage. But troubles also crop up in situations from the ridiculous to the sublime, involving everything from sterile studs on mink ranches to electric nose cleaners.

In one instance involving a claim Liberty Mutual had to pay to a mink ranch, a company which manufactured animal contraceptives didn't clean the drug mixing machine thoroughly enough. A batch of mink food mixed in the same machine rendered a farmful of minks sterile. The breeder sued.

Illustration courtesy of AIU

THERE IS A constant growth in the frequency and size of claims for liability as people become more educated to the size of the coverages. "Our company alone has gone from hundreds of thousands to million of dollars here," Mr. Dow said.

The Conference Board, the New York-based business organization, has recognized the growing problem companies face in this area. It has just released a report called "Managing Product Recalls," which in part discusses the difficulty of getting recall insurance included in the overall coverage.

In a chapter by Stanley G. Hansen, an engineering manager of the Travelers Insurance Co., the report notes that recall insurance is both expensive and hard to get.

"Even when written, product recall coverage would, in most cases, be subject to a minimum deduction of $10,000 and a minimum participation by the insured of 10% of the total loss exceeding the deductible amount," the report said.

E. Patrick McGuire, project director on the Conference Board's marketing management research staff, edited the report. In an interview with *Business Insurance*, Mr. McGuire said he was not surprised by Mr. Dow's prediction that product liability premiums might triple this year.

"And the ambulance chasers of the legal profession, deprived of their bonanza when no-fault auto insurance came in, began scouting around to find a new area to rake in the dollars. When the American Trial Lawyers Assn. found products liability, they found their satisfaction. The exponential growth in claims in this area will bear me out in this," Mr. McGuire said.

MR. McGUIRE noted that in some cases, the Consumer Product Safety Commission has requested companies to have a retroactivity clause in their product recall policies, which would extend the statute of limitations up to 10 years.

Kemp Shredder, which makes devices for shredding leaves, and Relco, a company that makes electric welders, were two examples of firms Mr. McGuire said were asked to honor a retroactive clause.

"Mechanisms to recall low value products are so lacking that these kinds of manufacturers wouldn't be far away from bankruptcy if faced with one big recall order," the conference board member said.

He explained that low cost items, with no serial numbers, were extremely hard to track down, even if the items are potential death traps. He cited an instance where one manufacturer made a device that electrically cleaned noses. Unfortunately, some people who attempted to roto-rooter their nostrils with the nose cleaners received lethal shocks.

Liberty Mutual's Mr. Dow, however, does not foresee a capacity crunch in this area.

"Punitive damage claims are on the increase, and that will naturally make premium costs rise," he noted. "But I don't think it will affect capacity. The policy forms have not been broadened, and we don't seem to be covering more claims than in the past."■

Special services issue is planned for June 16

CHICAGO—*Business Insurance* magazine plans to publish a special issue on the subject of Risk Management and Insurance Services June 16, 1975.

Risk and insurance managers as well as employe benefit managers continue to study the cost-benefit advantages of performing certain risk management functions internally, versus shopping in the insurance marketplace for specialists to provide services for fees.

While the trend toward self-insurance and retention of risks progresses, so does the service business toward which the entire insurance industry is orienting itself.

THE SPECIAL issue will explore the services corporate managers are purchasing outside, why they're using outside service specialists and what they're paying for the expertise of outside suppliers. The services traditionally provided by insurance underwriters and brokers/agents, are now even more integral to risk and insurance management. Responding to this demand for more services, brokerage firms and insurance companies have established specialized divisions for client administrative services, industrial hygiene and other occupational safety services, fire protection engineering services. Specialists in these fields also have expanded their services through firms not related to underwriters or brokers.

Corporations which have turned to self-insurance as a cash management tool, are also putting a great deal more emphasis on safety and loss control.

The magazine invites readers to supply appropriate material for inclusion in the regular Info for Buyers column in this special issue. Material should relate to services utilized by risk and insurance managers and benefits managers, loss control directors, safety engineers, property protection managers, and security managers.

Readers of *Business Insurance* are also invited to supply editorial ideas for the special issue on new services being offered, changing emphasis on old services with new applications, and use of services by companies which self-in sure.

Info material and editorial suggestions for future stories should be submitted to Susan Alt, managing editor, *Business Insurance*, 740 North Rush St., Chicago Il. 60611 by May 9. ■

Pension costs up

Indian Head Inc. reported that contributions to various pension and profit-sharing plans were approximately $8.9 million in 1974, up from $5.6 million in the year before, an increase of 59%. The company said that the pension reform act is not expected to have a significant impact on the financial position or results of operations of the company. Pension plans are fully funded, with prior service costs amortized over 20 years. The actuarially computed value of vested benefits for certain plans as of Nov. 30, 1974, exceeded their pension funds and balance sheet accruals by approximately $17 million.

Labor Dept. braced for pension reporting problems

WASHINGTON—The Labor Department and pension fund officials are bracing themselves for major problems with new requirements for annual reporting of participants' accrued benefits.

The department's 15-member pension industry advisory council was reminded last month that the new pension law defines requirements for vesting, participation, and benefit accrual in terms of "hours of service" and "years of service."

For plans in existence Jan. 1, 1974, the new definitions will become applicable the first plan year in 1976.

"The problem," said the Labor Department, "is that many employers have not kept adequate records of this type in the past."

"Multiemployer plans," the department said, "have particularly severe problems in adapting to ERISA recordkeeping. In some cases member employers made required contributions (with or without a list of covered employes and the entitlement of each) but kept no records.

"Many of these employers may not even be in existence, since turnover among small employers is typically high," according to the department. "The plan administrators do have central records, but in many cases they may be inadequate for ERISA purposes.

"Some multiemployer plans have not maintained a current list of participants, and this could be a crippling defect for some of the reporting requirements of the act," the department noted.

The Social Security Administration historically has been able to supply some of this information about retiring participants, including their earnings applicable to the period covered.

The department warned, however, that "Social Security will not be able to satisfy the enormous crush of requests for information generated by the ERISA requirement of reporting to current participants as well as retiring participants.

"This suggests that it could prove to be impossible to enforce all ERISA requirements immediately, unless another solution for the lack of records can be developed. If it is impossible to enforce all requirements, then a set of priorities needs to be established."

SIMILAR PROBLEMS exist for plan administrators and benefits managers when it comes to complying with the law's new annual report requirements to the Labor Department.

The department said it recognized that many large employers have multiple programs for employe benefits, sometimes running into hundreds of discrete "plans" lumped for administration into 20 or 30 packages.

One set of plan documents might cover several employe options or categories, each of which could be called a subplan, the department said.

If a plan description was filed for each subplan, the department said administrative problems for the department and plan administrators could become severe, particularly if annual reports are required for each subplan.

HOWEVER, the department said annual reporting might still be more convenient and meaningful if it was divided into separate parts for each subplan.

Experience with reporting under the old Welfare and Pension Plans Disclosure Act has indicated that filing of annual reports should be keyed for convenience to the plan descriptions that also must be filed with the department. ■

Open rating...

Continued from page 3

possible remedial legislation.

"These events demonstrated that the insurance department would invoke the competitive pricing law's enforcement powers where appropriate, and that these powers are strong and effective," it concluded.

WHEN OPEN rating was first introduced in 1969, and during its subsequent forays with the state legislature (which decided to renew it from 1973 through 1975) the biggest criticism leveled against it from insurance buying circles concerned "price wars." (*B.I.*, May 21, 1973; May 27, 1974).

Opponents felt competitive rate setting would lead some companies, particularly the larger ones, to set rates at such low "cut throat" levels that competition would be actually hurt instead of helped, with some company insolvencies resulting.

The report effectively undercuts this argument by tossing the insolvency hot potato back in the laps of the insurers:

It stands by the department's 1973 finding that recent New York insurer insolvencies were due to mismanagement, and in some instances, to possible wrongdoing—not to the competitive pricing system.

The report shores up its position by pointing out in the latter part of 1973, the insurance department launched a series of examinations into commercial pricing practices. In examining nine companies or groups, it found one or more violations in each one. Two have been fined a total of $35,000 and the other seven have violations pending against them.

"CARTELS VS. competition" was prepared by the department (strictly under the aegis of the Schenck team, Mr. Monin was careful to point out on his last day as acting superintendent before Mr. Keepnews was to take over) for the governor and the state legislature.

Ironically, it was released just at a time the competitive pricing system seems to be fighting for its life with the state lawmakers. Despite the department's positive findings about open rating, the system may be scrapped at the end of the year.

The legislature (which Mr. Monin described as having negative feelings about competitive pricing in general) must take some definite action to extend the law by the end of 1975, or it will expire. If that happens, the old prior approval system goes back into effect in 1976. ■

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Fiduciary identification key to new problem facing benefits managers

By MARGARET LeROUX

NEW YORK—A host of new problems faces corporate employe benefits managers as a result of the pension reform law, J.D. Oglevee, house counsel-law department of Exxon Corp. told a conference on fiduciary liability here recently.

Basic to the problems is the lack of a clear understanding of just who is considered a fiduciary.

"There's some disagreement among lawyers whether it is intended for directors to be included as fiduciaries under the Employe Retirement Income Security Act (ERISA)," Mr. Oglevee said.

"The way to get your directors off the hook," he advised conference participants, "is to delegate as many responsibilities as possible to named fiduciaries so as to narrow the liability of your directors."

List your fiduciaries by title rather than name, he added.

DISCUSSING THE identification issue—"Does ERISA prohibit employers from indemnifying those who administer employe benefits plans?"—Mr Oglevee commented that an employer might well ask, "If I'm allowed to insure the plan, or to set aside means to self-insure, then what's the difference between indemnification and self-insurance?"

Mr. Oglevee advised employe benefits managers to consider "who you're paying for, when purchasing fiduciary liability coverage.

Since most premiums are based in part, on the number of participants in a plan, it is possible that some individuals are included more than once, he said.

The attorney used the example of an employe of a company, having a number of subsidiaries, who may in the course of his career acquire pension rights in more than one plan.

"The cost may amount to only a dollar per participant," he said, "but it's something to consider."

He wonders whether or not insured plans such as Blue Cross and Blue Shield can be considered to have fiduciary liability under ERISA. "I can't get an insurance man to admit he's a fiduciary," Mr. Oglevee commented.

Since the insurer can refuse a benefits claim, he could then be said to be adverse to the interests of a participant, an action prohibited fiduciaries under the law, Mr. Oglevee said.

In handling investments by pension of benefits plan funds, the attorney advised against buying foreign securities, as another ERISA provision prohibits fiduciaries from making foreign investments, or investments outside the jurisdiction of U.S. district courts.

"IF YOU HAVE foreign securities already, I can't tell you what to do," he said, adding he hoped the criteria of good faith would be applied by the Labor Department in determining whether or not foreign investments would be exempt from the law.

The attorney also urged benefits managers to check into peripheral plans—"retained income or other such 'sweetners' for early retirement, for example"—to see if they are subject to ERISA regulations.

Mr. Oglevee predicted complications in communicating benefits changes to employes as a result of the pension reform law.

Section 30001 of the law requires that all interested parties be informed, and allow comment on benefit changes.

Since there's more than one way to make a benefit change, can unions or employes challenge the employer on the basis that he should have changed it another way?" he asked.

ERISA also requires employers to file with the Internal Revenue Service (IRS) for comment on benefits changes.

"If you make a change in June and go to the IRS at a future date for comment on the change do you have to re-notify all interest parties?" the attorney questioned.

The reason for all the questions —"at this point we're not certain about anything," Mr. Oglevee commented—is "the law is poorly drafted in some places and we're not getting the guidance we need from the Labor Department." ■

Insurer will appeal ruling on pregnancy

BOSTON—Liberty Mutual Insurance Co. plans to petition the U.S. Supreme Court to overturn a recent federal appeals court ruling that pregnancy should be treated the same as any other temporary disability, said Calvin Grove of Lederer, Fox & Grove, the company's attorney.

Upholding a lower court, the ruling also stated that "since pregnancy is a disability common only to women, to treat it differently by applying a separate leave policy is sex discrimination."

Currently, two other cases on circuit court dockets raise a similar legal question, according to Beth Don, attorney for the appellate division of the Equal Employment Opportunity Commission (EEOC).

Together, the three cases represent the highest court level attained over this question. Other cases have been heard at the lower federal district court level.

If Liberty Mutual is successful in petitioning the U.S. Supreme Court for a writ of certiorari (that is, the right to be heard), it would represent a "first," Ms Don said. Also its decision would probably influence future judgments at the district and circuit court level, she explained.

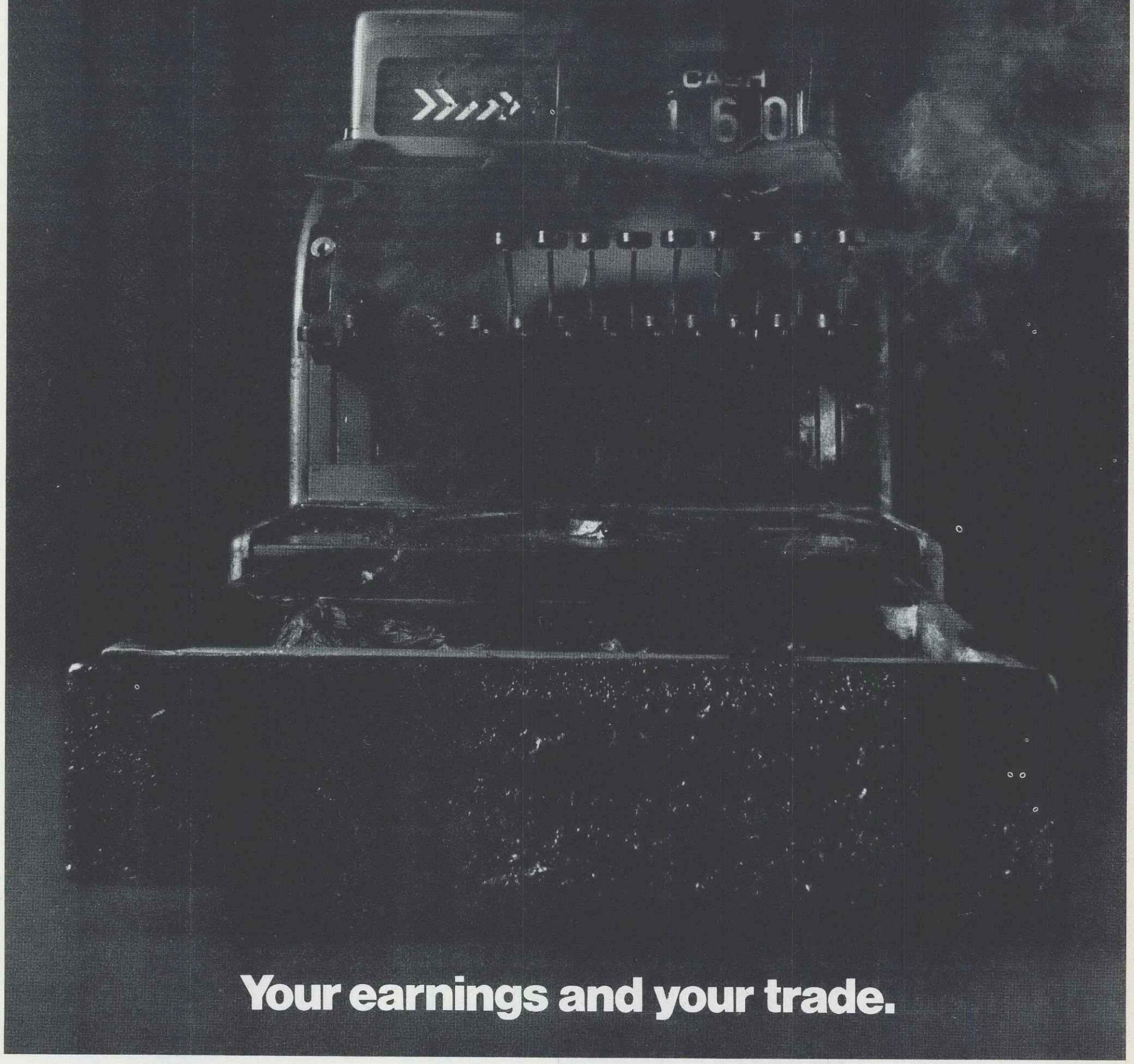
If the Boston-based carrier is denied certiorari, the third circuit court ruling stands, Ms. Don said. The cases pending at the second and fourth circuit courts are not necessarily bound by the Liberty Mutual decision, she continued. If a split in decisions occurs, the U.S. Supreme Court would be more likely to grant certiorari to resolve it, she said.

The EEOC filed three court briefs as a friend of the court, which represent the government view that pregnancy should not be treated differently from any other temporary disability. ■

Broker merger

Shand, Morahan & Co., surplus lines insurance broker and reinsurance intermediary based in Evanston, Il. has merged with Alexander & Alexander Inc. Shand Morahan, which specializes in professional liability, will retain its company name.

We protect your business where it's most vulnerable.



Your earnings and your trade.

Even the best commercial fire policy around can't pay your employees or your on-going bills when disaster pulls your earnings out from under.

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We'll reimburse you for earnings lost while your business is disrupted and for at least 30 days after you reopen. You can add up to 360 days if needed.

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And we're the only company to offer such broad coverage for any number of locations under one policy with one limit, making it an ideal remedy for claims headaches.

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Liability bond offers temporary protection

NEW YORK—"I don't know for sure what it is I've got, but what I've got is all I can get."

So quipped Justin Murphy, manager-insurance for the Nestle Co. at the end of a two-day conference on fiduciary liability insurance here recently.

His remark typified the reactions, ranging from dubious to bewildered, expressed by many of the 118 American Management Assn. conference participants.

Outlining in case study form how the Nestle Co. is changing its insurance program to meet requirements of the Employe Retirement Income Security Act (ERISA), Mr. Murphy advocated considering fiduciary liability insurance "at least until the dust settles."

Nestle, a Swiss-owned multinational company with 6,000 employes, has two pension plans with assets "in excess of $30 million" and an employe benefits program.

THOUGH THE plans themselves are not insured, the company is completing negotiations with Aetna Casualty & Surety Co. for a $10 million policy, "a combination liability-bonding approach," Mr. Murphy said.

Based on total assets, number of participants and fiduciaries, the annual premium will be approximately $2,000 to $3,000.

"We intend to cover all fiduciaries inside the company," Mr. Murphy continued, which means approximately 16 people.

When ERISA went into effect in January, the Nestle Co. took out a $1 million binder for fiduciary coverage with National Union Insurance Co., the insurance manager said, but contacted Aetna (which also underwrites Nestle's CGL policy) after learning that National Union wouldn't write the limits the company sought.

Through noting, "$10 million is not an adequate limit," Mr. Murphy observed "it seems that's about the top figure you can get from domestic markets without getting into surplus lines."

Nestle's employe benefits plan liability had been covered under the CGL policy, but Mr. Murphy said the fiduciary policy is probably a better vehicle for it.

He predicted the company will eventually have a single policy including directors' and officers' fiduciaries and employe benefit plan liabilities. Nestle does not have directors' and officers' liability coverage at this time.

Asked if he was able to eliminate any of the exclusions in the Aetna policy, Mr. Murphy replied, "We don't find the exclusions difficult to live with."

Referring to the punitive damages exclusion in the Aetna fiduciary liability policy he added, "I assume the defense would be covered under our CGL policy." ■

Safety competition

Entries for the 1975 National Safety Council's association safety awards are being accepted until May 1 for both employe safety and product safety categories. Entries should reflect group efforts for calendar year 1974 and should be more comprehensive than those designed strictly for OSHA or another regulatory agency. Write to the National Safety Council, Assn. Section, 425 N. Michigan Ave.

Defendants are covered for $5 million liability award

CHICAGO—The corporate defendants told by a jury to pay $5 million damages in a product and third party liability suit are closemouthed about details of their insurance coverage, but it appears they have adequate coverage.

Damages to the widow of a 42-year-old investment broker who died in a light plane crash in Iowa in 1973 were based on his expected future earnings and were divided as follows among: Beech Aircraft Corp., maker of the plane, 45%; Butler Aviation International, which inspected the craft, 33%; Automation Industries Inc., which made another inspection, 20% and Air Iowa, operator of the flight, 2%.

The accident was blamed on the collapse of a damaged wing.

At the time of his death, William Hodgson of William Blair & Co. reportedly earned more than $300,000 a year.

Beech Aircraft's (Wichita) O. H. Barrett, insurance manager, declined to give details of the company's primary or excess coverage and said the $5 million award was being appealed. Mr. Barrett said the firm's excess coverage was in the "multimillions of dollars" and was placed in London markets. Marsh & McLennan is the broker, he said.

Andrew Bacharach, manager of financial services for Butler (Paramus, N.J.), declined comment on the award and the coverage limits of liability, but he said that primary and excess third party liability was placed through Lloyd's. He listed Sweeney & Bell (New York) as the broker.

"We're not going to appeal (the award) because it's partly settled," said Thomas Anderson, supervisor for Peter J. McBreen & Assoc., claims adjustors representing Lloyd's here.

M. M. Gillis, insurance manager for Automation Industries (Los Angeles), declined to give any comment on the award or any information about the company's insurance coverage. ■

Closed door deliberations for PBGC

WASHINGTON—Policy deliberations of the seven member advisory council to the Pension Benefit Guaranty Corp. (PBGC) are being held behind closed doors, according to officials.

PBGC is the new government corporation, created by the pension reform law, to reinsure defined benefit pension plans. The council met March 20 and 21 to discuss the issues of basic benefits, the concept of pension plan termination, and the allocation of the assets of terminated plans which were brought to the committee by PBGC.

The basic benefits issue may be crucial, since the law says that PBGC will reinsure only "basic" pension benefits, without defining what the term means.

Further meetings of the advisory council have been scheduled for this month and early May. PBGC's advisory council is exemplified from federal requirements that advisory councils have open meetings. ■

london line

Strict new British laws pave way toward improved industrial safety

LONDON—New safety regulations will go into force April 1 for millions of British workers. In addition to reflecting present legislation, the regulations will introduce a new principle considered important to insurers.

Employes now will have to take the same care for their own safety and that of fellow plant employes, as corporate management is already required by law to perform.

Employes also must co-operate with management to ensure that the nation's occupational health and safety laws are fully observed.

John R. Parkinson, chairman of AIRMIC (Association of Insurance and Risk Managers in Industry and Commerce) told *Business Insurance* that large companies are already well aware of the paramount need for safety at all plant levels.

But the strict new rules, which can be enforced by criminal court penalties, will ensure that even small business firms will have to check their internal safety factors more intensively in future.

Every company in Britain will have to provide safety training for its employes. They must also ensure that members of the public, as well as plant operatives, are protected from any outside hazards in industrial processes.

Bill Simpson, chairman of the new Health and Safety Commission, commented: "Significant advances are being made in safety legislation, and the general public will be entitled to a new duty of care in terms of safety and health by people carrying out industrial activities."

* * *

FIRE ESCAPE routes in plants where loads of flexible polyurethane foam are stored should be much shorter than those in ordinary industrial premises.

This because fires in these plants spread quickly, and produce toxic gasses like carbon monoxide and hydrogen cyanide. Alarm systems must provide for complete evacuation of the involved premises in sixty seconds.

This warning is given in a special report on fire hazards produced by U.K. government scientists.

* * *

BRITISH AUTHORITIES believe present radiation standards for plutonium are safe even though there has been anxiety in the U.S. over its cancer risks to industrial plant workers.

The government-sponsored Medical Research Council has issued a special report through its radiation-risk committee which rejects the "hot dust" theory supported by some scientists.

The council takes the view that the current standards for plutonium are set at about the right level in relation to other radiation protection standards, although adjustments by small factors may be required.

The International Commission on Radiological Protection, whose recommendations are followed in the U.K. and most other countries, is currently reviewing the standards for all radiation risks, from plutonium and other sources.

But recent concern about "unusual radiation hazards" which might arise from occupational exposure to plutonium prompted the new British research into the problem.

The findings of the Medical Research Council are that although plutonium and its compounds occur in nature, they never caused particular concern until large quantities became produced artificially by nuclear fuel processes.

Claims that they can lead to cancer were made by scientists who suggested that health risks were greatly increased if radioactive material was inhaled in the form of "hot" particles that could get lodged in the lungs.

Dealing with these U.S. theories, the Medical Research Council says: "It is agrued that in order to take account of these special properties, the internationally agreed protection standards ought to be much more restrictive in respect of plutonium inhaled in insoluble form.

"Feeling the need for an independent appraisal of these claims, and for a critical review of knowledge on the biological effects of plutonium, the council has studied the relevant literature and material on the subject.

"Physical and biological bases of recommended derived standards have been examined in detail, and our broad conclusion is that the current standards are set at about the right level."

Two recent deaths of the Windscale (Cumbria County) plant of British Nuclear Fuels of employes who had cancer have also caused anxiety. But the plant authorities claim that this figure is a normal proportion of that found in ordinary industrial processes and there is no exceptional risk to its employes that is not already safeguarded. ■

Protest short training time for seamen

NEW YORK—The American Institute of Marine Underwriters and the American Hull Insurance syndicate, whose combined membership represents most of the domestic marine insurance market, protested a proposed U.S. Coast Guard rule which would shorten training periods for third mates.

In separate letters to the Marine Safety Council, the two groups cited that the overwhelming majority of marine losses and casualties are due to human error. They called for more training of seamen, not briefer training.

The AIMU additionally pointed out that a number of technological developments, particularly containerization, have resulted in a very high concentration of risk. In the interest of loss prevention, it opposed any change in regulations which might "reduce the quality of deck officers." ■

Driving school spends $16,000 for workers' compensation insurance

MONTEREY PARK, CA.—Like most companies in the service business, California Driving School derives most of its revenues from people and not from expensive buildings and machinery.

Thus, the firm spends its biggest insurance dollars on workers' compensation coverage for unflappable instructors setting out each day to teach nervous students the basics of negotiating frenetic Southern California highways.

George R. Hensel, owner of the California Safety Center, said workers' compensation premiums last year hit $16,000, compared to $10,000 annual premiums for the firm's next largest policy, general liability.

California safety center is a holding company of the driving schools, which operate branches in San Francisco and a driving instruction center marketed by May Co. department stores in Southern California. The holding company also sells franchises for driving schools in three other parts of the state.

MR. HENSEL insures workers' compensation with the state fund, and has followed this practice for seven or eight years. He claims the state fund "is more willing than private underwriters to go to bat for the employer."

Mr. Hensel, who personally does all the insurance buying for his ventures, believes he has a good insurance deal for public liability coverage. As a member of The Driving School Assn. of America, he purchases public liability coverage from FAMEX, the mass marketing arm of Fireman's Fund Insurance Cos. FAMEX picked up the association's property and liability business just over a year ago, Mr. Hensel said. He is presently president of the association.

He figured his company saves about $60 per car per year "from what we spent in the past with our former carrier, Allstate. Traditionally, driving schools have suffered in attempts to obtain liability coverage because underwriters are wrapped up in the idea that we are worse-than-average risks," he observed. He refuted this view, however, by noting that California Driving School has experienced only two in-hospital accidents since 1970, although fender bender type accidents are a more common occurrence.

That feeling of being penalized for being in a certain business, and the desire for better premium deals on public liability insurance, was behind the association members' willingness to listen when FAMEX agents came calling, Mr. Hensel said.

For the $1 million liability policy with a $100 per occurrence deductible, Mr. Hensel spends $8,500 a year to protect the dominant Southern California arm of his business. This division operates between 30 and 65 automobiles a year, contrasted to the Bay Area to the north where only 15 to 25 vehicles are rolling during any 12-month period.

So far, about 90 driving schools out of the association's total membership of 400 have signed up for the liability package with FAMEX.

Mr. Hensel said Charter Insurance Agency acts as his broker for the FAMEX policy.

CALIFORNIA Driving School's group life and health insurance are underwritten by Union Central Life Insurance Co. of Cincinnati, Oh. The health plan provides for coverage up to a maximum of $50,000 aggregate. Employe life coverage provides benefits up to $10,000 for most employes, although coverage increases to $20,000 up to $100,000 for key employes.

In 1974, the firm paid $20,900 in premiums to Union Central Life.

A novel feature of the company's health coverage is its cancer insurance policy underwritten by Lone Star Insurance Co., Dallas, a subsidiary of S. S. Kresge Co. The principal reason for the new coverage being added, Mr. Hensel said, is that "it is cheap."

"The cost is about $46 a year for an individual and $66 a year for a family," he elaborated. "It has a provision that if after 10 years no claims have been filed, Lone Star promises to refund the total contribution." ■

Blades appointments

J. H. Blades & Co. Inc., Houston-based holding company of insurance management firms and underwriters, named Robert P. Quinn president. Formerly, he was vp of the company. J.H. Blades, former president, is now chairman and chief executive officer. Also appointed were G.F. Burke, manager of the oil department and assistant vp and A.G. Everett, assistant vp—underwriting administration. J.H. Blades & Co. Inc. is a correspondent for underwriters at Lloyd's as well as other British and foreign insurance companies specializing in nonstandard and speciality lines, aviation, marine, international insurance and reinsurance.

States moving toward workers' comp reforms

CHICAGO—About 75% of all states are now in full or substantial compliance with half of the 19 "essential" recommendations for reform outlined in 1972 by the National Commission on State Workers' Compensation Laws, according to the American Mutual Insurance Alliance (AMIA).

The AMIA, whose member companies write about 30% of all workers' compensation insurance, started an "action program in 1970 to enhance the total effectiveness" of the state systems, a progress report stated.

THE CAMPAIGN'S goal is to offset federal intervention in state workers' compensation benefits by further upgrading state laws during 1975 legislative sessions.

Some 62% of the states are in full or substantial compliance with the recommendation that maximum weekly benefits for permament total disability by 66⅔! of the state average weekly wage (AWW). Eighteen percent are in full compliance with the provision that such benefits be 100% of the state AWW, the report stated.

For maximum weekly death benefits, 58% of the states are in full compliance with the recommendation that payments be 66⅔% of the state AWW. Eighteen percent are in full compliance with the provision that such benefits be 100% of the state AWW.

Six states are in substantial compliance with the recommendation on agricultural workers, while 12 states comply in full, the report continued.

For the household and casual workers recommendation, 28% of the states are at least in partial compliance: 11 comply substantially while two comply in full.

Since AMIA's program began, nine additional states have enacted full medical benefits, bringing the total to 46 states that provide unlimited medical coverage by law or extended indefinitely by discretion of the state industrial commission, it stated.

Another 15 states have broadened their laws to cover all occupational diseases, raising the total to 46 states.

Eighteen states made workers' compensation compulsory rather than elective and 45 states now comply with "this essential recommendation of the National Commission Report," the report continued.

Nine states have eliminated numerical exemptions, raising the total to 34.

BY JANUARY 1, four commission recommendations—full medical coverage, no numerical exemptions, full occupational disease coverage and compulsory coverage —were met by 32 states.

An additional 11 states have complied in full with three of the four recommendations. Only Arkansas and Louisiana have not complied with at least two of the four recommendations.

Since the AMIA action program began, a national coverage increase of 66% in weekly wage replacement benefits for permanent total disability has occurred, along with 54% for temporary total disability and 65% for death benefits.

During the same period, weekly payments for permanent total disability have increased 25% or more in 41 states. Alaska, California, Idaho, Montana, Ohio and Wyoming have increased such benefits 100% or more.

Temporary total disability benefits paid weekly have increased 35% or more in 32 states since 1970.

Twenty states increased death benefits to surviving spouse and children by 50% or more, while 33 states increased benefits 35%. ■

Record high auto liability settlement

MIAMI—A new Florida record for auto liability settlements was set last month when $2 million was awarded to a 17-year old youth paralyzed in a car-truck crash last July 23.

The truck was operated by Peninsular Supply Co., of Miami, a state wide plumbing supply firm.

The first $1 million of the award was picked up by Liberty Mutual Insurance Co., Boston, Peninsular's primary liability insurer.

The second $1 million was paid by the Home Insurance Co., New York, underwriter for Peninsular's $8 million excess liability insurance policy. There were no deductibles on either the primary or the excess coverage.

The award was announced after two days of testimony in the case before Dade County Judge James Kehoe during which witnesses had testified that Peninsular's truck driver, Aaron Logan, had apparently been under the influence of alcohol at the time of the crash.

MR. LOGAN'S semi-trailer truck hit a bridge abuttment south of Marathon, Fl. in the Florida Keys, and jacknifed across the highway in front of a car carrying 17-year old Mike Williams.

Mr. Williams was left paralyzed from the shoulders down, according to his attorney, Richard Nichols.

The accident occurred at 5:15 p.m., Mr. Nichols said, more than 12 hours after the truck driver began work at 4 a.m.

Mr. Williams' parents are federal government employes, Mr. Nichols said. His mother is a typist and his father an aircraft mechanic.

The previous high settlement for an auto accident in Florida was a $1.8 million award about two years ago.

Liberty Mutual said it spent around $50,000, in addition to the settlement, to fly the youth to Boston in a private jet for specialized therapeutic and rehabilitative treatment. ■

letters

Continued from page 14

surance plan! Where have you been? It has been well documented that all the agitation for a government health insurance program, for the most part, does not come from the public. It's a politician, labor leader, bureaucrat, academician-sponsored program that isn't really needed—a boondoggle to end all boondoggles, because it will bankrupt the nation.

We have health insurance for 80% to 90% of the population —adequate, affordable coverage that costs a lot less than what we will all have to pay to support the fantastic proposals that have been made. Take a look at Great Britain and the other countries that have such systems—now everyone has two pairs of eyeglasses and a medicine chest full of pills. When you need an operation, though, and you are in great pain, you may have to wait several months—or over a year—to get in the hospital.

We have a welfare program to take care of the aged, poor and disadvantaged—so let's not hear that old canard—it costs us billions of dollars a year and no one is suggesting it be abolished—even if it is rife with malingering, lazy-bum cheaters—including thousands of affluent college students using food stamps, families of "run-away pappies" who live upstairs, unwed mothers with three, four or more kids, and on, and on, the same way it will be with the national health program.

Not to mention the damage to the private insurance industry that is inherent in most of the proposals that have been made. The livelihood of thousands of agents is threatened—has anyone suggested subsidies, reparations, or compensation like the farmers, small businesses, oil wildcatters, airlines, railroads and others get because the government camel got his nose in the tent? No! Hurray for President Ford on this issue. The recession, inflation and unemployment was brought on by presidents who thought we could have guns and butter, pollution-free air, water, land, food, sound, highway vistas, cities, worlds and universes with endless spending and consumption.

K. L. Lombard
Agent, Indianapolis, In.

* * *

To the Editor: In reading through the February 10th issue of *Business Insurance*, I couldn't believe my eyes when I started reading your editorial on "A tactless move," where you criticized our President severely for postponing any action on a national health proposal. There are three reasons why I became extremely bitter at your editorial:

1. On the preceding page of your magazine you had an article where 135 million people are already insured against the expenses of catastrophic illness, or nearly three of every four Americans under age 65 are now covered. Why we should foist a national health program that could cost as high as 100 billion dollars a year for the benefit of the 25% who are not now covered is beyond my comprehension.

2. Why an insurance publication should be fostering a federal program, which could mean a loss of millions of dollars a year to an insurance company, is also beyond my comprehension.

3. With an estimated 35 billion dollar deficit, why your magazine should encourage a program which would create another 20 to 25 billion dollar deficit is beyond belief.

Perhaps we should recommend that the federal government take over the writing of all magazines —that makes as much sense.

I have always enjoyed your magazine, but with editorials such as this, it would not take much to change my opinion completely.

Woody Dagneau
Glendale, Ca.

Editor's note: The editorial did not advocate a federal program increasing the federal deficit and costing as high as $100 billion a year. This magazine does believe, however, that four out of four Americans should have catastrophic illness protection (and, consequently, access to good medical care when an illness occurs), and our editorial criticized the President for pushing all initiative to reverse this inequity to the back burner.

Do something

To the Editor: Your correspondent S. A. Chalk Jr. (*Business Insurance*, March 10) recommends private sector handling of health care and "bring about a reduction in cost and improvement in quality."

The quality, now non-existent, would take a "whale" of a lot of improvement. Presently, with premium rates skyhigh, little or no health care is delivered, just a lot of red tape about deductibles, corridors and co-payments. A case in point yesterday was that of a young lady with bronchial pneumonia incurring bills of slightly over $600. She was reimbursed less than $70, about one month's premium, by one of our best known carriers.

What do some of the insurance companies do with all the money they "rip-off"? I dislike the federal health plan as much as anyone but something has to be done!

F. T. Randullson
San Francisco, Ca.

More on malador

To the Editor: Velsicol has surveyed 21 insurance agencies to learn their experiences with odor damages to clients and whether damage prevention was recommended or required by any agency.

The survey results have been very consistent: 20 agencies or 95% of the total responding have sustained odor damages as a result of the following causes:

fire/smoke .... 16 agencies
animals ..... 6 agencies
other ..... 3 agencies
(mildew, cadavers, etc.)

Not one agency surveyed uses any malodor prevention program. To the question "Does your firm recommend odor control systems?" 10 agencies replied "Yes", and 11 replied "No".

The dollar value of malodor damage has not been determined yet, but comments by several insurance agents make it likely that over $2 MM annually are awarded for odor damages.

This is an interim report. We expect to have over 100 responses by May. Perhaps any of your readers who have experienced claims arising from malodors would be interested in writing to us to add further information to our survey.

Robert C. Hickerson
Manager, Market Development,
Velsicol Chemical Corp., 341 E.
Ohio St., Chicago, Il. 60611

Proper reference

To the Editor: I would appreciate your correcting the name of our organization, improperly referred to as "Houston Gas & Electric Co." on page 66 of your March 10 issue. We are Houston Natural Gas Corp. Also, I report to W. G. Hand, vp and controller.

W. J. Dahl
Manager-Insurance, Houston
Natural Gas Corp., Houston, Tx.

Business Interruption Insurance enters the age of reason.

Z-A's Reason Why

Z-A's Extended Earnings and Expense form eliminates the co-insurance or contribution clause, making business interruption insurance easier to understand.

This is how Z-A's Extended Earnings and Expense form* leaves the realm of prophecy and enters the age of reason:

Eliminates the co-insurance or contribution clause, with its requirements for difficult, if not impossible, predictions on what your business activity will be at some future date.

Provides blanket protection with one coverage amount for both gross earnings and extra expense for all named locations. No need to predict precisely which type of coverage you may require.

Allows an extended 31-day indemnity period for that crucial time after the property of your business has been restored but before the earnings of your business are back to normal.

Encourages creative underwriting with such options as: a growth-guard feature that automatically helps to keep the amount of coverage current; an extension beyond the 31-day indemnity period; and deductibles that assist you in tailoring coverage to fit your business needs.

How about cost? Check with a Z-A representative. We think you'll find it's reasonable.

It stands to reason that you'll want, and need, to know more about Z-A's new approach to business interruption insurance. So send for our brochure "Business Interruption Insurance enters the age of reason: Z-A's Reason Why."

*Available from Zurich Insurance Company or American Guarantee and Liability Insurance Company in most states and pending in others. Check with your Z-A representative for local availability. (Not available in Hawaii, Texas, Mississippi or North Carolina.)

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BI-02B-04

Z-A's REASON WHY

Zurich-American Insurance Companies
Communications Department/111 West Jackson Boulevard/Chicago, Illinois 60604

I would like to know more about Z-A's new approach to business interruption insurance. Please send me a copy of your brochure "Business Interruption Insurance enters the age of reason: Z-A's Reason Why."

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Captives 'do have their place' risk seminar told

SEATTLE—"Most firms are looking for alternatives to reduce their insurance costs or to fill a gap when conventional insurance isn't available. And with the present concern over rates, and the shrinkage of capacity, many such firms are considering captives," asserted Keith Reid, vp of Johnson & Higgins of Seattle.

"Captives aren't the answer to everything, but they do have their place," Mr. Reid told insurance managers at a seminar here, sponsored by the local Risk and Insurance Management Society chapter. But he cautioned against abuses and raised some areas of concern about captives today.

"In corporate financial statements, CPAs must be able to attest to the financial statement of the companies they're auditing. But if CPAs are unable to attest to the credibility of those captive reserves, this could have a direct impact on the utilization of a captive," says Mr. Reid.

The IRS also wants to curb abuses in ratings and reserve practices so the IRS will scrutinize the reason a captive is established, said Mr. Reid. He noted the IRS has challenged the utilization of captives, feeling captives are used essentially as vehicles for self-insurance, claiming a tax deduction for payments into the captive. "So don't look upon captives as a tax haven," he says.

A CAPTIVE must be established for sound business reasons, he stressed. When setting up a captive, the basic costs of a charter is $2,500; it must be capitalized for $120,000 and generally has annual expenses of $48,000, he noted. This includes basic supplies that include $500 for an annual audit, $1,000 for local tax, and directors' fees and management costs, he said. Captives generally have limited exposure by stopping the loss at $50,000 which is absorbed by the captive; "so we assume a loss won't bankrupt the captive," said Mr. Reid.

"And there is some concern, too, that when the owner of an insurance company is the insured, then there is a conflict of interest. The owners of a company are not allowed to pull the captive's strings like they would the strings of a puppet, so the captive must be a separate entity, with its own board of directors and separate management," Mr. Reid explained to seminar members.

OTHER INSURANCE alternatives include "rent-a-captive," said Mr. Reid. "A reinsurance captive, for instance, can be a noncontrolled foreign corporation with less than 10% American ownership. As such, it does not come under direct IRS scrutiny," he added.

But, he cautioned, "with all schemes, be careful. If it is only a dodge to avoid a tax situation, it could well blow up or backfire. There must be sound business principles behind an insurance captive."

Two-thirds of all captives are based in Bermuda "because there is a well-established business community there that's sound, without the regulations or taxes you have in other places," said the brokerage vp. ■

info for buyers

To recieve literature listed in Info for Buyers write directly to the name and address accompanying each item, mentioning that you saw the offering in *Business Insurance*. Readers are welcome to submit items for possible inclusion in the column. A sample of your literature should be sent to Info for Buyers, *Business Insurance*, 740 Rush St., Chicago, Il. 60611.

• **A Trustee and Fiduciary Liability Protection kit** is available from NAS Ltd. Included in the kit are a short explanation of the pension reform act, regulations regarding liability insurance and bonds, an analysis of company policies and insurance applications. The kit is available without charge by writing to Thomas Cath, NAS Ltd., 233 S. Wacker Dr., Suite 7930, Chicago, Il. 60606.

• National Union Fire Insurance Co. is offering a brochure on fiduciary liability insurance called **You Asked for It.** Designed for attorneys and accountants who act as fiduciaries, a free copy is available by writing to Product Info, Corporate Communications, American International Cos., 102 Maiden Lane, New York, N.Y. 10005.

Institutional Research Consultants has updated its legal report entitled **Uninsured Motorist Endorsement, What is it All About?** The report explores most of the latest court cases and answers many complicated questions concerning the subject. A complete bibliography is included. The price is $5. Mail requests to 5725 Fremont Pike, Box 181, Stony Ridge, Oh. 45458.

• Bank Administration Institute has compiled a desk-top reference of **Security and Emergency Procedures** for bank personnel. It provides a quick guide for procedure in case of robberies, fires, natural disasters, medical emergencies and other crises. Cost is $1 for institute members, $2 for nonmembers. Write to the institute at 303 S. Northwest Highway, Park Ridge, Il, 60068.

• The U.S. Department of House and Urban Development is offering a 10-page list of **Questions and Answers—National Flood Insurance.** Single copies are available free by writing to Ms. Jean Hardesty, Room 4186 HUD Building, Washington, D.C. 20410.

• **International Employe Benefit Planning—Ten Commandments** is available from Kwasha Lipton Inc. The report lists 10 recommendations that U.S. employe benefit managers might use in planning and administering benefit plans for local and third country nationals and expatriates overseas. For a free copy write Henry F. Magnusen, Kwasha Lipton Inc., 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• **We insure a World of Work** is a description of Commercial Union workers' compensation plans. The brochure also explains the importance of a strong workers' compensation plan for the consumer and details the ways in which Commercial Union Assurance Cos. can assist in providing plans for a variety of businesses. For a free copy write A. R. Eovine, advertising manager, Commercial Union Assurance Cos., One Beacon St., Boston, Ma. 02108.

• **The OSHA-SPEC Safety Products Buyers Guide** is now available from the Cadillac Plastic and Chemical Co. This 72-page color catalog carries over 3,000 items—including safety caps,, goggles protective clothing, fire extinguishers, etc. OSHA-SPEC safety products meet OSHA standards. For a free catalog write Byrne Blumenstein, Cadillac Plastic & Chemical Co., P.O. Box 810, Detroit, Mi., 48232.

• Allstate Insurance Co. is offering a **Product Liability Loss Control Plan** pamphlet. It summarizes activities involved in a planned product liability loss control program to meet safety and legal responsibilities while developing an effective claims defense. For a free copy write Q. C. Anderson, Commercial Loss Control Director, Allstate Insurance Co., Allstate Plaza D-1, Northbrook, Il. 60062.

• The **Crump London Coverage Notes** are published monthly by Crump London Underwriters Inc. and are available free to readers of *Business Insurance*. The Notes include brief descriptions of special coverages, including up-to-date information about changes in rates or markets for coverage. If you would like to receive these monthly mailings write Earl R. Lanning, Crump London Underwriters Inc., 2600 100 N. Main Bldg., Memphis, Tn. 38103.

• Communitronics Inc., a subsidiary of Fred. S. James & Co. Inc., is offering a brochure that describes the company's program designed to **Tell your Employes about Their Benefits.** The program, called EmployesBIS, is a benefit information system which provides employes with an individual computerized benefit statement to inform them of their total compensation. Free descriptive brochures may be obtained by writing Communitronics Inc., 2001 McKinney Ave., Dallas, Tx. 75201.

• **New 1974 Pension Reform Highlights,** offered by Commerce Clearing House Inc. for $1 (for two-copy minimum order), provides easy-to-grasp highlights of major benefits and changes in a booklet designed for widespread goodwill distribution. The 48-page publication, printed in September, can be obtained by writing to: James Golden, 4025 W. Peterson Ave., Chicago, Il. 60646.

• A brochure from Cardkey Systems analyzes five different levels of security in terms of the types of access controls best suited for each level. Access controls covered range from the simplest mechanical type to sophisticated electronic multiple access control systems. For a free copy of the brochure contact Cardkey Systems, 20339 Nordhoff St., Chatsworth, Ca. 91311.

• **Practical Risk Management,** written by the principals of Warren McVeigh, Griffin & Huntington, is a loose-leaf monthly guide for the active risk manager. Each issue treats one topic in depth. Practical and innovative ideas are offered and its purpose is to serve as a basic permanent reference. Annual subscription is $75 or $20 quarterly. Contact Practical Risk Management, P.O. Box 3998, I, San Francisco, Ca. 94119.

New health policy will stress preventive care

DES MOINES—A group health plan which has no deductible on doctor's visits and out-patient treatment, but doesn't pay room and board charges for the first day of hospitalization, was developed by Bankers Life Co.

"Hospital care is expensive and we're encouraging prevention and low cost treatment," said Robert E. Larson, vp at Bankers Life.

PAT (prevention and treatment) 500 was first introduced last summer and was designed with the Health Maintenance Organization (HMO) concept in mind, Mr. Larson explained, "except that each person can seek medical care from his own doctor." The minimum number of lives underwritten is 15.

Except for the first day's hospital room and board charges, PAT pays 90% of health care costs with 10% coinsurance. Annual family maximum out-of-pocket health expenses are limited to $500. Services such as drugs, registered nurses, physiotherapists, appliances, crutches, etc. are covered after making out-of-pocket payments of $100 a year per family.

BANKERS LIFE intentionally planned the benefits to emphasize regular care and to discourage hospitalization, except where needed. Some insurance plans are structured to favor hospitalization rather than out-patient procedures, Mr. Larson said, by reimbursing a larger percentage for hospitalization.

For an employe with dependents in a "typical" Midwest location, cost would be about $60 a month, adding that the cost varies according to the age of participants, regions of the country and percentage of female participation.

Out of hospital services for mental and nervous disorders are paid on a 50/50 basis until the out-of-pocket maximum is reached and physicians' visits are limited to 50 a year, he said.

MEDICAL BENEFITS are "unlimited" under the standard PAT 500 plan. But plan costs can be reduced by:

- reducing coinsurance to 80/20 on all services;
- increasing the maximum out-of-pocket family limit to $1,000;
- reducing maternity benefits to "none," or $400 full coverage followed by a $100 deductible and 90/10 coinsurance for complications, or complications covered only;
- adding a $25 deductible for physicians' services.

Dental coverage can be included for additional cost. ■

Wilde is new Wisconsin commissioner

MADISON, WI.—Harold R. Wilde Jr., newly-appointed state insurance commissioner said he doesn't expect his policies to vary much from those of his predecessor, Stanley C. DuRose, whose term expired last month.

"My appointment does not indicate a policy change," the 29-year-old Mr. Wilde told *Business Insurance*, "nor does it indicate a strong negative judgment on what Commissioner DuRose has done. I expect to work closely with him," he added, referring to Mr. DuRose's permanent civil service status as deputy commissioner.

Mr. Wilde, who holds a doctorate in government from Harvard, has worked for Governor Lucey since 1972 on policy development and analysis, speech writing and federal-state relations. He expects state senate confirmation in early April.

Though he acknowledges no specific insurance experience, Mr. Wilde believes he has a broad background in management, regulatory agencies, statistics, law, state government and policy. He served as a management consultant for the Police Foundation, a Ford Foundation-funded organization based in Washington, D.C., while completing his doctorate. ■

Benefit tax slants

Stock appreciation rights replace options as executive incentives

By JOSEPH S. ROBINSON

STOCK APPRECIATION rights is the latest executive incentive invented to substitute for the once popular qualified stock option deal. Specifically, it gives the executive the chance to benefit from a rising stock market without risk of investing his own money. Typically, the rights are issued in conjunction with a ten-year nonqualified option in which the executive is given the choice during the period either to pick up the option or exercise the rights.

For example, suppose an executive holds an option at 20 on stock which has gone up to 35 giving him a $15 appreciation that he can take either in cash or stock. If he takes the cash, the executive obviously never outlays a dime. If he takes the stock, he can sell it at any time without obligating himself for a long-term commitment. In any event, he must pay tax at ordinary rates.

What then are the advantages of appreciation rights? The executive is able to wait as long as 10 years to exercise his right—unlike the holder of a five-year qualified option. What's more, even though he may exercise his appreciation rights and take shares that may not make a profit, he paid nothing for the privilege—unlike the executive who exercised the option.

In so far as the company is concerned, it is not required to make a cash outlay to get the deal started. Furthermore, it still receives the same tax deduction for the value of the shares it distributes. So, in that cash flow sense, the company is ahead of the game since it simply uses unissued corporate stock or issues new stock, rather than cash.

* * *

GROUP TERM LIFE insurance issued to an executive is sometimes assigned over to his spouse to isolate the proceeds from his taxable estate. However, it's one thing for an executive to transfer his group life policy to his beneficiary; it's quite another matter to succeed in obtaining estate tax exclusion.

In a recent tax clash, IRS took the position that when there is an assignment within three years of the insured's death, it is considered as having been made in contemplation of death as "matter of law." The tax court, however, is not quite that absolute about the government's arbitrary treatment of the matter. The court holds out the possibility that a living motive could be extablished. Nevertheless, its decision in a recent case, leaves little hope of success in demonstrating a life-associated purpose. Thus, it can be anticipated that IRS will crack down on any transfer of a group life policy made within three years of the insured's death and will try to include the proceeds in the insured's estate. Of course, if more than three years elapses since the assignment, then there's a different ball game. (*Compton, T. C. Memo* 1974-316.)

* * *

NEW PENSION law can aid employes who are caught up in the recession. So says, Ted Rhodes, an attorney with the Treasury's Tax Legislative Council. Mr. Rhodes explains his point this way: When employes are laid off and forced to seek new jobs, the pension portability feature could be valuable. That's because when a vested employe leaves a company and takes a lump-sum payout from a qualified pension plan, and within 60 days transfers it to another company's plan, he pays no tax on the payout. In other words, it's a rollover. The employe gets the same break when he leaves a company and becomes self-employed. In the latter case, he can use an individual retirement account.

There is a catch, however. If the employe switches jobs, the law permits the new employer to decide whether or not it wants to add the employe's personal pension money to its own pension fund. This is a new element that employes will have to negotiate with the new employer.

* * *

A WISCONSIN district court, to the consternation of practitioners, held that for purposes of determining reasonableness under the tax rules, contributions to a corporation's pension plan were excluded from the employer's deduction. The Circuit Court of Appeals reversed this decision and presumably straightened things out. However, the case was returned to the district court to determine whether the totai compensation package was in fact reasonable.

According to the Court of Appeals deferred compensation (such as pension plan contributions) is a form of compensation. The reason for allowing an employer to deduct such contributions from taxable income is that such payments are additional earnings for services rendered. The fact that the receipt of the money by the employe is postponed does not change the nature of the payments—they remain compensation. The sum of all compensation, deferred and direct, however, must meet the reasonable test of I.R.C. Sec. 162 (*Edwins, Inc. Ct. of App.* 7th Cir. 1974).

* * *

THE TAX SHELTER provided by a Treasury-approved pension plan has been well publicized. Much less known is the fact that a qualified pension plan may provide insulation by participants against creditor's lawsuits, judgments and attachments. Since so many plans will have to be revised anyhow, this might be an opportune time to insert the so-called "spendthrift clause" allowed by law which shields retirement benefits from employes' creditors. ■

Maritime group elects

The Society of Maritime Personal Injury Consultants, a New York City-based management group of personal injury maritime-oriented insurance claim and loss prevention specialists, elected officers for 1975. Joseph DeMartini, outgoing president with more than 40 years in the maritime field and presently assistant to treasurer of Prudential Lines Inc., will be replaced by James Spahn of Ogden Marine Inc. Robert Hoffman of Lamorte, Burns & Co. Inc., is vp; J. R. Brigham of Trinidad Corp. is treasurer; and George Friedheim of Prudential Lines Inc. is secretary.

Small businesses constitute big market for package policy sales

CHICAGO—Can a life insurance salesman find happiness as an agent of a company that sells property, casualty and liability insurance to small businesses?

He can if his company simplifies the task by offering the policy on a package basis, with one easy-to-figure premium for insuring the customer's building and contents, as well as liability protection.

One major insurance company, Allstate, last year started offering an extensive, well-advertised package program, along with several other companies that write these policies on a limited basis.

The Insurance Services Office (ISO) is currently at work dedeveloping rates for package policies for small businesses, and results are expected in a few months, an ISO spokesman said.

And the package policy trend promises to continue and grow.

THE ADVENT OF direct underwriters into the small business insurance markets is a "serious threat to things as they are," according to Arthur Parry, vp of Zurich-American Insurance Cos.

Allstate's simplified Businessowner's Deluxe Policy is designed so that the agent can quote a premium in fifteen minutes, the company claims. This is made possible by requiring only two pieces of information from the customer: the replacement cost value of the buildings and the actual cash value of the contents.

What this means is that the business owner can buy insurance quickly and simply. For the agent, the ease of making a sale outweighs the rather small premium generated by small business risks.

Allstate's annual average premium for these small risks is between $300 and $500, and certainly less than $1,000, an insurance industry source estimated. Figuring a typical commission of 15%, agents must be able to sell these policies quickly in order to make a profit.

THE MARKET for such policies is, in the words of an Allstate spokesman, "substantial." Zurich-American's Mr. Parry put it more concretely:

"This country has about 300,000 manufacturing concerns, 1.8 million retail stores, 1.2 million service establishments, and 300,000 plus wholesalers.

"Over 70% of manufacturing concerns and wholesalers have fewer than 20 employes.

"Well over 90% have fewer than 100 employes. On the other hand, in retail sales and service establishments, 90% have fewer than 20 employes." (Mr. Parry's remarks are from a speech delivered at the Frenso "I" Day, November 19, 1974.)

Allstate's new business went up 40% in Florida after it started offering the package program there in January, 1974, according to John Avignone, formerly with Allstate and now senior vp-services with the CNA insurance group. The company itself admits that the policies are "selling like hotcakes" and that the number of policyholders so far is "beyond our expectations."

After the marketing test in Florida, Allstate started offering the simplified insurance policies in California last June and in a majority of the states in late 1974.

Another innovator of package policies is the Insurance Company of the West (ICW), San Diego. Established in May, 1972, as an excess and surplus lines underwriter, the company has been reducing its previous business and started writing small business package policies in August, 1974, although only in California so far.

ICW STARTED writing the package policies because of the need "to establish ourselves," according to George E. Miley, CPCU and vp-underwriting. After a slow start, premium volume is now on a steady increase, he said. The company currently has a $4.5 million total premium volume, down from about $7 million at yearend 1973 when it was strictly an excess and surplus lines underwriter, Mr. Miley said.

Zurich-American Insurance Cos. have offered package policies to certain types of businesses for several years, according to Terry Shea, director of research and development. These packages are currently limited to apartment buildings, barber and beautician shops, service stations and office buildings, he said, although State Farm is planning expansion into other commercial lines.

ICW's Mr. Miley said that the small business package policies, which he says have average premiums between $500 and $600, are "easier to write than a homeowner's policy. I suggest to the agents that they carry a portable typewriter and fill out the policy right there."

Mr. Miley said that 90% of the package policies can be written in "15 seconds."

To quote a premium, an ICW agent needs to know the construction type of the building, its fire protection class, and the amount of the deductibles for all perils and contents theft. The agent then looks on a chart based on that geographical area and reads the premium.

ICW has developed package rates for small merchants, called the Merc-Pak; offices, called the Office-Pak; and apartments, called the Apartment-Pak.

It took two to three months to formulate the first package, the Merc-Pak, Mr. Miley said. The others took about one month each.

"What it really takes is the guts to say, 'We're going to do it,' " Mr. Miley said.

ALLSTATE FIGURES their package premium by considering the type of business, the geographical location, amount of fire protection and the type of building construction. The rate that is determined is based on a property value of $1,000, so the actual premium is figured by multiplying that rate by the number of $1,000 increments in the property value.

Nationwide Mutual Insurance Co., Columbus, Oh., is making an internal study of what it would take to change their data-processing systems to accept package policy writing, according to Tom Crumrine, an associate in the office of markets development. The report is due in early December, he said.

Nationwide began offering a package program to small retailers and wholesalers on Jan. 1, 1975, but their program differs from Allstate's and ICW's in that rating is done at the home office after the agent in the field obtains the necessary facts and figures, a process that takes four to five days, Mr. Crumrine said. ■

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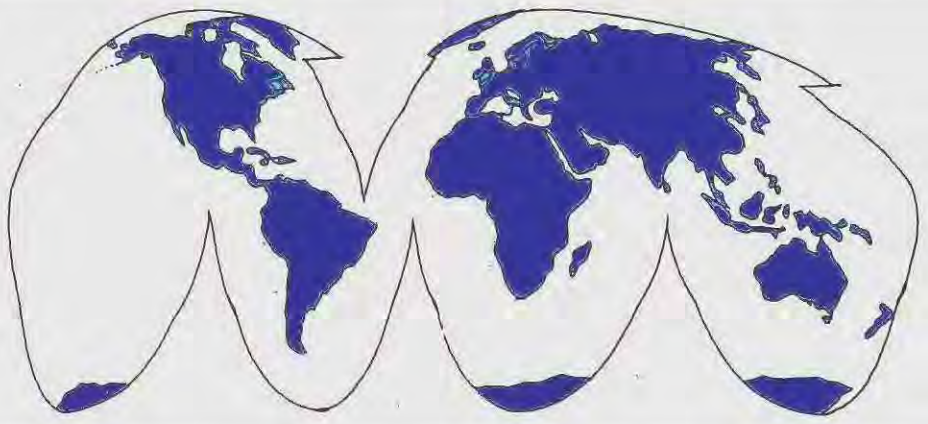
PERSPECTIVE

Domestic, foreign risk programs often are substantially the same

"The primary objective of risk management–the minimization of the costs of risk–is global in nature and owes its existence to no one country or region. But the risk management practices of some companies may be 'ethnocentric' or home-country biased."



Editor's note: This is the final article of three based on Mr. Baglini's forthcoming book entitled "Risk Management in American Multinational and International Corporations," to be published by the Risk Studies Foundation.

By DR. NORMAN A. BAGLINI, CPCU
Director of Underwriting Education
Insurance Institute of America

PERHAPS THE MOST revealing aspect of a study of international risk management practices is an analysis of the difference between domestic and foreign risk management programs within the same corporation. To determine this, the following question was posed to the 159 international risk managers: "What is the major difference between your domestic (U.S.) and foreign risk management programs?" This allowed each participant to state, in his own words, his perception of the dissimilarities between American (domestic) standards of risk management and those applying to foreign operations. Although the comments were highly individualized, the responses can be grouped into four broad categories.

No differences exist. The largest single group of respondents (24) indicated that the risk management programs of foreign affiliates are basically the same as those in the United States. This lends support to the view that the principles of risk management are not limited to one-country operations and that the risk management process is effective in all types of business activities throughout the world. An additional five respondents suggested that there is no difference in concept but that the degree of implementation is not the same abroad as in the United States. This recognizes the fact that the attitudes of local (foreign) managers toward risk management, the corporation's ownership interest in the affiliates, the availability of loss control services, local government regulations and other factors may not allow for the utilization of the domestic risk management program in foreign operations. This is not to say that enforcement of minimum standards worldwide is impossible. It simply draws out the need for a flexible program that can be modified to reflect each unique risk environment. Finally, two respondents commented that the risk management concept emphasizing risk control activities is not widely accepted outside the United States, and this response constitutes the major difference within their corporations.

Differences exist in control. Thirteen respondents indicated that the risk management program applying to domestic operations is more closely controlled by the parent corporation than the programs applying to foreign operations. Included in this group were those who mentioned that their responsibility and authority is not as broad in foreign operations as in the United States. The majority of surveyed risk managers indicated that their responsibility for foreign risk management is "shared" with another corporate department or manager or that they have "advisory" responsibility only. This situation is supported by an additional 13 respondents who stated that foreign risk management programs are handled entirely by local subsidiary personnel. Finally, nine respondents suggested that the major difference between U.S. and foreign risk management programs is that the domestic programs are much more consolidated and that unification is difficult in foreign operations due to the diversity of regulations and other factors encouraging separate local programs.

Differences in risk financing. The differences in risk financing activities mentioned most often were in retention levels (including deductibles to insurance policies) and comprehensiveness of insurance coverage. Sixteen respondents stated that deductible levels are much higher in the United States because of the availability of flexible retention programs and incentives in the form of premium savings from insurers. A much smaller number (four) suggested that insurance on foreign affiliates is less comprehensive in coverage and/or limits of liability than that applying to U.S. operations.

Differences in risk control (loss prevention) standards. A relatively small number (nine) of risk managers stated that standards of property protection and employe safety are lower in foreign operations than in the United States. There were no responses which would indicate that risk control activities in plants abroad are superior to those in domestic operations.

By and large, the risk managers agreed that the basic concepts and principles of risk management are applicable to their operations on a world-wide basis. The differences in control over the risk management programs applying domestically and abroad are affected by various internal factors, including the corporate philosophy toward autonomy of the subsidiaries and toward risk management activities in general. The major dissimilarities in risk control and risk financing activities are not surprising and reflect to some degree the business and political environment which limits the alternatives available to the risk manager in an international corporation.

Although a discussion of the differences in domestic and foreign risk management practices is helpful in determining the present situation, it is of equal importance to solicit directly the views of the risk managers with regard to expected changes. Accordingly, the survey respondents were asked "What major changes seem likely in your foreign risk management program during the next five years?" Because of the individuality of the nature of the question, the responses were varied, but the most often mentioned responses were grouped as follows.

Changes in control. The most often mentioned change which seems likely is an increase in consolidation or coordination of the foreign risk management program through the corporate risk manager. This was mentioned by 26 respondents, and an additional 24 respondents predicted more control, in general, by the U. S. parent corporation over all foreign operations. This would indicate that almost one-third of all surveyed corporations will, in the view of the risk manager, centralize, consolidate and increase control over the risk management programs of foreign affiliates. Four participants predict that internal communications with subsidiaries will be improved in the next five years.

Changes in risk financing. The use of a captive insurer is the most often predicted change in risk financing methods. Seventeen respondents stated that the formation of an offshore captive insurer seems likely in the next five years, while 14 respondents suggested that their existing captives will be utilized to a greater extent. Thus, it appears that despite the uncertainties surrounding the taxation of captives, an increased use of this form of risk retention is expected because of the remaining advantages (improving cash flow, reducing insurance expense, bypassing blocked currencies, reducing uninsured loss expense, developing a potential profit center and other advantages). An increase in risk retention abroad (including higher deductibles) is expected by 19 respondents. Coverages abroad will be broadened, five risk managers predict, by the purchase of a difference-in-conditions contract.

Changes in risk control activities. Relatively few survey participants predict a substantial improvement in prevention and control of losses (nine respondents) or the implementation of a world-wide "highly protected risk" program (three respondents). Although there appears to be a trend toward consolidation or coordination of risk management in the parent corporation, it is unfortunate that relatively few risk managers predict an increase in risk control activities abroad.

Only 16 respondents stated that the existing foreign risk management program will most likely remain unchanged. Some suggested that the cause of this static situation is the parent corporation's committment to local autonomy of subsidiaries.

It is highly significant that the changes predicted by risk managers fall into the same categories as the differences between domestic and foreign risk management programs: control of foreign operations, risk financing methods, risk control activities and no differences or changes predicted. For example, it appears that, at present, domestic risk management programs are more closely controlled or coordinated than they are abroad.

Likewise, although risk control standards are, in the view of the risk managers, generally lower abroad, at least some corporations predict that foreign loss control standards will be improved. With respect to risk financing, it appears that the trend in the United States toward higher retention levels will be exported to the foreign affiliates of U. S. international corporations. In a word, the differences between U. S. and foreign risk management programs appear to be diminishing.

Recent articles appearing in the international issue of *Business Insurance* point to the worldwide interest in risk management principles. The primary objective of risk management—the minimization of the costs of risk—is global in nature and owes its existence to no one country or region. But the risk management practices of some individuals or companies may be "ethnocentric" or home-country biased. That is, there is a tendency to think of loss exposures and their treatment in terms of the domestic country only and to project this thinking into foreign operations.

The effective international risk manager must be conscious of the tendency toward ethnocentrism and must learn to work in different environments. There must be a recognition of the diverse concepts and practices of risk and insurance management, and the international risk manager must become sensitive to the needs and resources of each foreign operating unit. This is a geocentric or "global, non-national" perspective. Organizational structures and attitudes do not change overnight, and proper recognition of the status of risk management in each country must be assessed. And, the innovative risk manager can contribute toward the superior performance of his corporation's foreign affiliates through the development and transfer of risk management skills. ■

Dr. Baglini has been with the IIA and the American Institute for Property & Liability Underwriters since mid-1973. He previously spent several years at Temple University's department of insurance and risk doing research and as a teaching assistant while working on a PhD in international economics and risk management. Mr. Baglini has a good deal of experience in the commercial insurance business, having been a commercial accounts underwriter at Marsh & McLennan for three years, and in several positions with Aetna Life & Casualty Insurance Co. over a period of about four years. Mr. Baglini has a master's degree in economics, an MBA in management and finance, and an undergraduate degree in insurance economics.

TWA, Boeing sued for $171 million by 15

WASHINGTON—Fifteen law suits seeking $171 million in damages were filed against Trans World Airlines and the Boeing Co. last month stemming from the Dec. 1 crash of a TWA Boeing 727 airliner near Washington.

The crash killed all 92 passengers and crew members aboard, making it the worst U.S. air disaster in 1974.

The 15 suits were filed in federal court for the eastern district of Virginia.

Four other suits were reported filed in other federal courts across the country: two in the northern district of California, and one each in the northern district of Illinois and the southern district in New York.

Damages sought in those suits was not immediately known.

The suits filed in Virginia seek $148 million from TWA and $23 million from Boeing. Associated Aviation Underwriters (AAU) is the primary insurer for TWA, wiht London also having a piece of the hull and liability coverages (*Business Insurance*, Dec. 9, 1974).

TWELVE OF THE Virginia suits charged that TWA was grossly negligent because the captain of the TWA plane was "totally unfamiliar with the Blue Ridge mountains and never made a previous approach or landing at (Washington's) Dulles International Airport."

The TWA plane crashed into a mountain top while making a bad weather approach to Dulles in daylight. The plane had originally been scheduled to land at Washington's National Airport, but had been diverted because of the weather.

The Virginia suits also charged that the TWA flight crew was "incompetent because they did not have the skill required to ascertain the positions of its aircraft with respect to the geography plainly designated in its field maps."

Boeing was included as a defendant in some, but not all, of the Virginia suits because "certain flight instruments failed to function properly and gave erroneous readings in flight," plaintiffs charged.

A hearing is expected to be set this month by the Multi-District Litigation Panel to determine what federal court will handle the pretrial work. A court is expected to be selected within four to eight weeks after the panel hearing. ■

Criticize Illinois switch to federal OSHA plan

CHICAGO—"In the long run, safety will suffer as a result of the (Illinois) governor's decision," said Charles S. Wolf, associate assistant regional director of training for Occupational Safety and Health Administration (OSHA).

Referring to Gov. Walker's decision to switch from a state administered safety program to the federal OSHA program, Mr. Wolf said he regretted that the two offices had not had more time to work together.

Speaking at an association conference sponsored by the National Safety Council here, Mr. Wolf explained that instead of the 175 to 200 personnel projected for the state program, only 70 to 90 additional people would be recruited for the federal program.

"The projected state plan included five or six industrial hygienists and they'd have been spread out around the state," Mr. Wolf said. He said he believes that OSHA representatives should be located in as many different communities as possible in order to be more effective.

IN THE FUTURE, "health-type standards will be emphasized rather than property- or mechanical-type" standards, he said. "Our concern is safety of the workplace and human resource conservation—not property," he said. The original OSHA standards emphasized enforcement of many property protection features, he added.

An example of a health standard that would receive high (inspection) priority are the potentially-dangerous new industrial chemicals.

Mr. Wolf explained that "design criteria" (built-in features) are not enforceable although they do appear on OSHA inspection lists.

Some 80% of the violations written involve only 5% of the standards, Mr. Wolf said. About 800 federal inspectors have made 2,000 inspections and penalized in 40% of the situations, he added. Electrical wiring and guarding machinery violations are most common.

The original standards were "drafted in haste," Mr. Wolf said. Hence, many areas were not dealt with at all.

ALSO, MR. WOLF explained that goals were translated into minimums and then made standards.

"You can't equate OSHA compliance automatically with a safe place," he said. "OSHA can't really address the problem of a particular work situation."

"It's simply impossible to impose safety from the outside. Some lawyers are using OSHA standards in third party liability suits, but it's wrong to assume that they are safe," Mr. Wolf said.

However, he did say that since 1972 the death rate has declined slightly and that target industries have improved. ■

Self-insured London tube facing claims

LONDON—Accident investigators are checking the cause of Britain's worst subway disaster in which more than 35 passengers were killed and nearly 80 others were taken to local hospitals with injuries.

The accident took place in London's 130-year-old underground system, where experts until now thought it had enough "fail safe" devices to prevent such occurrences.

Claims may reach $5 million or more for the London Passenger Transport board, which is largely self-insured, as it holds the status of a public transit authority.

However, a spokesman speculated that there might be excess insurance coverage with commercial carriers for major disasters. He explained that the transit system has "catastrophe cover", but whether this extended to operating disasters was uncertain. ■

washington watch

Fiduciary liability premiums high: Self-insurance still controversial

WASHINGTON—The liability insurance industry should be told that fiduciary insurance for pension fund officials "isn't another gravy train," a top AFL-CIO official told the Labor Department last month.

AFL-CIO Social Security Director Bert Seidman made the comment at the first meeting of the department's new 15-member advisory council on the pension reform law, which quickly moved into the now "hot" area of fiduciary insurance.

Mr. Seidman recalled that labor union officials "had to pay through the nose" for bonds required under previous labor laws, and called on the department to inform the insurers that gouging would not be permitted.

Labor Department attorneys told the council members that one way out of high insurance prices—indemnification (or self-insurance)—appeared permissible under the new law.

THERE WERE, however, "ancilliary legal problems," warned Steven Sacher, the department chief pension reform attorney.

Mr. Seidman, a member of the council, countered that indemnification still did not do away with the need for insurance. "Whoever is the indemnitor will need insurance," he said. "If the unions are willing to indemnify their members who are trustees, the unions will still need insurance."

There have already been some resignations among management trustees on multiemployers plans, said Wesley G. Jeltema, manager of the Michigan Chapter of Associated General Contractors of America. "You can have 5,000 employers contributing to plans and it's awfully hard to find four or five of them to sit on a board."

"They don't seem to understand why they have to buy insurance for themselves when the rest seem to get a free ride,' he added.

The department said indemnification of fiduciaries by the plan is still barred, but other indemnification agreements appear permissible.

THEY PRESENTED the following issues to the council for their consideration on the indemnification question:

- If indemnification is permitted, what about those cases where state laws prohibit indemnification, keeping in mind that pension law has provisions that preempt state law?
- Does the prohibition against a fiduciary receiving any consideration for his own personal account from a party dealing with the plan in connection with a transaction involving plan assets independently prohibit such indemnification in situations such as (a) an employer or employe organization indemnifying an employe trustee or employe fiduciary? (b) an employe fiduciary indemnifying an employe who performs the fiduciary functions and who may be considered a fiduciary in his own right? (c) a party-in-interest who is not an employer or employe organization indemnifying a trustee with respect to a specific transaction?
- Section 408(c)(2) of the law exempts from the prohibited transaction rules the receipt of reasonable compensation for services rendered. Does that include indemnification as part of the compensation in situations such as that described in (a) above?
- And does that 408(c)(2) exemption include compensation paid by the employer or the employe organization?

The department also asked if the requirement that a fiduciary discharge his duties solely in the interests of participants and beneficiaries did not limit the scope of indemnification which he may receive in the sample situations.

The department's attorneys said these would all have to be eventually answered by "legal analysis, but there was certain factual information that would be useful.

The department said it would like to know in Taft-Hartley plans, who generally pays the expenses of administering the plans and, more particularly, who compensates the trustees—the employers, the employe organization, or the plan.

The department also asked in negotiated single employer plans, who generally pays such expenses? In non-union plans, who generally pays these expenses?

The department is also looking into types of indemnification agreements prohibited under state laws. And how extensive was the use of exculpatory provisions under state law? The department also wonder if any state did not allow the use of exculpatory provisions, was indemnification allowed in such state? ■

'74 claims new record for syndicate

NEW YORK—Two marine accidents that took place in 1974 will probably cost the American Hull Insurance Syndicate $7.5 million, or nearly 9% of its premium writings for the year, according to syndicate chairman and manager Allen E. Schumacher.

In a report to the syndicate's 53 subscribers, Mr. Schumacher identified the casualties as the stranding of the new bulk carrier Elwood Mead off Guernsey in the Channel Islands and the collision of the tanker Pacific Ares and the LPG-carrier Yuyo Maru #10 in Tokyo Bay.

For 1973, the syndicate listed 10 total and 76 major partial losses which consumed 48% of premiums written. In 1974, however, the syndicate had another 10 total losses, but saw its number of major partial losses ($100,000 or over) jumped to 103. These 113 accidents alone aggregated a new record amount in claims equivalent to 59% of premiums written. Tankers as a class led the group, Mr. Schumacher said. ■

Broker sees continued softness for property rates

CHICAGO—Marsh & McLennan looks for continued softness in property insurance rates until late 1975, despite the rate hardening which has already hit in most casualty insurance lines and aviation lines.

The brokerage firm is also concentrating on increasing its business with medium and smaller sized commercial clients in order to hold its commission revenues up. Another solution Marsh & McLennan sees to prevent its commission margins from deteriorating is to provide more services as part of total commercial client insurance packages.

These views on markets and corporate emphasis were presented by Marlennan executives in a meeting here with security analysts and members of the financial press.

John M. Regan, president and chief executive of Marlennan Corp., said Marsh & McLennan's 2,000 large national corporate clients generate approximately half of brokerage revenues. The firm said this number of major national accounts is "up considerably" from a year ago.

L. Patton Kline, executive vp of Marsh & McLennan and soon to be president of the general brokerage operations, noted that the general insurance business of the company now includes 4,200 employes and 1974 revenues of $107 million.

PROPERTY INSURANCE commissions account for approximately 35% of that business, casualty about 35%, with the rest of general insurance revenues generated by marine, management information systems, aviation, workers' compensation, bonding and boiler/machinery lines.

By class of business, about 70% of revenues come from "industrial business," 20% from small to medium sized commercial accounts, with the remaining 10% from association-franchise-mass marketed lines, Mr. Kline stated. The latter class is dominated by association package business, and is one of the fastest growing areas for Marsh & McLennan, executives said.

"THE ASSOCIATION and payroll deduction insurance business is growing exceedingly rapidly for us," said Mr. Kline, predicting a 1975 increase near 20% for this class of business.

He believes the firm will have about a 15% growth in property insurance commissions this year, as a result of doing additional business with present clients and new business with new clients. "I'm downplaying the effect of higher rates on this line, because we have not seen any significant increase in property rates as yet. Later in the year, possibly in the third quarter, we may see a hardening of property rates," Mr. Kline said.

Casualty business, however, will benefit this year from generally higher rates and higher commissions, he said.

He predicted commission growth at a slower rate for marine lines than the general prediction of about 13-15% for Marsh & McLennan overall. He cited "the problem with overcapacity" in marine lines as a negative factor for Marsh & McLennan, but noted "we handle mostly large established fleets including two major oil companies" as a positive stabilizing influence.

Aviation rates are up because of 1974 disasters, so M&M will benefit from those higher rates, Mr. Kline noted.

Insurance-related services are "increasingly in demand, and we are planning to increase our emphasis on services in the general insurance area," said Mr. Kline.

This increase in services coupled with a better mix of business with more medium and small accounts should result in "a more structured commission rate base," according to Mr. Regan.

Because of intense competition among commercial insurance brokers and the negotiated nature of commissions which results from competition, Mr. Regan told security analysts he would "make no promises" about whether M&M could maintain its profit margins.

THE FIRM WILL be forced to provide more services to clients to "keep them happy" paying current levels of commissions, he acknowledged. The big accounts are demanding "a lot more" in the total package for the same commission dollars, he added.

Mr. Kline said only about 10% of general insurance revenues come from fees for services, and this figure hasn't changed much over the last several years. Nor does he expect it to change much in the future. "We have a great deal more openness with our clients in discussing what we're earning in commissions, and what their dollars are going for," but with the heavy emphasis on services, the firm expects "a parallel growth in commission business."

Marsh & McLennan's acquisition policy for 1975 does not appear to be as aggressive as in the past, although the company officials noted an interest in the Southeastern U.S., in Ohio, and overseas where expansion is a "slower and more difficult process."

They also noted that the Wiliam M. Mercer Ltd. division, specializing in employe benefits consulting and brokerage, could use external growth. ■

Bonds required by ERISA prompt queries by firms using 'umbrellas'

CHICAGO—Many corporations are purchasing aggregate fidelity bonds covering multiple pension and welfare plans which have high limits but do not technically conform to the letter of the federal pension reform law, *Business Insurance* learned.

A discussion of bonding provisions in the Employe Retirement Income Security Act of 1974 (ERISA) at an American Management Assn. fiduciary liability conference here disclosed that some pension authorities see the aggregate bond limits as clearly contrary to the law if they do not amount to the sum of the bond limits required for each plan under the law. ERISA specifies that every fiduciary and person who handles funds and properties of a funded plan must be bonded for 10% of fund assets at the start of a year, or a maximum of $500,000.

Thus, large corporations with as many as 100 or more bargained plans in the extreme could be obligated to purchase a bond having limits upwards of $25 million or even $125 million.

But some corporate insurance managers, with the approval of consultants and benefits advisors, are going ahead and buying bonds in cases similar to this with limits of $10 million and less, on the assumption that multiple maximum fidelity claims are not likely to arise simultaneously. Also, they believe it is unrealistic to require any company to buy bonds with limits this high, and that the Labor Department will not strictly enforce this provision.

FURTHERMORE, the Labor Department recently ruled that companies can follow the rules on bonding under the old employe benefit disclosure act, so that they could continue under the fidelity bonds purchased previously, until the department comes out with additional rules to clarify the new requirements under the pension law, said David Dalton, regional coordinator of the labor-management services administration of the Labor Department.

He noted that the question also was raised by insurance companies whether the underwriter of insurance covering a benefit plan can be used to provide the fidelity bond as part of the benefit plan package. Mr. Dalton said he believes that for the present, such acts are not prohibited under erisa, because of the ruling that companies can continue to follow guidelines under the old act until the new law is clarified. Bonding by the same insurer underwriting an insured benefit plan was permitted under the old law.

Pension plan fidelity bonds technically must cover the full bonding obligations of each plan, said Rian M. Yaffe, senior vp and actuary with S.M. Hyman Co., Baltimore, a speaker at the session. But, he added, his firm is working with clients who are not "pyramiding" their bonds, and are merely listing the different plans bonded under the single policy. And, he continued, "we have not had boards of directors bonded under ERISA," although they should be to conform with the law.

It is "clearly not the intention of the law" to permit a dilution of the claim which can be filed by each plan under a lower umbrella bond limit which does not represent the sum of 10% or $500,000 per plan, said Mr. Yaffe.

A request is already being made of the Secretary of Labor that the bonding requirement be limited to people who handle funds, similar to the bonding requirement under the employe benefit plan disclosure law. The wording of ERISA, is broader, and includes bonding for fiduciaries ■

Revisions . . .

Continued from page 1

company's move to designate the president as having sole responsibility for plan administration, Mr. Brennan acknowledged that such changes are probably "acceptable" procedurally, and might work to "mitigate" the exposure of other plan fiduciaries. But, he believes, "there is a possible residual liability" that can't be disposed of for directors because a court might be likely to view the directors' "ultimate" responsibility for corporate decisions as proof of fiduciary responsibility with power over the benefit plan.

"All these devices to get people out of their fiduciary liability will probably end up not working," predicted Mr. Yaffe, referring to mention of one company's move to disband the pension committee and use a system of so-called "informal advice" by corporate officers to plan managers.

The question of who is a fiduciary is "really a functional question," Mr. Yaffe added, noting that this probably includes even the insurance broker who advises a plan of what insurance to buy for the plan, who to buy it from and how much to pay.

SOME MEMBERS of the audience noted they have attempted to name their corporations as fiduciaries under the law. However, both Mr. Yaffe and Hamlin M. Gilbert, vp of Alexander & Alexander, doubted the wisdom of trying to name the sponsoring company as fiduciary, in order to limit personal liability of officers or directors.

The "biggest burden" of fiduciary liability is on the chief executive officer of the corporation, Mr. Pollard noted.

Despite this apparently large potential liability, the chief executive officer's pensonal liability could possibly be limited somewhat if administrative duties were properly parcelled out to designated fiduciaries, Mr. Yaffe said.

A banker in the audience noted that the bank's trust department has begun keeping detailed records of how and why benefit plan money management decisions are made, in order to be able to support its actions as prudent.

Indeed, the "looseness" is being eliminated from pension and benefit plan administration, said Mr. Yaffe, commenting that many companies are now keeping detailed formal minutes of any meetings where benefit matters are discussed, "especially in the area of investments. Many companies are instituting investment measurement and performance systems," he added, so they can document the fact that they are monitoring the progress of the plan.

"Members of pension committees were often there for reasons other than that they were expert administrators," Mr. Yaffe went on to say, citing the example of a plant manager who provided an important liaison function being named to the pension group. "Now committees are being reduced to administrators." ■

Outlook improves for premium tax bill to pay health cover for jobless

By RICHARD L. GORDON

WASHINGTON—The chances for passage of a special tax on group health insurance premiums to pay for health insurance for the unemployed were markedly improved last month.

Sen. Lloyd M. Bentsen (D-Tx.) dropped his support for a bill to cover the unemployed through the Medicare system and submitted a new bill, S. 1213, that backs the premium tax idea.

The Bentsen bill has the same features as H. R. 5000, filed in the House last month by Rep. Daniel Rostenkowski (D-Il.), chairman of the new health subcommittee of the ways and means committee (*Business Insurance*, March 24, 1975).

The Rostenkowski bill has been reported out of the health subcommittee and is awaiting action by the full ways and means committee.

THE IMPROVED outlook for the premium tax bill is due largely to the fact that the major alternative proposal in the Senate —one that would finance the health insurance coverage from the Treasury's general revenues —has run into serious trouble.

The troubles came despite some strong backing for that idea—by Sen. Edward M. Kennedy (D-Ma.), Senate Labor committee chairman Harrison A. Williams (D-N.J.), and ranking committee Republican Jacob K. Javits (R-N.Y.)

The AFL-CIO late last month also strongly threw its backing behind the Treasury financing approach.

The labor committee ordered the Treasury financing bill, S. 625, reported from the committee to the Senate floor last month, bringing it closer to full Senate action.

The committee, however, was almost immediately hit with defections and opposition from some of its own members.

The vote to report S. 625 was not a formal one, but Sen. William D. Hathaway (D-Me.) insisted that the record show he was opposed to it.

Sen. Hathaway and Sen. Alan Cranston (D-Ca.) have strayed from the committee approach so far as to co-sponsor Sen. Bentsen's premium tax bill.

A THIRD Democrat, Sen. Gaylord Nelson (D-Wi.), is also in the dissenters' camp. All three Senators are expected to include opposition views in the final committee report on S. 625.

Dissenting views are also expected to come from two Republican members of the committee, Sens. Robert Taft (R-Oh.) and Paul Laxalt (R-Nv.).

All of which presents a problem to the Senate Democratic leadership as it returns from the Easter recess this week.

If prompt action is taken to move S. 625 to the Senate floor this month, the labor committee members might find themselves debating among themselves.

"That's one of the risks you run when you try and push things through," an aide to Sen. Taft told *Business Insurance*.

Action by the Senate finance committee on the premium tax bill probably won't begin until the House completes work on H.R. 5000, and if any major amendments are made or tacked on in the House there still could be problems for the proposal in the Senate.

The reason for the delay in action by the Senate finance committee on S. 1213 stems from the fact that since H.R. 5000 is a revenue bill, Congressional procedures require it to originate from ways and means.

WHATEVER CONGRESS finally does on the question of health insurance for the unemployed, it will probably meet a cool, if not hostile, reception in the White House.

S. 625 is expected to cost the government $1.5 billion to provide insurance protection to the unemployed for the one year period beginning July 1, 1975. That would be an extra strain on an already deficit swollen budget.

H.R. 5000, while not requiring outright grants from the Treasury, could require the government to lend as much as $1 billion to a special insurance trust fund.

The loan, at prevailing interest rates, would be paid off from receipts of the one percent premium tax. The tax is expected to generate about $150 million every six months.

Once the loan is paid, the tax would be done away with, according to the Rostenkowski bill.

The long term cost effects to employers, however, would be far greater under the Rostenkowski bill then under S. 625.

H. R. 5000 would require employers to rewrite their group health insurance contracts within 90 days of the laws enactment to extend health insurance coverage, at the employer's expense, for at least 90 days afer a worker is laid off.

HOUSE STAFF experts estimated that would boost overall group health insurance premiums seven to eight percent in the first year of the bill's operation, or about $2.5 billion.

AFL-CIO Social Security Director Bert Seidman said late last month that the Ford Administration "wants to completely ignore" the plight of unemployed workers suddenly without health insurance.

He said three out of five workers with job related health insurance lose that protection the day they are laid off. Only one out of five have insurance that extends coverage 90 days or more beyond the layoff date.

He added that the big labor organization strongly preferred a "straightaway provision for a federal appropriation" to finance the program.

Speaking for the White House, Health, Education and Welfare Secretary Caspar Weinberger has criticized all of the proposals as being inequitable since they only offer extended health insurance protection to those workers who were insured while on the job.

He characterized the proposals before Congress as "just not feasible or affordable." ■

New venture

Matthews-Daniel Co. (Houston) merged with Graham Miller & Co. Ltd. (London) to form Matthews-Daniel, Graham Miller & Co. The new venture will provide survey, loss adjustment and other technical services to insurers of offshore drilling rigs and marine construction operations located in the North Sea and other United Kingdom territorial waters.

Aetna extends group health after lay-offs

HARTFORD—Aetna Life & Casualty Co. announced a two-part program to extend group health coverage to laid-off workers. The insurer will now waive expiration provisions in group policies and will continue to cover laid-off workers as long as the employer-policyholder requests it and continues payment of premiums.

The company said costs to corporate insurance programs would be roughly the same as premiums they paid for the workers before layoff. If the company does not elect to continue the group coverage, Aetna is introducing a new conversion policy under which an employe can get major-medical type coverage for catastrophic illness.

Under existing limited conversion policies, laid-off workers cannot get major-medical coverage. The new conversion policy, which will be available to all group insurance programs at no additional cost, is being filed by Aetna with all state insurance commissions.

Differences from existing conversion policies include deductibles, from $100 to $500, depending on the premiums individuals wish to pay. Aetna will then pay 80% of most other costs, a spokesman said.

The new conversion policy will have a lifetime maximum of $250,000 in medical benefits, and an out-of-pocket limit on co-payments of $1,000 per individual in any one calendar year. It does not include coverage for disability income policies, and will pay less than 80% for out-of-hospital mental and nervous disorders.

Apparently, the corporate insurance manager's only role in the new conversion policy will be one of communicating it to employes as an available benefit. The new conversion provisions will be available to individual workers at their own request within 31 days following termination of employment, Aetna said.

The company's action, said to be the first of its kind among insurers, was announced by L. M. Cathles, Jr., senior vp. ■

Suspend six companies in Pennsylvania

HARRISBURG, PA.—Pennsylvania Insurance Commissioner William J. Sheppard suspended the operation of six small insurance companies this month and vowed tough state action against companies in marginal financial condition.

"We have been telling the marginal insurance companies: look. You must either shape up or ship out. If you have the willingness, and a realistic potential for improving your financial picture, we will give you a short time to make the attempt," Mr. Sheppard said.

"If not, then we are going to petition the court to close you down," he warned.

THE SIX companies are:

- Cosmopolitan Investors Life Insurance Co., Camp Hill, Pa., an inactive company.
- Guardian Mutual Insurance Co., Pittsburgh, Pa., with $101,300 premiums in force.
- Shenandoah Mutual Insurance Co., Philadelphia, Pa., $46,414 of premiums in force.
- Capital Mutual Fire Insurance Co., Upper Darby, Pa., with $282,-779 of premiums in force.
- National Council of Junior Order of United American Mechanics of the U.S. of N.A., Abington, Pa., with $156,761 premiums in force.
- Grand Court of Calanthe, Pittsburgh, Pa. with $6,887 premiums in force.

Suspension of the firms means they will not be allowed to issue further policies or contracts, transfer property or pay out monies without the prior approval of the Insurance Commissioner, Mr. Sheppard said.

Three of the companies have already voluntarily suspended business and a fourth is in official dissolution proceedings, he said. "Thus, these six formalized suspensions will not cause any major disruption in our markets and should not be misconstrued as major financial failures," he added. ■

Captives can't write personal doctor cover

DENVER—The Colorado insurance commissioner said statutes governing captive insurance companies in the state would not permit establishment of captives by medical societies and hospitals interested in underwriting coverage for individual doctors and other personnel.

J. Richard Barnes told *Business Insurance* he has been approached by "several hospital associations" looking into captive insurance companies. "They could set up an association captive which would insure the liability of the member hospitals and all of their employes and contract providers," he said.

"But they could not also write the liability coverage for individual personal liability of employes or contract providers," he added. He cited the example of X-ray or laboratory contractors working in hospitals, who could be covered by the captive insofar as the hospital's liability arising out of these contract services is concerned.

BUT THE Colorado captive statute prohibits a captive from writing any personal lines coverage, he stated. This prohibition applies to the medical societies which have looked to Colorado for malpractice captives.

He said that in his conversations with regional hospital associations, he has advised that malpractice liability connected with salaried and contract employes or purveyors of services to hospitals could be covered by the captive, although staff doctors not on the payroll could not be covered.

"If the doctor is a salaried or contract employe of the hospital, so that the hospital pays him for his services, he can be covered for his liability as an employe of the hospital, but not for his personal liability," said Mr. Barnes, using the example of a suit against "both the hospital and Dr. X" to indicate the difference between coverage against the hospital's liability arising out of the doctor's acts, as opposed to the doctor's personal liability.

There are people currently exploring the possibility of getting a bill introduced in the legislature to amend the law and permit captive underwriting of malpractice coverages, Mr. Barnes said. He feels, however, that the possibility of seeing any action on this in the current legislative session is "slim," because of deadlines being passed for introducing bills. ■

'Quotes were too high' so Stearns-Roger Corp. uses Colorado captive

DENVER—Stearns-Roger Corp., the seventh largest engineering-construction firm in the nation, established a Colorado captive insurance company which is underwriting large deductibles for liability policies written by Northbrook Insurance Co., part of the Allstate Group.

Glendale Insurance Co. was licensed to do business by the Colorado insurance commissioner at the end of 1974, with assets of $1 million including $400,000 capitalization and $600,000 surplus.

Stearns-Roger formerly had its general liability insurance with Hartford Insurance Co., and was unable to obtain the desired kind and limits of professional liability coverage at the right price, *Business Insurance* learned. Following competitive bidding on the Stearns-Roger business, the company decided all quotes were too high, and moved to set up the captive.

"Our primary purpose was to get more insurance, and the only way we could do that was to underwrite first dollar coverage ourselves," said Harry A. Peterson, corporate secretary of Stearns-Roger. The contracting firm substantially increased its limits under this new program, Mr. Peterson added.

ACCORDING TO insurance records in the state, Glendale is underwriting three separate primary policies for Stearns-Roger. The first is architects' and engineers' professional liability insurance, for $2 million per occurrence and a $4 million annual aggregate, with a $100,000 deductible.

Another is comprehensive general liability insurance of $250,000 per occurrence and a $750,000 annual aggregate, on a first-dollar basis.

The third is a special liability umbrella coverage for damage to work completed for $2 million per occurrence, with a $4 million annual aggregate, no deductible.

The captive is being managed by Bill Kersten, executive vp of Kersten-Voigt Co., agents and consultants based in Denver. Actuarial consulting work on the captive was performed by Towers, Perrin, Forster & Crosby, Philadelphia.

Stearns-Roger now has all of its excess coverages with Allstate's Northbrook division, sources said. The account is a very large one for Hartford to have lost and Allstate to have landed, industry observers said. Any contractor of this size would pay several millions of dollars annually in premiums, they reasoned. The firm did about $2 billion worth of business last year, experts estimated.

J. RICHARD BARNES, insurance commissioner in Colorado, said that with the Stearns-Roger captive there was no question of the captive being used to underwrite liability coverage for any individual architects and engineers for their liability as employes of Stearns-Roger. The question of such personal liability for malpractice being handled in a Colorado captive arose from the interest of medical societies and hospital associations in Colorado as a domicile for captives. (See related story, this page.)

Colorado law does not permit a captive to underwrite any personal insurance lines. Thus, medical societies could not form captives there, Mr. Barnes affirmed, although hospital associations could use a captive for hospital liability arising out of activities of salaried or contract employes.

Accounting firms and law firms would also be prohibited from using Colorado captives, because the nature of suits involving lawyers and accountants is such that the re is generally a personal liability of the professional in these cases. However, the liability for errors and omissions of contractors and engineers usually arises out of suits against companies involved, not against individual professionals employed by the companies, Mr. Barnes explained. ■

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people

Riordan new risk manager at Aerojet

Edward B. Riordan was named to the newly-created position of director-risk management for Aerojet General Corp., Los Angeles. He was formerly corporate risk manager for Indian Head Inc., New York. No replacement has been named yet. At Aerojet, a subsidiary of General Tire & Rubber Co., Mr. Riordan will work with Hilford D. Blum, manager of corporate insurance.

* * *

Richard Koontz joined Ameron Inc., Monterey Park, Ca., on March 17 as director of risk management, a newly-created position. He was formerly insurance manager at Teledyne Inc., Los Angeles and left that post in July. His new responsibilities include employe benefits and property/casualty insurance. Walter L. Blackwell continues as risk manager for Ameron. Teledyne plans no replacement for Mr. Koontz, a spokesman said.

* * *

GTE Service Corp. Stamford, Ct., announced the promotion of **William L. Hyland** as director-insurance and pensions, reporting to John J. Douglas, executive vp-finance. Previously, he served as assistant director-insurance and pensions under R. B. Wiltse, who recently died. The subsidiary of General Telephone & Electronics Corp. does not plan to fill the post of assistant director. In his new capacity, Mr. Hyland will be responsible for establishing objectives and recommending policy for insurance, self-insurance pensions and loss prevention. He will also implement and administer approved programs. Before joining GTE, Mr. Hyland was assistant insurance manager of GIT Financial Corp.

* * *

Philip J. Canfield joined W.R. Grace & Co., New York, in the newly-created position of director of employe benefits. He will be responsible for the planning and development of benefit programs for pensions, health care, life and disability. Previously, Mr. Canfield worked 13 years at Xerox Corp. in Rochester, N.Y. as the company's first benefits manager. Xerox plans to replace Mr. Canfield but has not done so yet. Mr. Canfield reports to J.A. Dudley, vp-corporate administration and director of industrial relations services. Mr. Canfield also served as benefits assistant at Caltex Oil and pension assistant for Singer Manufacturing.

* * *

Anchor Hocking Corp., Lancaster, Ohio, promoted **Richard C. Heydinger** to the position of risk manager from assistant risk manager. Mr. Heydinger will report to S. C. Hurley III, assistant treasurer. He replaces C. Robert Kindle, who is now administrator-retirement plans for Anchor. Mr. Heydinger's responsibilities include group insurance, property/casualty coverage and worker's compensation.

* * *

James J. Gillespie, was promoted to manager of group insurance for Akzona Inc., Asheville, N.C. He was formerly insurance manager of American Enka Co., a part of Akzona, where he had worked in various capacities since 1959. In his newly-created position, Mr. Gillespie will report to John Kiefer, director of insurance, and will be responsible for corporate-wide group health insurance plans.

* * *

William E. Brown, formerly director of insurance administration at Fuqua Industries Inc., Atlanta, was appointed risk and insurance manager of Korf Industries Inc., Charlotte, N.C., a newly formed holding company. Mr. Brown will report to Wilburn V. Robinson, vp, and will be responsible for the property and casualty programs of Korf and its subsidiaries, as well as employe benefits. He was replaced at Fuqua Industries by **James Newton,** who was formerly with Aetna Life & Casualty Insurance Co. in Atlanta.

* * *

The Midwest Stock Exchange appointed **Ronald N. Oberg** to the newly created position of director of security and controls. Mr. Oberg, formerly the supervisor of data processing audit at Continental Illinois National Bank and Trust Co., Chicago, will report to Jim O'Donnell, vp. Mr. Oberg's duties will include the establishment and control of internal security for the stock exchange, with attention to physical security and computer systems assurance. ■

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To assist unemployed risk and insurance managers to find positions during the current economic recession, *Business Insurance* offers, at half the normal cost, classified advertising space to persons seeking employment. We will set up a new "Positions Wanted" column in this section. Persons seeking employment in risk and insurance management or benefits management fields are invited to send in information needed for blind ads of at least four lines. The half-price rate is $1.25 per line ($5 for four lines averaging five words). Send payment with order to Classified Advertising Department, *Business Insurance*, 740 N. Rush St., Chicago, Il. 60611.

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RATES AND CLOSING TIME: *$2.75 per line, minimum charge $11.00. Cash with order. Figure all cap lines (maximum—two) 30 letters and spaces per line; upper & lower case 40 per line. Add two lines for box number. Replies are forwarded daily. Closing deadline: Copy in written form in Chicago office not later than noon, Monday 7 days preceding publication date. Published every other Monday. Display classified takes card rate of $23.50 per column inch, and card discounts on size and frequency. Mail ads to Business Insurance, classified advertising dept., 740 N. Rush St., Chicago, Illinois 60611.*

BUSINESS OPPORTUNITIES

A stockholder of a St. Petersburg based multi million dollar general insurance and brokerage agency has a 25% equity interest available for sale for cash or listed stock. 1974 gross commission earnings $1,000,000. Plus on volume of 4.6 million dollars. 1973 financial statement available upon request and payment of $5.00. Serious inquiries only please. Write Boxholder, P.O. Box 11747, St. Petersburg, Florida 33733

HELP WANTED

ACCOUNT EXECUTIVE

Company specializing in administration of self-insurance programs has opening for qualified person with background in claims, safety engineering or underwriting. Interesting challenging position marketing risk management services in Midwest Region; officed in Chicago. Salary comensurate with qualifications. Send resume to

Box 550, BUSINESS INSURANCE
740 Rush St., Chicago, Ill. 60611

UNDERWRITING MANAGER

If you are a professional commercial underwriter with either property or casualty experience and are interested in a unique career opportunity with unlimited growth potential in a rapidly expanding agency, we would like to talk to you. Salary open—based on your qualifications and experience. Call Alan Schwartz, Selective Management, Western Savings Building, Philadelphia, Pa. 19107—215/545-7111

our classified section gets results . . . for more information about placing classified ads

contact

Michelle Eisemann
708 Third Ave., New York, N.Y. 10017
212-986-5050

or

Celia Malouhos
740 Rush St., Chicago Il. 60611
312-649-5275

HELP WANTED

MANAGER
Corporate Property & Casualty Insurance

Merck & Co. seeks rising professional capable of managing a worldwide corporate property and casualty insurance program.

Responsibility includes characterizing, controlling and implementing both domestic and overseas policies. Requires strong insurance underwriting and accounting aptitude, plus excellent communication skills. Bachelor's degree essential, with 4-5 years experience in corporate insurance/risk management or insurance brokerage environment. MBA preferred.

Excellent compensation includes attractive benefits package. To explore this opportunity to make the most of your talents, forward resume with earnings record-to-date to: Mrs. G. Milsom,

Merck & Co., Inc.
Rahway, New Jersey 07065
an equal opportunity employer m/f

WORKMEN'S COMPENSATION

A new and challenging position is now available for an experienced W/C professional. This meaningful responsibility presents an opportunity to develop, implement and manage a large scale program. Corporation or consulting experience is mandatory. This is a highly diversified situation that will entail immediate interim and long range planning. Chicago location. Salary commensurate with experience. For complete details concerning this unique position send resume immediately to:

Box 555, BUSINESS INSURANCE
740 Rush St., Chicago, Ill. 60611

an equal opportunity employer m/f

WHEN COMPANIES START GOING PLACES, THEY CAN'T AFFORD TO LEAVE THEIR EMPLOYEE BENEFITS FAR BEHIND.

The company that's on the move can't sit tight with standard benefit programs.

There are key people to be protected when traveling on company business.

And, perhaps more important, there's the morale of *all* personnel to be considered.

That's why more and more companies provide these accident programs through the American Home Group.

Group Travel Insurance protects key employees who travel frequently on company business. Coverage can be provided in any amount up to $250,000.00. The program saves the employer money in the long run by eliminating expense account entries for the purchase of travel insurance from vending machines and other special outlets.

Group Voluntary Insurance provides up to $150,000.00 of all risk accident protection against any type of covered accident, any place, any time, anywhere in the world. Every day of the year, it covers accidents occurring on or off the job, at home, or while traveling by train, auto, and other public or private conveyance. Or while traveling as a passenger in an aircraft used for the transportation of passengers. Employees like it, because they can purchase this added protection at group rates—and through convenient payroll deduction. It is a sound and sensible addition to other life or medical insurance plans that an employer can offer employees.

You know the statistics. One American, on the average, is killed in an accident every 4½ minutes. It can happen anywhere. And it does.

So, we urge you to send immediately for more information about this all-important coverage.

American Home Assurance Company

Dept. B1045 102 Maiden Lane, New York, N.Y. 10005

Please send me more information on your Group Accident Programs.

Name_____ (PLEASE PRINT)

Title_____

Company_____

Address_____

City_____ State_____ Zip_____

A Member Company of American International Group

We welcome inquiries from any licensed agent or broker. You don't have to be a regular producer to place business with American Home.

Is a pool the right place for you?

Pooled accounts for pension funds can be all wet.

A pooled (or co-mingled) account is just a big mutual fund.

Everyone in the pool owns an interest in the same securities. Receives the same return. Assumes the same risks.

At Continental Assurance, we have a different, innovative approach to managing pension funds.

1. We act as investment "matchmakers." Bringing together your need with a specific investment vehicle. Your money doesn't go into a pooled account along with the rest of the crowd. (Unless it's appropriate.) In any event, we design a personalized program for you.

2. Naturally, with A and AA corporate bonds, the risk is nominal.

But we go one step further: We *guarantee* payment of interest and principal on the securities in your account.

Only a life insurance company can do that.

You have double security with a Continental Assurance program.

3. There's a third (and final) reason to consider Continental.

You won't be dealing with a "department."

You'll deal with an *individual account executive* who is personally responsible for your account. Who'll handle your inquiries. Who'll make decisions on the spot. Who'll keep you up-to-date.

It all adds up to one thing.

Your pension fund, profit-sharing trust, or annuity receives *personalized* attention from Continental Assurance.

Maybe your fund is with a money-center bank trust department now.

If so, possibly it's just a drop in a very big bucket.

And that's the best reason you have to call us.

Continental Assurance Co.

Major Group and Pension Services

Call Ted Czupek, Continental Assurance Co., CNA Plaza, Chicago, Illinois 60685. (312) 822-6489