

Business Insurance

Reporting Weekly on Corporate Risk, Employee Benefit and Managed Health Care News / \$4

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Court allows New York charge on self-insured hospital bills

NEW YORK—New York state can impose its 13% surcharge on hospital bills of employees covered by employers that self-insure their health care plans, a federal appeals court ruled last week.

The 2nd U.S. Circuit Court of Appeals ruled that the Employee Retirement Income Security Act does not pre-empt the New York statute. The decision not only will boost costs for employers in New York that self-insure their health care benefits, but also is likely to lead other states to adopt

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Impact widens for PBGC plan data proposal

By JERRY GEISEL

WASHINGTON—A proposed federal regulation that would require employers with underfunded pension plans to disclose certain actuarial and financial information is likely to apply to more employers than initially thought.

The regulation, proposed last month by the Pension Benefit Guaranty Corp., could apply to at least three times more employers than federal regulators predict, benefit consultants say.

And by requiring employers to conduct new actuarial valuations on their underfunded pension plans, it initially will increase actuarial expenses by between 15% and 20%, benefit consultants say.

Some experts question how much use the new information will be to the PBGC.

"Will the agency be able to digest the information and be able to convert it into something meaningful and useful?" asks Ted Goldman, a principal with Towers Perrin in Arlington, Va.

Three groups of employers are the target of the new regulation: those with more than \$50 million in unfunded vested benefits in their plans; those few that have skipped making a required contribution of at least \$1 million; and those few that the Internal Revenue Service has allowed to defer temporarily contributions of

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Felix declines to pounce

Bermuda, U.S. coast are spared hurricane's full force

By LEE VELKER

After Hurricane Felix buffeted Bermuda and then hovered off the North Carolina coast last week, risk managers' preparations for the worst proved unnecessary.

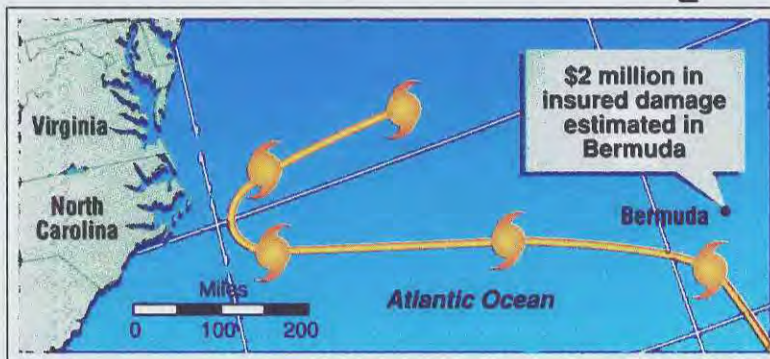
By Friday, Felix was 300 miles northeast of Cape Hatteras, N.C., and moving away from the coastline. Hurricane warnings issued earlier in the week were reduced to watches and storm warnings, and ultimately were dropped for areas of southern Virginia and northern North Carolina.

Motivated by damage from other recent windstorms, though, risk managers from North Carolina to Delaware took precautions and closely monitored the hurricane.

KFC Corp., whose Florida operations were hit hard by Hurricane Andrew in 1992, put its emergency plans into effect for coastal operations in both the Mid-Atlantic and Northeast regions, said Chris Mandell, director of risk management for the Louisville, Ky.-based restaurant chain.

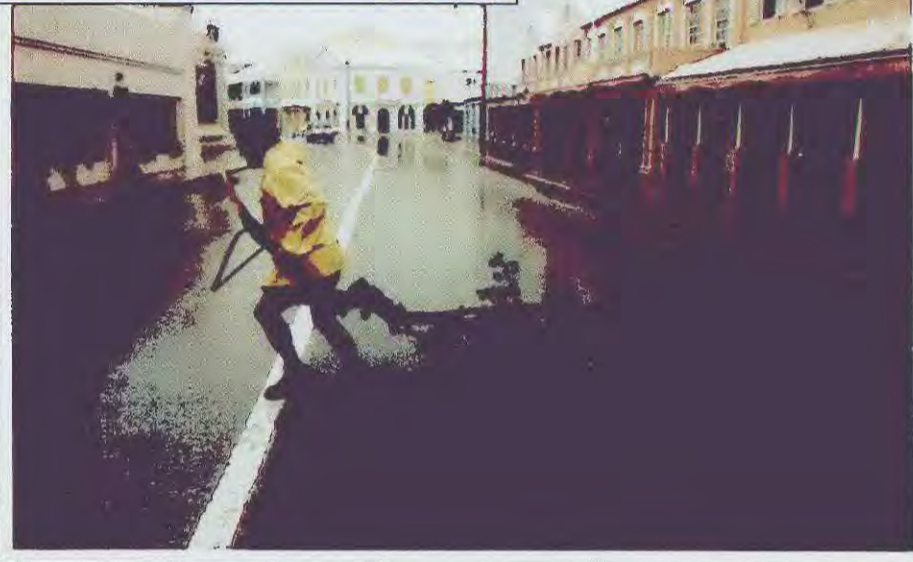
Loss prevention managers from both regions were setting up loss control centers close to the expected areas of im-

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A city worker drags a downed tree limb across Hamilton's Front Street last week, after Bermuda was buffeted by Hurricane Felix. The storm blew by the island and headed for the North Carolina coast, before veering away from shore late last week.

AP/WIDE WORLD



Policyholders win second key D&O case

But allocation may be easier in new ruling

By DAVE LENCKUS

CHICAGO—A federal appeals court decision that restricts when directors and officers liability insurers may limit indemnification to corporate officials because of their corporate entity's liability is not a total policyholder victory, insurer attorneys say.

In a 3-0 decision on Aug. 10, a panel of the 7th U.S. Circuit Court of Appeals in Chicago adopted the so-called larger-settlement liabil-

ity allocation rule in a coverage dispute between construction equipment manufacturer Caterpillar Inc. of Peoria, Ill., and Great American Insurance Co. of Cincinnati, a unit of American Financial Corp.

Allocation of liability, which results in a reduction in corporate officials' D&O coverage, is allowed under that rule only when a settlement of a lawsuit against the company and officials is larger than it would have been if not for

the actions of either uninsured defendants or insured corporate officials who were not sued.

The court's adoption of the "larger-settlement" rule clearly is a victory for policyholders—and the second one at the federal appeals court level in less than four months.

D&O insurers long have argued that corporate officials' coverage instead should be reduced based on the corporate entity's "relative exposure"—that is, the company's apportioned blame for plaintiffs' damages.

The 9th Circuit also adopted the larger-settlement test in its April 14 decision in *Nordstrom Inc. vs. Chubb & Son Inc.* (BI, April 24).

Still, insurer attorneys found solace in the 7th Circuit ruling. "This decision reaffirms that di-

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RMIS owners not clicking with Windows 95

By SARA MARLEY

Windows 95 is expected to fly off the shelves of computer stores this Thursday, but most risk managers aren't quite ready to toss their old operating systems.

Microsoft Corp.'s much-touted new operating system has not caught the fancy of many risk managers, who are concerned about its reliability and ability to run risk management information systems that have not been written expressly for the new operating system.

Designed for



Microsoft®
Windows 95

vp-risk management of Western Staff Services Inc. in Walnut Creek, Calif.

"I personally have found that the Windows 95 improvements and enhancements are superfluous to our operations," said Jeffrey W. Pettegrew, vp-risk management of Western Staff Services Inc. in Walnut Creek, Calif.

Both Windows and Windows 95 are point-and-click systems, in which the user manipulates a "mouse" to drag an on-screen pointer over to the appropriate icon and select the desired option.

Western Staff Services is happy with its current Windows-based RMIS.

"We will use what we have until there is a substantial change that truly benefits our operations from a risk management viewpoint," Mr. Pettegrew added. "We're not anxious to incorporate what could be a burden. There are more bells

and whistles, but it drains a lot of memory and there may be flaws."

Mr. Pettegrew's attitude echoes what several RMIS vendors are hearing from their clients.

"Corporate America is not breaking down the doors" for Windows 95, said David P. Duden, director of marketing for Corporate Systems Ltd. in Amarillo, Texas. "A lot of our clients have a 'look and see' attitude. It's a lot of adjustment to get to Windows 95, more training and resources."

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Ward's 50 P/C
and
L/H insurers

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Updates

Surcharge for self-insurers

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similar statutes, benefit experts say.

The ruling comes just over three months after the U.S. Supreme Court unanimously ruled that ERISA did not pre-empt New York's system of surcharges on hospital bills paid by commercial insurers and health maintenance organizations. The high court, though, in its decision, only dealt with insured plans and turned back to the appeals court to decide the self-insurance issue (*BI*, May 1).

In its decision, drawing heavily on the Supreme Court ruling, the appeals court said there is no reason to treat self-insured plans differently than insured arrangements. While ERISA pre-empts state laws that "relate to" employee benefit plans, the court ruled that the New York statute does not have a direct effect on self-funded plans.

Though it would increase costs, "there was no proof that this increase in costs in fact forced self-insured plans to buy insurance instead," the court said. "The surcharge simply affects the relative costs of the various alternatives—Blue Cross coverage, commercial insurance coverage, HMO membership and self-insurance."

Citing the Supreme Court decision, the appeals court said the surcharge affects a plan's "shopping decisions" and does not "bind" administrators to one type of health plan.

"It will embolden the states, we fear, to try all sorts of efforts to raise money by taxing self-insured employers," warned James Klein, president of the Assn. of Private Pension and Welfare Plans in Washington.

New York may permit captives

BURLINGTON, Vt.—The state of New York plans to open its doors to captives, said New York regulators at the Vermont Captive Insurance Assn. meeting last week.

"We're spying because we intend to do our own captive law," said Gregory V. Serio, first deputy superintendent of the New York Insurance Department. Officials will begin drafting the law this fall and it could take effect as early as 1996, he said.

Meanwhile, with Vermont's method of regulating risk retention groups no longer an accreditation stumbling block, state officials are cautiously optimistic as a National Assn. of Insurance Commissioners accreditation team visits the state this week.

After Vermont's long-running accreditation battle, centering in large part on the state's regulation of risk retention groups as captives rather than as traditional insurers as the NAIC model stipulates, Vermont officials now expect the state to be accredited next month.

"We're hopeful and I just chew my nails that we will be recommended for accreditation," said Elizabeth R. Costle, Vermont's commissioner of banking, insurance and securities.

"We are at relative peace" with the NAIC, said Gov. Howard Dean.

Dow settles implant cover suits

BAY CITY, Mich.—Dow Corning Corp. has nearly \$320 million from six of its liability insurers to help cover its \$2 billion portion of the proposed \$4.25 billion global breast implant settlement.

A federal bankruptcy judge last week approved a \$107.5 million settlement of Dow Corning's coverage suit against IIT Hartford Group Inc., the largest settlement yet in coverage actions Dow Corning filed against 75 to 100 insurers.

Dow Corning initially wanted to use \$30 million of that money for litigation costs but instead agreed to earmark it all for women who say they were hurt by silicone gel implants, said a spokeswoman.

In addition to Hartford, Dow Corning said it settled last year with Aetna Casualty & Surety Co. for \$101.6 million; partially settled with X.L. Insurance Co. for \$33.9 million; partially settled with its Bermuda captive, Timber Insurance Ltd., for \$15 million; settled with CIGNA Corp. for \$37.8 million; settled with Devonshire Underwriting Ltd. for \$13.9 million; and with Royal Insurance Group for \$7 million.

Dow Corning—which has filed for Chapter 11 protection (*BI*, May 22)—is in settlement talks with other liability insurers it sued.

Reinsurer results decline

WASHINGTON—U.S. reinsurers' first-half combined ratio deteriorated to 110% from 108.7% in 1994, says the Reinsurance Assn. of America.

First-half premiums written rose 15.9% to \$9.31 billion from \$8.03 billion for the 57 reinsurers surveyed by the RAA in 1995. Their combined ratio reflects an 80.2% loss ratio and a 29.8% expense ratio. Loss and loss adjustment expenses totaled \$7.07 billion, and premiums earned \$8.82 billion. Underwriting expenses totaled \$2.78 billion.

The 50 reinsurers surveyed that are not reinsurance departments of primary companies reported \$19.5 billion in policyholder surplus.

Briefly noted

Dennis Hougen was promoted to manager-risk management from claims manager at plumbing manufacturer Kohler Co. in Kohler, Wis. He succeeds Harold C. Lang, who was *Business Insurance* Risk Manager of the Year in 1985 and who retired last month. . . . About 60% of Lloyd's of London members view Lloyd's reconstruction and renewal plan favorably and 66% intend to support it, a new survey finds. However, the survey, which Lloyd's commissioned, also found that more than one in 10 members either hadn't heard of the plan or didn't know how it would work. . . . The Group Health Assn. of America and the American Managed Care & Review Assn. may merge as early as this fall, pending membership votes. Merger talks have been going on for months. . . . A state court jury last week approved a \$20 million punitive damage award against the State Accident Fund of California for its bad faith handling of Notrica's 32nd Street Market's workers compensation claims, which cost it \$478,000 in higher premiums.

New coalition aims to enact Superfund liability reforms

By MARK A. HOFMANN

WASHINGTON—Congressional advocates of Superfund reform are enlisting business and insurance interests to drum up support for a House proposal that would repeal Superfund's retroactive liability for legal acts that took place before 1987.

The House Republican Conference, which consists of all GOP House members, earlier this month set up a "leadership coalition" to promote reform and in-

vited interested associations and individual companies to participate.

Specifically, the group will push for enactment of legislation currently being drafted by Rep. Michael Oxley, R-Ohio. The Oxley bill, which is likely to be introduced next month, would among other things repeal retroactive liability for legal disposal of wastes that occurred before 1987, when the last major overhaul of Superfund took effect (*BI*, July 24).

The Oxley plan enjoys the sup-

port of risk managers and insurers.

A Senate reform proposal outlined by Sen. Robert Smith, R-N.H., would abolish retroactive liability only for acts that took place before Superfund was enacted in December 1981 (*BI*, July 3).

Yet another proposal, sketched out by Rep. Sherwood Boehlert, R-N.Y., would limit repeal of retroactive liability only to 230 or so municipal landfills (*BI*, July 31)

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First half a whole lot better

Most P/C insurers enjoying higher earnings and volume

By JUDY GREENWALD

In what could constitute a glimpse of that "best of all possible worlds," property/casualty insurers are improving their financial results while businesses continue to enjoy low prices.

Favorable claims trends and tighter expense controls contributed to the insurers' improved first-half results despite significant catastrophe losses and reserve strengthening, and this



trend is expected to continue through at least the end of the year.

At the same time, risk managers continue to enjoy the benefits of soft pricing, with no immediate overall turn in the market in sight.

"Bottom line, the quarter was surprisingly good," said Gloria Vogel, managing director and se-

nior insurance analyst with Ladenburg, Thalmann & Co. Inc. in New York. "For whatever reason, claims costs seem to be staying in line, and a lot of the expense savings companies are doing are showing up in the bottom line."

At the same time, "I don't see any improvement in pricing. That's not what's driving this," said Ms. Vogel. "I think it's just a better focus, more streamlined operations."

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Employers turn to tests when first dealing with problem

Drug testing of workers is up

By MEG FLETCHER

Drug testing remains the cornerstone of corporate substance abuse programs, though employers increasingly are implementing more detailed substance abuse policies and procedures, better training supervisors and using more counseling programs.

This has long been true of large companies and remains so for the medium-sized and small companies that are adopting substance abuse programs today.

Employers' response to drug abuse "ranges across a full spectrum from a moralistic, punitive approach to a realistic, proactive response," said Shael Barger, an associate in the national behavioral health care practice at William M. Mercer Inc. in San Francisco.

Regardless of their culture, companies typically have reacted to substance abuse by first testing employees for illegal drug use. Since 1987, drug testing by major U.S. businesses has increased by

240%, according to the American Management Assn. in New York.

This year, 77.7% will perform some sort of employee drug testing, according to an AMA survey of 1,151 firms. Those businesses reported results of tests given to 221,000 employees and 523,000 job applicants in 1994.

Testing is even more prevalent among the largest companies.

"Ninety percent of companies with more than 1,000 employees already have drug abuse pro-

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Harassment ruling favors employers

By ROBERTO CENICEROS

WASHINGTON—Employers cannot be liable for sexual harassment by a supervisor if they had rigorous anti-harassment programs in place and employees knew they could report harassment without fear of retaliation, a federal appeals court has ruled.

In what employment law specialists say could be a helpful precedent for employers, the U.S. Court of Appeals for the District

of Columbia ruled that an employer that took "energetic measures to discourage sexual harassment in the workplace" could not be held liable for an alleged rape and harassment by a supervisor.

Given the efforts of the Washington Metropolitan Transit Authority to communicate its policy against sexual harassment, a reasonable person could not conclude the alleged actions were condoned, the court concluded. In a suit against the transit authority

and her supervisor, Coramae Ella Gary alleged that she was harassed and raped while working as a transit authority clerk.

"We conclude that an employer may not be held liable for a supervisor's hostile work environment harassment if the employer is able to establish that it had adopted policies and implemented measures such that the victimized employee either knew or should have known that the employer did not

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Ward's top lists provide benchmarks

Not strategy, but management execution marks highest rated insurance companies

By DAVE LENCKUS

One thing.

It might be maintaining a top-notch agency system or underwriting staff. Or, it could be retaining policyholders or focusing on a single market segment.

Whatever it is, each of the 50 property/casualty and 50 life/health insurers that Ward Financial Group has identified as the safest and best-performing U.S. insurers has at least one thing that it does exceptionally well and which is a driving factor in its overall performance.

With few exceptions, "one of the things that strikes you pretty much right off the bat is that they're pretty much niche companies" in some way with strong underwriting capability, said Peter R. Kensicki, an insurance professor at Eastern Kentucky University in Richmond. Prof. Kensicki is a member of the advisory councils for the Ward's Insurance Results property/casualty and life/health editions.

Those niches could be, for example, in a particular product or a certain region.

"There's a lot of truth that you don't see the usual list of characters, if you will, that analysts recommend," said William D. Warren, chairman and president of National Reinsurance Corp. of Stamford, Conn., which has made the Ward's 50 property/casualty list in each of five years it has been produced.

Exceptions to that observation include insurers American International Group Inc., Chubb Corp. and The St. Paul Cos. Inc.

The companies on the Ward's 50 lists also strike a balance between their insurance business and their investment departments, not allowing either to dominate the other.

"They're the kind of companies agents are likely to complain about in a soft market because they're not reducing their premiums enough" just to generate investment income, Prof. Kensicki said.

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What sets these insurers apart Page 12

How Ward's separates wheat from chaff Page 12

Leaders in group life-in-force, surplus, assets Page 12

Property/casualty leaders in premiums, surplus, assets Page 12

Overall, though, the insurers on the Ward's 50 lists are more dissimilar than alike. There are large companies and smaller regional insurers, stock and mutual companies, commercial and personal lines underwriters, primary insurers and reinsurers.

Of the companies that appear on the Ward's 50 list of property/casualty companies, five—or 10%—are reinsurers. That impresses National Re's Mr. Warren, who is a member of the 18-member advisory council for the property/casualty report. Reinsurers account for only 3% to 5% of property/casualty insurers and about 6.4% of industry premiums, according to the Insurance Information Institute.

"Our conclusion, overall, is that it's not a function of the strategy" an insurer implements that lands it on the Ward's 50 list, said John L. Ward, chief executive officer of Ward Financial, a Cincinnati-based management consulting firm. "It's superior management doing a good job of executing their strategy."

This diversity and the assortment of financial measures provided in separate annual Ward's Insurance Results on property/casualty and life/health insurers give risk and benefit managers a wide range of quantitative benchmarks to use when assessing the strength of a

potential insurer.

Based on numerous solvency and income criteria (see story, page 12), Ward Financial identifies the 50 safest insurers in each market segment that have done the best job of earning a profit.

"If they're not first a safe company, then we eliminate them," Mr. Ward explained.

Significantly, half of the companies on the 1995 Ward's 50 lists have made it there for four or all five years that Ward Financial has produced them.

And, many of those that missed the cut the first year were beaten out by companies with much smaller surpluses, especially in the life/health segment, Mr. Ward explained. Those smaller companies could not make the lists subsequently because Ward Financial established a minimum \$50 million surplus requirement in 1992.

A few financial measurements cannot provide the whole financial story about an insurer, but two measures—the surplus/assets figure and the return on average equity—are pretty telling about why these 100 insurers are the safest and best-performing companies in the country, according to Mr. Ward.

From 1990 through 1994, the percentage of assets attributable to surplus for the Ward's 50 property/casualty insurers was 33.1%, compared with 27% for the total industry.

"So, they're safer," Mr. Ward said of the Ward's 50 group.

But the greater the surplus, the greater the difficulty insurers should have in attaining commensurate return on average equity compared with insurers that have less surplus. That is because the more highly capitalized insurers have to produce higher profits to generate the same return on equity.

Still, the Ward's 50 group over the past five years reported a 15.1% return on average equity, compared with an 8.8% return for the total industry.

"So, here are companies that are substantially safer and twice as profitable," Mr. Ward said. "And, they all have got such different strategies, but they do well executing them."

For example, he pointed out the radically different strategies of two property/casualty insurers that have made the Ward's 50 list all five years.

Cincinnati Insurance Group, headed by commercial and personal lines underwriter Cincinnati Insurance Co., realizes significant financial benefits by doing "a better job of serving its agents than many, many companies" have done, Mr. Ward said.

The company does a "superb job of getting the very best business from its agents," National Re's Mr. Warren said.

The resulting communication between the independent agents and the insurer is excellent, leading to an optimal risk selection process, Mr. Ward said.

Cincinnati Insurance Co.'s combined ratio, not factoring in policyholder dividends, was 102% in 1994 and 100.1% for the most recent five-year period, compared with 106.6% and 108%, respectively, for the total industry. The Ward's 50 figures were slightly lower: 100.5% for 1994 and 100.9% for the past five years.

And there is little agency turnover, which ensures consistency year to year, he said.

A key reason for the good relationship is that the insurer views agents as its customers, said Bob Morgan, president and CEO of Cincinnati Insurance. Policyholders are the agents' clients, he said.

Cincinnati Insurance, which is one of only six companies with affiliates that appear on both Ward's 50 list, further increases the efficiency of its distribution system by encouraging its property/casualty agents to sell life/health products as well, according to Mr. Morgan.

RLI Corp., headed by commercial lines underwriter RLI Insurance Co. of Peoria, Ill., relies instead on brokers to produce business. RLI likes looking at a mountain of applications and picking the best business, Mr. Ward said.

"Their real niche is investing in the best un-

Ward's 50 property/casualty

Alfa Insurance Group	Kentucky Farm Bureau Mutual Insurance Co.
ALLIED Mutual Insurance Group	Medical Protective Co.
American International Group*	Mercury Casualty Co.
American Re-Insurance Co.	National Indemnity Co.
Amica Mutual Insurance Co.	National Re Corp.
Auto-Owners Insurance Group	New York Marine & General Group
AVEMCO Insurance Cos.	NORCAL Mutual Insurance Co.
California State Auto Assn.	North Carolina Farm Bureau Mutual Insurance Co.
Canal Insurance Group	Northland Insurance Group
Chrysler Insurance Co.	Ohio Casualty Insurance Co.
Chubb Insurance Group	RLI Insurance Group
Cincinnati Insurance Group*	SAFECO Insurance Group
Empire Fire & Marine Group	Southern Farm Bureau Casualty Insurance Co.*
Employers Reinsurance Group	St. Paul Cos. Inc.
Erie Insurance Group	Tennessee Farmers Mutual Insurance Co.
Foremost Insurance Co.	Trinity Universal Insurance Co.*
Frankenmuth Mutual Insurance Co.	Underwriters Reinsurance Group
GEICO	United Fire & Casualty Group
General Reinsurance Group	United National Insurance Group
Georgia Farm Bureau Mutual Insurance Co.	Universal Underwriters Insurance Group
GRE Insurance Group	USAA Group*
Guaranty National Insurance Co.	Virginia Surety Co.
Gulf Insurance Group	W.R. Berkley Corp.
Horace Mann Insurance Group*	Western World Group
Interinsurance Exchange, Automobile Club of Southern California	Zenith National Insurance Co.

*Affiliates appear in Ward's 50 life/health

Source: Ward's Insurance Results, 1995 Property-Casualty edition

GRAPHIC BY JERRY PARKS

Ward's 50 life/health

All American Life Insurance Co.	Kansas City Life Insurance Co.
American Family Life Assurance Co. of Columbia	Lamar Life Insurance Co.
American Family Life Insurance Co.	Liberty Life Insurance Co.
American General Life & Accident Insurance Co.	Liberty National Life Insurance Co.
American Life Insurance Co.*	Life Insurance Co. of Virginia
American National Insurance Co.	Life Reassurance Corp. of America
Ameritas Life Insurance Corp.	Midland National Life Insurance Co.
AMEX Life Assurance Co.	Mutual of America Life Insurance Co.
Central National Life Insurance Co.	Mutual of Omaha Insurance Co.
Cincinnati Life Insurance Co.*	New York Life Insurance Co.
Country Life Insurance Co.	Northwestern Mutual Life Insurance Co.
Equitable Life Insurance Co. of Iowa	Ohio National Life Insurance Co.
Farm Bureau Life Insurance Co. of Michigan	Physicians Mutual Insurance Co.
Farmers New World Life Insurance Co.	Primerica Life Insurance Co.
Federated Life Insurance Co.	Principal Mutual Life Insurance Co.
First Colony Life Insurance Co.	Provident Mutual Life Insurance Co.
Franklin Life Insurance Co.	Sentry Life Insurance Co.
General American Life Insurance Co.	Southern Farm Bureau Life Insurance Co.*
Great Southern Life Insurance Co.	Teachers Insurance & Annuity Assn. of America
Guarantee Mutual Life Insurance Co.	Transamerica Life & Annuity Co.
Guardian Life Insurance Co. of America	Trustmark Insurance Co.
Home Beneficial Life Insurance Co.	United Insurance Co. of America*
Horace Mann Life Insurance Co.*	UNUM Life Insurance Co. of America
Indianapolis Life Insurance Co.	USAA Life Insurance Co.*
Jefferson-Pilot Life Insurance Co.	Western & Southern Life Insurance Co.

*Affiliates appear in Ward's 50 property/casualty

Source: Ward's Insurance Results, 1995 Life-Health edition

GRAPHIC BY JERRY PARKS

derwriters in the industry," he said of RLI. Southfield, Mich.-based Chrysler Insurance Co. excels at retaining its policyholders, Mr. Ward said. The insurer writes various coverages for Chrysler automobile dealerships as well as dealerships for other models that Chrysler dealers may own.

Conservatively, the Chrysler Corp. subsidiary retains 91% of its policyholders year to year, estimates Fred Browning, executive vp and general manager. Mr. Browning estimates

the insurer's market penetration level at 72% of the dealers who obtain inventory financing from Chrysler Credit Corp.

Mr. Browning credits the high policyholder retention level to knowing the business "better than anybody else."

Being a subsidiary of the automaker helps. But, the insurer also studies semiannual surveys that Chrysler conducts among all of its operations and dealers. Insurer executives also

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D&O

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directors and officers insurers are entitled to allocation," said Great American attorney Michael Comiskey, a partner with Lord, Bissell & Brook in Chicago. And, "compared with Nordstrom, it's a better result," he said.

That's because, unlike the 9th Circuit, the 7th Circuit does not also hold insurers to a so-called "concurrent liability" test, insurer attorneys agree.

The 9th Circuit ruled that to allocate liability to the corporate entity, a D&O insurer must prove that the liability of employees who caused a larger settlement was not concurrent with the insured corporate officials' liability.

Without that requirement, Caterpillar's D&O insurer has a better chance of being allowed to re-

duce its indemnification to Caterpillar officials to reflect the corporate entity's direct liability, insurer attorneys say.

But, policyholder attorneys believe the 7th Circuit adopted both the larger-settlement and concurrent-liability tests.

Another benefit for insurers is that the 7th Circuit also recognized that corporate entities can be held directly liable for claims alleging violations of Section 10(b) of the Securities and Exchange Act of 1934, said Leonard S. Surdyk, a partner with Blatt, Hammesfahr & Eaton in Chicago. Section 10(b) governs primary and secondary stock offerings.

The case stems from a shareholder lawsuit filed against Caterpillar and its directors in 1990, after the Brazilian economic crisis that spring hurt Caterpillar's profits. The profit downturn triggered a 20% plunge in the compa-

The 7th Circuit said its widely cited 1990 decision may have been too sweeping in suggesting a corporation's liability is only concurrent with its officials' liability.

ny's stock price in June 1990.

Caterpillar and its directors never disclosed the impact of the Brazilian operations on profits, the shareholders argued, so investors could not accurately assess their risks.

The shareholders settled the case in February 1994 for between \$17.2 million and \$23 million.

Under the claims-made D&O policy Great American wrote for Caterpillar from May 1990 to May 1991, the company's officials had \$25 million of limits excess of a

\$10 million self-insured retention. The policy did not contain an allocation clause.

Before the settlement, Caterpillar sued Great American for the portion of the settlement and defense costs that exceeded its SIR.

In upholding a 1994 district court ruling, the 7th Circuit explained that it favored the larger-settlement rule in this case because Great American's policy "does not limit coverage because of the activities of others that might overlap the claims against

the directors and officers."

But, the court also noted that its widely cited 1990 decision in *Harbor Insurance Co. vs. Continental Bank Corp.*—in which the court first suggested the rule but did not formally adopt it—may have been too sweeping in suggesting that a corporation's liability in a federal securities lawsuit is only concurrent with its officials' liability. That implies a D&O insurer cannot allocate liability between corporate officials and the corporate entity in such cases.

The Caterpillar decision, written by Judge Joel M. Flaum, noted that the U.S. Supreme Court ruled in two decisions in 1993 and 1994 that direct corporate liability is possible when a company's officials are not held liable or when defenses are available to the officials but not to the corporation.

The judge then cites several reasons why Caterpillar may have faced direct liability in its securities litigation, including language in the settlement agreement and an SEC opinion and order that suggested such liability.

If a lower court on remand determines that Caterpillar disposed of some direct liability as part of the settlement, Great American could allocate that liability, Judge Flaum wrote.

That is the part of the decision that insurer attorneys say opens the door much wider for allocation than the 9th Circuit ruling did.

But policyholder attorneys point to a footnote at that point in the ruling that notes the *Nordstrom* case "differs from this case in its particulars, not in its analysis."

The 9th Circuit, based on massive evidence produced before it heard the case, found that any direct liability by Nordstrom was concurrent with its officials' liability. That finding precluded allocation by Nordstrom's insurer.

Policyholder attorney Carolyn H. Rosenberg, a partner with Sachnoff & Weaver Ltd. in Chicago, noted that the 7th Circuit explained it remanded the case only because, unlike in the *Nordstrom* case, this court believed it had insufficient evidence to determine whether the corporate entity had any liability that was not concurrent with its directors' and officers' liability.

"I think it's consistent with the *Nordstrom* decision," said Nordstrom attorney Larry S. Gangnes, a partner with Lane, Powell, Spears, Lubersky in Seattle.

Great American has not decided whether to appeal. Caterpillar's attorney, William R. Jentes of Kirkland & Ellis in Chicago, could not be reached.

Attorneys also are not sure about the 7th Circuit ruling's possible impact.

For example, insurer attorney Dan A. Bailey, a partner with Arter & Hadden in Columbus, Ohio, said securities reform legislation in Congress would eliminate joint and several liability between the corporate entity and its officials.

But, insurer attorney Mike Gasmann, a partner with Drinker Biddle & Reath in Washington, noted that the legislation does not spell out how liability should be apportioned.

And, Mr. Gangnes pointed out that some state securities laws still would allow plaintiffs to hold corporate officials and the company jointly and severally liable.

●
Caterpillar Inc. vs. Great American Insurance Co., 7th U.S. Circuit Court of Appeals; No. 94-3707.

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Opinions

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DAMNED if you do and damned if you don't. That situation could soon confront employers that are asked for post-employment recommendations.

If they provide a negative recommendation, they can be sued by the former employee for defamation. And now a Florida judge has ruled that a company also can be sued for punitive damages for failing to disclose an ex-employee's violent behavior to a new employer.

That leaves employers between a rock and a hard place. While the growing market for employment practices liability insurance may help ease the blow of an adverse court ruling, we think employers need legislative protection.

In a ruling earlier this month in Hillsborough County Circuit Court, Judge Robert Bonnano ruled that Allstate Insurance Co. could be sued for punitive damages by the families of people who were killed by an ex-employee after he went on a rampage after being fired by another employer.

At issue was whether Allstate should have warned the new employer, Fireman's Fund Insurance Co., that the individual had been fired from Allstate for violent behavior. According to depositions obtained by The Associated Press, an Allstate supervisor fired Paul Calden in 1989 after he brought a gun to work and threatened to kill another employee. The supervisor said he thought he "had a total lunatic on my hands."

Mr. Calden in 1991 applied to Fireman's Fund and, according to the plaintiffs' suit, presented a letter from Allstate that stated only that he had been let go because of a restructuring.

Fired by Fireman's Fund a year later for unspecified reasons, he soon returned to the offices and shot to death three people and injured two others in a cafeteria. He then killed himself.

A trial is expected in November on the plaintiffs' contention that Allstate should have said more.

We deplore that sort of second-guessing. What more could Allstate have said without opening itself up to potential liability for defamation?

Employment liability experts have long warned companies not to give any personal descriptions about former



"HOW ABOUT IF YOUR RECOMMENDATION JUST SAYS THAT YOU'RE 'ONE HELLUVA GUY?'"

employees for job recommendations, regardless of whether the worker was terminated or left the position voluntarily.

Instead, experts generally recommend only giving length of employment and a description of the workers' job duties.

We think the two extremes at issue here—saying too much or saying too little—are unfair to companies seeking a fair assessment of workers from past employers, and to employees who may be denied a fair job reference.

To remedy the situation, we think legislative relief is needed. An Indiana law enacted earlier this year offers a fair model for reform in other states.

The Indiana law gives employers that provide negative job references immunity from lawsuits—so long as they provide "fair and unbiased" information about an employee's past or present job performance upon the request of a prospective employer.

In other words, employers cannot be penalized for speaking honestly about a former employee.

Letters

RAND report could mislead benefit managers

To the editor: An article in the Feb. 13 issue, "Annual Mammograms Unnecessary: Report," described a report by RAND Corp. that recommended drastic reductions in annual mammography screenings to save money for health plans and not increase the risk of breast cancer in women.

Upon initial reading, this sounded like good news. Redesign the health plan!

But, after explaining this to my wife, a registered nurse, she produced an article from the June 1994 Consumer Reports on Health. If the RAND report is based on the National Cancer Institute's uncertainty about mammography's value, its conclusions may rest on incomplete research.

According to Consumer Reports on Health, the NCI analysis was based on too small a sample. The research was conducted in the early years of mammography before technology improved to today's level. Research was done outside the United

States, technicians were poorly trained and the screenings themselves were insufficient by present standards, Consumer Reports on Health said. In contrast to the NCI study, the Consumer Reports on Health article also gave evidence from a more recent Harvard University study that clearly pointed to the importance of early mammograms.

My concern is with publishing an article for benefit plan managers that appears to lack sufficient research, at best. Breast cancer is a life-and-death matter. If the benefits community were to act on this article, the results may be disastrous for women.

Inappropriate prescribing root of problem

To the editor: I was dismayed by the representation of my remarks in your June 26 article, "Minding Workers' Mental Health."

The purpose of our executive education program on "Integrating Mental Health Care Pharmaceuticals with Managed Behavioral Health Care" is not based on a recognition "of the need to crack down on the misuse of psychiatric drugs." Rather, our goal is to determine the best ways for managed care organizations, prescription benefit managers and pharmaceutical manufacturers to share resources and work together to improve prescribing practices and to improve the quality of care.

Your article implies that the prescribing of psychiatric drugs is excessive and perhaps even abusive or fraudulent. I was try-

ing to communicate that such prescribing may be inappropriate in that it may be done by physicians who lack mental health training, and that it may be connected with an appropriate evaluation, treatment plan and case management system.

The prevalence of mental illness in the workplace is vast—almost 30% in any given year. Consequently even at current levels, pharmaceutical prescription may be less than it really should be, rather than excessive.

The "crackdown" needs to be focused on inappropriate prescribing.

Dr. Michael A. Freeman
President
Institute for Behavioral Healthcare
Tiburon, Calif.

Stuart Maynard

Senior Benefits Administrator
Waban Inc.
Natick, Mass.

Editor's note: The purpose of our reporting on the RAND Corp. report was to inform readers of potentially controversial research. The Feb. 13 article also noted that, despite RAND's findings, there is wide debate over the benefit of mammography for women younger than age 50, and also reported the American Cancer Society still advocates screening for women age 40-49.

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Continued from page 3

attend dealer conferences to respond in person to dealers' concerns and to "ask a lot of questions," he said.

Mr. Browning also cites the insurer's cost containment efforts as a major reason for its success.

Northland Insurance Group, a St. Paul, Minn.-based commercial, specialty and personal lines organization headed by Northland Insurance Co., does a couple of things that have kept it on the Ward's 50 list all five years, according to Gene Gopan, chairman and CEO.

Among those are writing business for only accounts smaller than the Fortune 1,000, holding underwriting

profits paramount to all else and taking "a very conservative view" of its financial statements by recognizing losses and expenses immediately in the income statement and deferring income whenever possible.

Mr. Gopan acknowledges that he has an advantage with privately held Northland that executives at stock companies do not: no pressure to show higher earnings each quarter. "We don't have to sacrifice short-term results for long-term gains."

He is particularly proud of Northland's 152% liabilities-to-surplus ratio for 1994. That's more than 34 points better than even the Ward's 50 average of 186.3%, and it is more than 100 points better than the total industry average of 257.3%, according to Ward's Insurance Results.

"We're well-capitalized and in a position to withstand any adverse development in liabilities and still maintain our payment history and capital adequacy," Mr. Gopan said.

Another reason many of the Ward's 50 insurers are profitable, safe companies is that their investment departments are not driving their insurance operations, Prof. Kensicki said. "They're not squeezing one point in capital gains out."

Prof. Kensicki noted the 0.9-to-1 net premiums written-to-surplus ratio for the Ward's 50 property/casualty insurers in 1994. If those companies' investment sides were driving the business, the insurers likely would write closer to regulators' solvency red flag, a 3-to-1 limit.

The property/casualty industry ra-

Property/casualty benchmarks

	1990-1994	Ward's 50	Total Industry
Combined ratio		102.7%	109.5%
Return on average equity		15.1	8.8
Risk-based capital ratio		318.5	258.9
Surplus/assets		33.1	27.0
Loss ratio		64.5	69.7
LAE ratio		12.4	12.8
Underwriting expense ratio		24.0	25.6
Commercial multiple peril loss and LAE ratio		68.9	75.5
Homeowners multiple peril loss and LAE ratio		79.0	85.7
Other liability loss and LAE ratio		70.1	94.4

Source: Ward's Results, 1995 Property-Casualty edition

GRAPHIC BY KIM ROME

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tio was 1.4-to-1, which still "is nothing to be concerned about," he said.

Still, the Ward's 50 group last year outperformed the total industry in net investment income as a percentage of premium income, or net premium earned: 39.8% compared with 33.1%, respectively.

As diverse as the Ward's 50 list of property/casualty insurers is, the life/health list is even more so, Prof. Kensicki said. But, none of the nation's largest group health underwriters made the list, and he does not believe that will change in future lists for a few reasons.

First, life insurance is a far more stable business than group health coverage, particularly regarding reserves. Once premiums are recorded, statutory reserves are set "over an incredibly long time," he observed.

And "you can't fudge (life) reserves," he said. "They're statutory." Individual life insurance business

accounted for 31.5% of the Ward's 50's 1994 premium income, compared with 22.7% for the total life insurance industry. Group accident and health accounted for 16.7% of premium income for the Ward's 50, compared with the industry's 18.3%.

A second reason for the health underwriters' absence is that group health business is far more competitive than individual life business, Prof. Kensicki said.

Third, market changes, like the elimination of pre-existing condition exclusions in some areas, also mean group health companies no longer are underwriters.

"We know everybody is probably going to have a loss," unlike in the past, when health insurers asked only the possibility of a loss, he said.

As a result, health insurers' margins "are really low," which hurts their ability to make the Ward's 50

Continued on next page

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Life/health benchmarks

1990-1994	Ward's 50	Total Industry
Return on average equity	14.2%	11.6%
Return on average assets	1.5	1.1
Risk-based capital ratio	257.7	207.5
Mortgage loans and real estate as a % of invested assets	20.5	20.2
Non-investment grade bonds as a % of invested assets	4.2	4.5
Total high-risk assets as a % of invested assets	6.6	7.6
Individual life premiums as a % of total premium income	32.6	22.3
Group annuity premiums as a % of total premium income	20.9	24.2
Group accident and health premiums as a % of total premium income	16.7	19.0

Source: Ward's Results, 1995 Life-Health edition

GRAPHIC BY KIM ROME

Continued from previous page list, said Gregory D. Jacobs, the managing partner at Milliman & Robertson Inc. in Indianapolis and a member of the Ward's life/health advisory board.

One exception is Principal Mutual Life Insurance Co. of Des Moines, Iowa. Only 7.6% of its 1994 pre-

mium income was attributable to individual life business, while group accident and health accounted for 30% and group annuity 52.4%.

Charles Rohm, executive vp of Principal, generally agrees with Prof. Kensicki's assessment of the group health market.

"However, if your organization

can deal with change very well, there's still room to make a profit" in group health, Mr. Rohm said. But Principal will not sacrifice profits for market share, he said.

The Ward's 50 life/health insurers outperformed the total industry in 1994 returns on average assets: 0.9% vs. 0.6%.

This is an increasingly important statistic as insurers compete with banks for asset protection business, said Mr. Jacobs. Banks averaged a 1.15% return in 1994, according to the American Bankers Assn.

Group annuity business as a percentage of premium income for the Ward's 50 ranks second only to individual life business at 21.1%, which was only nominally smaller than the total industry average in 1994. However, the Ward's 50 individual annuity business, at 13.6% of premium income, was much smaller than the 23.9% industry average.

Like the Ward's 50 property/casualty insurers, the life/health companies are not risky investors. Also, they market their business efficiently and are "not terribly flashy underwriters," said Mr. Jacobs. "It seems like a simple recipe, but it's what sets them apart." **BI**

Oops: Minor mixup in the Ward's rankings

Things aren't quite what they seem to be regarding two insurers on the Ward's 50 list of the safest and best-performing property/casualty insurers as published in the 1995 Ward's Insurance Results.

Travelers Group appears in the reference book's alphabetical listing of the top 50 companies.

But, as noted in the Ward's 50 list accompanying this report on page 3, the only Travelers Inc. operation that qualifies is Gulf Insurance Group. The flagship company of that group is Gulf Insurance Co. of Irving, Texas, which is an independently run Travelers unit.

The mix-up occurred because Gulf was identified as Travelers in the data that the National Assn. of Insurance Commissioners provided to Cincinnati-based management consultant Ward Financial Group, which produces the report, explained John L. Ward, chief executive officer.

Additionally, Federal Insurance Co., listed in the Ward's Insurance Results' top 50, is appropriately identified as the Chubb Group of Insurance Cos. in the top 50 listing on page 3.

—By Dave Lenckus

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Details set Ward's 50 ahead of industry

For all of their solvency and financial performance strengths, the Ward's 50 property/casualty and life/health insurers are not head-and-shoulders above the total industry in a few financial measurements.

But, in at least one of those cases—loss adjustment expenses for property/casualty insurers—the Ward's 50 parlayed comparable expenses into a lower loss ratio, said John L. Ward, chief executive officer of Cincinnati-based management consultant Ward Financial Group.

And, in another measure—total high-risk assets as a percentage of invested assets for life/health insurers—the total industry has been improving steadily since the misfortunes of a few insurers in the early 1990s focused a white-hot spotlight on the riskiness of insurers' investment portfolios.

Ward's Insurance Results for property/casualty and life/health insurers, produced annually by Ward Financial, lists the 50 safest and best-performing insurers in each market segment and provides numerous financial measurements for each group. The idea behind the reports is for risk and benefit managers, brokers and insurers to compare individual markets with the benchmarks set by the Ward's 50 insurers.

For example, among property/casualty insurers, the Ward's 50 for the 1990 through 1994 period had a 102.7% combined ratio, compared with a 109.5% figure for the entire industry.

The Ward's 50 group's 15.1% return on average equity was nearly double the total property/casualty industry's 8.8%. And, the Ward's 50 had a safer 33.1% surplus-to-assets ratio than the industry's 27%.

But, the Ward's 50's 12.4% loss

adjustment ratio was only slightly lower than the industry's 12.8% ratio.

That minor difference may not be such a bad thing for the Ward's 50 group, according to Mr. Ward.

"How good you are at LAE has a big impact on the loss ratio," which is a major component of the combined ratio, he pointed out. Many Ward's 50 companies have determined that spending an extra dollar to settle a claim can reduce their losses by as much as \$2, he said. "That's a best-practice kind of thing."

The Ward's 50 had a 64.5% loss ratio for the same five-year period, compared to a 69.7% loss ratio for the entire property/casualty industry.

The Ward's 50 did a lot better than the industry with the underwriting expense ratio, another significant measure used in developing the combined ratio. The Ward's 50 group had a 24% ratio, compared to a 25.6% ratio for the entire property/casualty industry. "That's significant any time you get close to two points," Mr. Ward said of the difference between the figures.

Underwriting expenses also will have an impact on loss figures, he said. "If you can invest a little more in underwriting in selecting risk, you get a payback on losses," he said. For the Ward's 50 group, the lower underwriting expense ratio "tells me they're spending less and being more effective" in underwriting, he said.

On the life/health side, the insurance industry has been doing a better job of improving its investment portfolio, while the Ward's 50 have been maintaining a safe portfolio consistently, Mr. Ward said.

An indication of that is the

Ward's 50 insurers reported that 20.5% of their invested assets represented mortgage loans and real estate, slightly higher than the 20.2% reported by the total industry. The Ward's 50 reported only a slightly lower percentage of non-investment grade bonds as a percentage of invested assets—4.2%—than the total industry—4.5%.

The five-year figure for total high-risk assets as a percentage of invested assets is 6.6% for the Ward's 50 insurers and only one point higher for the total life/health industry.

For 1994, the difference is even slimmer: 6% for the Ward's 50 and 6.6% for the industry. Four years earlier, the difference was far sharper: 4.9% for the Ward's 50, compared with 8.5% for the industry.

Mr. Ward said he does not consider the more than one-point increase in the high-risk assets percentage for the Ward's 50 over the five-year period a significant trend, especially considering the difference in the companies that now make up the Ward's 50 list. Only nine insurers on the 1995 list have been part of the group all five years.

However, generally the same group of companies reported a 4.9% high-risk assets figure in 1993.

Mr. Ward does not think that "modest increase" is significant nor part of any trend. The numbers for the total life/health industry, though, show a "definite and positive trend" downward, he said.

And, the Ward's 50 still have a more than 50-point advantage with its 257.7% risk-based capital ratio compared to the total industry figure of 207.5%.

—By Dave Lenckus

Property/casualty leaders

Top 10: Net premiums written	1994 total (in billions)
1. State Farm	\$32.04
2. Allstate	16.51
3. AIG	8.07
4. Farmers	7.60
5. Nationwide	7.43
6. Continental Casualty	6.56
7. Hartford Fire	5.65
8. Liberty Mutual	5.31
9. Aetna	4.48
10. United Services Auto Assn.	4.35

Top 10: Surplus	1994 total (in billions)
1. State Farm	\$21.16
2. National Indemnity	13.36
3. AIG	7.54
4. Allstate	6.53
5. Nationwide	4.82
6. Aetna	3.99
7. General Re	3.77
8. United Services Auto Assn.	3.66
9. Liberty Mutual	3.54
10. Continental Casualty	3.37

Top 10: Net premiums written	1994 total (in billions)
1. State Farm	\$59.65
2. AIG	30.12
3. Allstate	29.45
4. Continental Casualty	24.44
5. Liberty Mutual	20.63
6. Aetna	19.25
7. Nationwide	18.52
8. National Indemnity	17.88
9. Hartford Fire	15.41
10. Farmers	12.68

Source: Ward's Results, 1995 Property-Casualty edition

GRAPHIC BY KIM ROME

Life/health leaders

Top 10: Group life in force	As of year-end 1994 (in billions)
1. Metropolitan Life	\$832.48
2. Prudential	557.12
3. Connecticut General	450.33
4. Aetna Life	276.60
5. John Hancock	165.08
6. Travelers	135.19
7. Hartford Life	115.01
8. Principal Mutual	108.39
9. New York Life	103.45
10. UNUM Life	102.85

Top 10: Surplus	As of year-end 1994 (in billions)
1. Prudential	\$7.45
2. Metropolitan Life	6.30
3. New York Life	3.72
4. TIAA	3.44
5. John Hancock	2.33
6. Northwestern Mutual	2.23
7. Travelers	2.13
8. Equitable of the US	2.12
9. State Farm	2.04
10. Connecticut General	2.02

Top 10: Assets	As of year-end 1994 (in billions)
1. Prudential	\$167.34
2. Metropolitan Life	131.18
3. TIAA	73.35
4. New York Life	55.34
5. Connecticut General	50.91
6. Northwestern Mutual	48.11
7. Aetna Life	47.36
8. National Indemnity	46.88
9. John Hancock	46.85
10. Principal Mutual	44.12

Source: Ward's Results, 1995 Life-Health edition

GRAPHIC BY KIM ROME

Ward's tough tests filter out pretenders

Property/casualty and life/health insurers on the Ward's 50 list of the safest and best-performing insurers are more than one-year wonders, according to Ward Financial Group.

A misstep by an insurer over the past five years in any of several areas in which the Cincinnati-based firm measures solvency and business performance would thwart its chances of making the list.

Ward Financial develops the lists annually to help risk and employee benefit managers compare their insurers to the industry's safest and best-performing companies.

When either the solvency or the business performance of a Ward's 50 insurer is analyzed independently, that company may not rank among the 50 best in the industry, though it would compare favorably with most other insurers. The combination of safety and performance over five years sets a Ward's 50 insurer apart.

Ward Financial's evaluation, based on data provided by the National Assn. of Insurance Commissioners, is purely quantitative. Only insurers' statutory financial results filed with state insurance regulators are considered. Rating agencies, by comparison, also factor in qualitative assessments gleaned from discussions with insurers' top management.

In its latest reports, Ward Financial reviews 2,982 property/casualty insurers and 1,629 life/health insurers licensed in the United States.

The reports provide only limited analysis on small insurers: 1,430 property/casualty insurers that reported less than \$10 million of earned premium in 1994, and 470 life/health insurers that had less than \$5 million of assets last year.

With the aid of computer programs developed by CEO John L. Ward, Ward Financial analyzes the

information and subjects each insurer to a battery of tests that measure its safety and the consistency of its financial performance. Failing one of the safety and consistency tests eliminates the company from further analysis.

To pass this phase, insurers must:

- Have been in operation for at least the past five years, and their financial data must be complete.

- Write at least \$50 million of net premiums annually on average over a five-year period and have at least \$50 million of surplus.

- Report net income in four of the past five years. The lone annual loss may not exceed 10% of surplus.

But, the income figures that Ward Financial uses in this part of its analysis are adjusted from insurers' statutory net income to reflect some operational items that normally are recorded directly to surplus. The firm believes those items more truly reflect operating performance.

For example, for both property/casualty and life/health insurers, Ward Financial figures into net income unrealized capital gains or losses, changes in non-admitted assets and changes in provisions or liabilities for reinsurance they have purchased.

And, for mutual life/health insurers, Ward Financial adds up to 1% of surplus, but not exceeding a policyholder dividend, to net income.

Without this adjustment, stock companies would have an unfair advantage over mutuals when Ward Financial analyzes net income, Mr. Ward said. That's because, under standard accounting practices, 100% of a mutual company's dividend is treated as an expense, which reduces income. Dividends declared by stock companies are not treated as expenses. Instead, they reduce surplus.

Ward Financial believes that up to

1% of a mutual insurer's surplus reflects the portion of a policyholder dividend that represents a return of capital, much like a stockholder dividend at a stock company.

Ward Financial does not add any surplus to net income for mutual property/casualty insurers because they rarely pay dividends.

- Achieve a minimum risk-based capital ratio. The minimum is 100% for property/casualty insurers and 150% for life/health insurers.

Ward Financial established different risk-based capital ratio guidelines for property/casualty insurers and life/health insurers so that a comparable number from each group are eligible for the business performance analyses.

Mr. Ward also noted that, in accord with regulatory requirements, Ward's Results does not reveal the NAIC's risk-based capital ratios. The firm publishes insurers' risk-based ratios based on its own formula, which, in most cases, is slightly more advantageous for insurers than the NAIC formula, he said.

- Not have a fluctuation in net written premiums that exceeds a 40% compound annual growth or a 10% annual compound decrease.

The net income test trips up property/casualty insurers more than any other test, according to Mr. Ward. Life/health insurers are most often snared by the risk-based capital test.

The other tests snag 10% to 15% of the insurers that do not make the Ward's 50 lists, Mr. Ward estimates.

Insurers that pass the safety and consistency tests then are analyzed for their returns on average equity, average assets and total revenue.

The 50 highest-ranking property/casualty insurers and life/health insurers constitute the Ward's 50 lists.

—By Dave Lenckus

Insurer Topics

A special editorial section sent exclusively to insurers and reinsurers

More than alphabet soup

Insurer associations and the issues facing their members are the focus of this month's *Insurer Topics*. Appearing in this section are profiles of the six major insurance industry organizations: the American Insurance Assn., the National Assn. of Independent Insurers, the Alliance of American Insurers, the National Assn. of Mutual Insurance Cos., the Health Insurance Assn. of American and the American Council of Life Insurance.

AIA willing to buck conventional stance

But finding common ground with others is still the association's preference

By MARK A. HOFMANN

The American Insurance Assn. isn't afraid to go it alone. That was amply demonstrated last year when the in-



surer trade group endorsed the controversial Environmental In-

urance Resolution Fund as a way to reform Superfund's liability system, even though other insurer trade groups—and some AIA members—bitterly opposed the idea (*BI*, Sept. 26, 1994; Aug. 1, 1994).

Under the terms of the EIRF proposal, policyholders would receive a portion of their Superfund-related costs from the EIRF, but only if they agreed not to sue the underwriter for more money. Policyholders could not, however, be forced to accept an offer from the EIRF, leaving insurers uncertain of their exposure.

The AIA also proved willing to See AIA on page 12D

NAII's diversity a plus when making policy

Insurer members strive for unity but pride themselves on independence

By MEG FLETCHER

The National Assn. of Independent Insurers' diverse membership keeps its policy-making discussions lively and focused, even after 50 years. "I think we probably have the greatest variety (of members) of all the trade associations," said Michael P. Duncan, senior vp, secretary and general counsel.

The Des Plaines, Ill.-based NAII consists of more than 570 members, ranging from giant Allstate Insurance Co. to small and medium-sized admitted and non-admitted insurers.

Its member companies write more than one-third of the nation's automobile insurance and a quarter of the homeowners' coverage. In addition, they provide almost \$14 billion in coverage—about 15% of the total market—in commercial lines, including trucking, taxi fleets, workers compensation and multi-peril lines.

The association was formed in 1945 by companies that wanted to put out their own rating information rather than use Insurance Services Office Inc. data. The NAII's various statistical services now generate one-third of its \$25.5 million in annual revenues.

Given its history, the trade association is sometimes jokingly referred to as the "National Assn. of Fiercely Independent Insurers," by Jack S. Ramirez, executive vp and chief operating officer.

See NAII on page 12G

NAMIC aims for mutual respect

Variety of products, services attracts insurers to association

By RODD ZOLKOS

Products and services are a key reason insurers join the National Assn. of Mutual Insurance Cos. But the diversity of the organization's membership has a profound impact on just how Indianapolis-based NAMIC goes about serving its 1,208 members. "We have to offer a lot of dif-

ferent products," said Gary Eberhart, NAMIC's vp of member services. "They certainly don't meet everybody's needs, but we have segments that utilize various products."

In delivering that variety, NAMIC is sensitive to ensuring that members only pay for what they want. "We use a cafeteria kind of approach," Mr. Eberhart said. Members' dues essentially fund the association's "core products"—its federal affairs program and its administration.

As for NAMIC's other products and services, however, "we want them to stand alone and we price them so that the association at least breaks even on it," he said. "We don't want any of our members paying for something that they don't use."

"Members can actually pick and choose," said NAMIC Chairman Paul Stillman, who also is chairman and CEO of Preferred See NAMIC on page 12F

Creating an alliance of diverse insurers

Group aims to find consensus among members

By SARA MARLEY

Diversity is the strength of the Alliance of American Insurers. "We have always been extremely diverse," says Rodger S. Lawson, president of the Schaumburg, Ill.-based association. "We take pride in reaching consensus on most issues. I think too much is made of big vs. small.

"The membership of the Alliance is stronger if we achieve consensus and cooperation than if we are fragmented," he continued. "It works to draw companies away from their self-interest to look more at the com-

munity interest."

At the same time, "the Alliance is very responsive to individual companies' needs," said Andrew W. Attivissimo, president and CEO of the Empire Insurance Group in New York and 1995-1996 chairman of the Alliance's board of directors. "Whether you're a large company or a small company, you get your say. It's a good opportunity for small companies to be heard."

The Alliance's current membership is at an all-time high of 247 companies, up from 222 in 1994. Reinsurer membership grew to 26 from 22 a year ago.

New members come from around the country, though the Alliance was particularly success-

See Alliance on page 12H



Watchdog for health insurers

Despite reduced membership, HIAA remains protector of managed care

By DEBORAH SHALOWITZ COWANS

Although its membership is declining, the Health Insurance Assn. of America remains a powerful lobbying and advocacy organization on both the state and the federal level.

The HIAA grabbed national attention two years ago through its "Harry and Louise" television advertisements opposing President

Clinton's health care reform proposals, though the organization traditionally has been and remains a force in state legislatures.

For example, in the past year the HIAA helped defeat proposed anti-managed health care legislation in 33 of the 37 states considering such proposals. Many of those bills contained "any willing provider" provisions, which typically require managed care plans to accept any health care providers willing to meet a plan's terms and conditions. Other state legislation would have

required all health maintenance organizations to offer plan members an out-of-network option.

"We certainly would like to think we were influential" in helping defeat these proposals, stated Susan Van Gelder, vp of membership and insurance services for the organization.

These kinds of proposals "thwart the flexibility of managed care companies in being able to come up with cost-effective, quality health care," stated Bill Gradison, president of the HIAA. The "any

willing provider" laws "basically cut off at the knees" the ability of managed care companies to negotiate good rates with providers, he said.

The organization's state lobbying efforts will be ongoing.

Insurer Associations



There is a continuing "challenge at the state level to the development of managed care," Mr. Gradison said. "It'll be a multiyear fight."

State lobbying "is one of the areas we believe we really provide value added to our members," he

said. The HIAA, which has a staff of 120 in its Washington office, has three times as many state lobbyists as federal lobbyists.

The HIAA this summer closed its Chicago office for cost-cutting reasons, Ms. Van Gelder said. Five people had worked out of that office.

The association remains active on the federal front, too.

"The insurance reforms being considered in the House and Senate are positive steps," Mr. Gradison said. The Senate Labor and Human Resources Committee recently approved a bill that would curb pre-existing condition exclusions in health plans (BI, Aug. 7).

However, the HIAA is concerned that one provision of the bill, which states that a person who for some reason is no longer eligible for group health insurance would be guaranteed an offer to buy an individual insurance policy, would cause adverse selection in the individual health insurance market, Mr. Gradison said.

The group is discussing the provision with congressional staffers.

Although Ms. Van Gelder noted that "our primary function is lobbying," she added that the HIAA

provides numerous additional services to members, including

- Advocacy services, such as arranging letter-writing campaigns from supporters



Mr. Gradison

of key legislation to members of Congress, and town hall meetings to generate support for various measures.

- Public relations, such as providing health insurance information to the public through the media.

- Building coalitions with other groups to increase the effectiveness of state lobbying efforts.

- An online information system called HI-WIRE that members can access via modem to track action on state and federal legislation and regulations. HI-WIRE also provides directories, condensed news, research analyses and calendars of hearings, meetings and testimony due dates.

- Weekly faxes on state and federal activity.

The HIAA also offers an education program for members and non-members, though members receive a discount. The program is based on several textbooks and semiannual exams. Topics include group life and health insurance, individual health insurance, managed care and long-term care. About 30,000 people take the exams annually, Ms. Van Gelder said. Enrollees who successfully complete all of the exams receive the Health Insurance Associate designation.

Last spring, the HIAA unveiled a new managed care textbook and plans eventually to replace the Health Insurance Associate designation with a new Managed Care Associate designation. A new curriculum is being planned, covering

See HIAA on page 12H

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ACLI seizes legislative opportunities

New leadership takes the offense on retirement savings and tax issues

By JUDY GREENWALD

The American Council of Life Insurance, the representative of 600 life insurers in Washington, is taking full advantage of the changed political atmosphere in the nation's capitol.

When Democrats controlled Congress, the ACLI "had been playing defense on a lot of legislative initiatives, particularly in the tax area," out of concern these might hurt the industry, said Nikki D. McNamee, senior vp-policy.

Now, under Republican control, there is a chance to be more active "in going after what the industry wanted, rather than...trying to maintain the status quo," she said.

The external changes in ACLI's landscape have somewhat paralleled internal changes, with the ap-

pointment of former North Carolina Gov. Carroll Campbell to head the organization last January.

Both Social Security and Medicare are threatened, and "our industry is uniquely positioned to play a major private-sector role to help people to do that," she said.

The ACLI has embarked on a public education program to

take responsibility for themselves," she said.

achieve this, said Ms. McNamee. "We don't have a specific agenda" except that it is essential for people to understand that Social Security and Medicare in and of themselves will not protect people in their retirement years, she said. "Private pension, life insurance and savings" must play a role as well.

An ACLI spokesman noted the organization now is involved in two related campaigns: The ACLI is working with the U.S. Department of Labor and other organizations in a project, launched in July, to encourage Americans to save for retirement. Consumers can call an 800-number to get retirement savings information.

It also has hired personal finance columnist Grace Weinstein as its spokeswoman to encourage consumers to call another 800-number

to obtain a booklet about life insurance. The theme of the campaign is "Life Insurance, the Foundation of Financial Security," said the spokesman.

The ACLI has been active on the legislative front as well, said Ms. McNamee. She noted the GOP's "Contract with America" calls for tort reform, in which the House initially focused on product liability before seeking a total overhaul of the civil justice system.

See ACLI on page 12H

Insurer Associations

pointment of former North Carolina Gov. Carroll Campbell to head the organization last January.

The two-term Republican governor was a businessman who also had served in Congress. He replaced Richard Schweiker, a former GOP senator and secretary of health and human services, who had been ACLI's president for about nine years.

Mr. Campbell's reputation when the ACLI board approached him about the position was as a "forward-looking person who looked



Ms. McNamee

toward consensus building," said Ms. McNamee, who was a lobbyist in Washington for North Carolina before joining the ACLI

with Mr. Campbell. Mr. Campbell was unavailable for an interview.

It has been a "real active six months," said Ms. McNamee, adding "people are looking at very radical changes in the tax systems and other areas."

Meanwhile, the ACLI is "trying to determine what makes the industry strong and really indispensable to the average person." One obvious way is the industry's "strong role in retirement security and family protection issues," she said.

Mr. Campbell feels that one of the most important things government can do is encourage the growth of the private sector pension system and encourage people to save long term, provide protection for their families in emergencies and "generally encourage peo-

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AIA

Continued from page 12A

allow some federal role in the oversight of insurer solvency and to accept changes in the McCarran-Ferguson Act, two positions that once again made the AIA the odd man out among insurer trade groups (*BI*, June 27, 1994; June 20, 1994; May 30, 1994).

AIA President Robert E. Vagley makes no apologies for the maverick positions of the past. He also makes clear, though, that he prefers the unanimity that marks the property/casualty insurance industry's approach to federal issues this year.

"We were willing to make politi-

cal calculations based on the political environment as we saw it, and I think some of the (insurer groups) were unwilling to do that. They were ideologically wedded to a position, they were inflexible, they were unyielding. Sometimes when you do that you win, but more often you don't win. As it turned out with the elections, we escaped the defensive agenda and one of the reasons things are so much more pleasant this year is that there's very little to separate (the insurance industry)," he said.

Ironically, the issue that divided the property/casualty insurance industry last year—Superfund—remains at the top of the agenda but as a unifying theme this year.

"The top five issues are Superfund, Superfund, Superfund, natural disaster, natural disaster," said Richard C. Lawson, the AIA's vp-federal affairs.

Following those key issues, in no particular order, are financial services reform, "broad tort reform," including product liability reform, and a "whole plethora of issues," including federal crop and flood insurance programs.

There are "lots of analogues to the federal issues" at the state level, but workers compensation reform remains the association's ongoing priority, Mr. Vagley said. Workers comp reform is a "real success story," with about 30 state laws having undergone significant re-

form in the past decade. But several key states like New York still need reforms, he said.

The AIA also is focusing on state pollution statutes, said Mr. Vagley. "Even after we succeed in reforming the federal Superfund law, there are still lots of sites that are encompassed by state laws and we need to go back and basically deal with those state statutes," he said.

Other issues at the state level include civil justice reform, no-fault

automobile liability insurance and state natural disaster issues.

George Mulligan, AIA's senior vp-government affairs, added that a lot of attention will be paid to earthquake issues in California. He also cited Illinois civil justice reforms as a key AIA accomplishment this year.

Mr. Vagley said he expects insurance availability in inner cities to become a major issue for the AIA during the next few years. The AIA already works with community groups, the Urban League and agent associations on the problem. The AIA is seeking to improve the availability and affordability of property insurance in inner-city areas and to enlist minority agents to represent standard companies in their communities, he said.

The AIA has a local legislative counsel in every state to monitor developments in the capitols. The state counsels are overseen by the association's regional offices in: Sacramento, Calif.; Atlanta; Skokie, Ill.; Boston; Albany, N.Y.; and Austin, Texas. And the association has slated a new office in Annapolis, Md., to open this summer.

The organization now has a 130-member staff, 97 of whom work in the Washington headquarters.

AIA Chairman Douglas W. Leatherdale, who is chairman and chief executive of The St. Paul Cos. Inc. in St. Paul, Minn., said the AIA has a two-fold strength. "It has superb management, in the sense that it has very strong leadership in Bob Vagley and the staff he has assembled in Washington," he said. The staff has a "wealth of understanding of politics" on both the national and state levels.

And, the AIA's professional staff has "built a wealth of relationships on both sides of the aisle" and can bring knowledge of the issues and a balanced perspective to policy discussions, he added. This "engenders a substantial amount of respect," on Capitol Hill and in the statehouses, said Mr. Leatherdale.

The AIA's other strength is its members include major property/casualty companies, whose top managers take an interest in the association's activities, he said.

The AIA currently has about 270 members, generally commercial, stock property/casualty companies. The current association came into being in 1964, when the former AIA merged with the Assn. of Casualty & Surety Cos. and the National Board of Fire Underwriters.

The AIA says its members account for about 23% of the domestic P/C industry's total premium volume. AIA members write 45% of the country's commercial multi-peril coverage, 42% of the product liability premium coverage, 39% of the commercial auto premium volume and 39% of the workers comp premium volume.

"It is somewhat mythical to believe that the AIA is only an organization of big companies," said Mr. Vagley.

In fact, one of the group's challenges is to make activities more meaningful to attract new members, particularly regional insurers,

See AIA on page 12F



Mr. Vagley

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Insurer Topics

NAMIC

Continued from page 12A

Mutual Insurance Co. in New Berlin, N.Y. "It's a pay-as-you-go-type program, which is the best way."

One popular product, which about three-fourths of the members use, is directors and officers liability coverage, Mr. Eberhart said. Indianapolis-based NAMIC Insurance Co., an insurer formed in 1987 and owned by the association's members, underwrites the coverage.

NAMIC also has a group insurance program through a multiple employer welfare arrangement that members frequently use to provide group benefits to their employees.

About 400 members utilize the MEWA for one or more of their employee group benefits, he said.

Forty-seven members buy catastrophic reinsurance from NAMIC under a program started two years ago. The product, which covers up to 25% of any member company's expense up to \$5 million, includes a profit-sharing feature.

Educational services, including developing a variety of educational manuals and videotapes, are an important part of NAMIC's mission.

But services are not the only thing that attracts members. Surveys have found that NAMIC's work in federal affairs is the principal reason companies join.

Topping NAMIC's federal agenda

this year are: proposed anti-discrimination rules developed by the Department of Housing and Urban Development; Superfund; natural disaster legislation; banks and insurance; tort reform and product liability reform; and health care reform as it affects NAMIC members.

Pamela J. Allen, NAMIC's vp of federal affairs, noted that a recent House appropriations bill would deny HUD money to issue regulations that would affect property insurers. NAMIC wants "a more permanent solution" and is working with the congressional banking committees toward that end.

On the Superfund front, NAMIC's primary concern is ending retroactive liability. The group has

been an active participant in the broad-based industry group Superfund Reform '95. Ms. Allen is optimistic that a Superfund reform bill will pass by year end.

NAMIC also has been active in the Natural Disaster Coalition and supports the two natural disaster bills currently before Congress. Ms. Allen said she believes the House will pass its bill this year, though she is not sure about the Senate.

While health care remains on NAMIC's agenda, it's taking far less time now than during the Clinton administration's reform push.

NAMIC relies on several methods to relay data to its members and get their views to Washington.

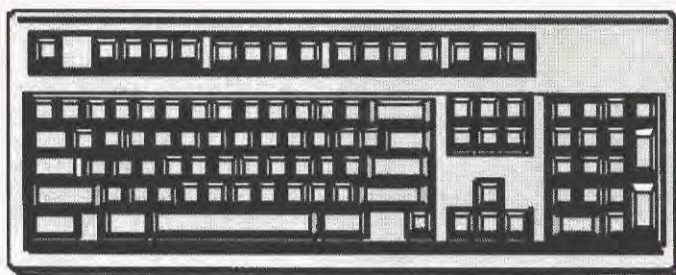
Foremost is the Congressional

Contact program, in which executives from individual companies meet with their state's members of Congress. "This year we've done 26 states so far. We've covered about 300 congressional offices," she said.

The group also puts out two publications: The Government Affairs Insider, a biweekly digest of major developments and issues; and NAMIC Forum, a monthly report that covers issues in greater detail.

NAMIC's strength is "it's a grass-roots organization," Mr. Stillman said. Legislators understand it represents "a real cross-section, from the smallest insurance company to a large international one."

And NAMIC's governmental effort
See NAMIC on page 12H



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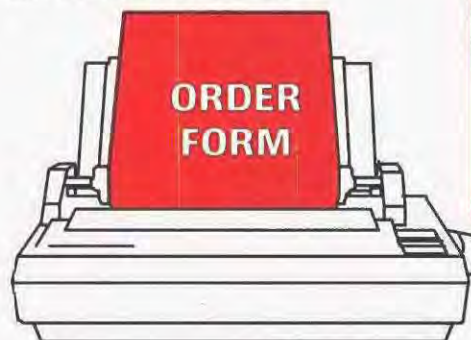
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City _____ State _____ Zip _____

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Business Insurance

AIA

Continued from page 12D

said Mr. Leatherdale. "We're always anxious to add new members."

"What probably sets us apart is less our demographic makeup than our approach to government affairs and our sense of political reality and aggression—meaning aggression in the good context," said Mr. Vagley.

One of the AIA's chief characteristics is the "seriousness with which we take the government affairs process," he said. The group's members "know that government affairs and public policy represents huge dollars. It's more than a hobby."

To keep members apprised of legislative activity, AIA maintains an online reporting service—AI-Access—that includes records on state and federal legislation, both existing and proposed, as well as regulatory developments. Although most AIA members have their own political action committees, the organization has its own, AIA-FAC, which raised \$37,218 in 1994 and disbursed \$36,503, according to an AIA spokesman.

Mr. Vagley said the AIA takes "a practical approach" based on principles starting with the "fundamental importance of the free market. That is the core principle and that takes us to resisting free-market interferences by government."

But, "we are disinclined to tilt at windmills and are really capable of operating effectively in alternative political environments. And I think that's where we really got separated from some of our brethren last year, particularly when that defensive agenda was on the table."

The AIA's lonely positions last year were driven by the need to respond to congressional actions, he said. The AIA wanted to "create a constructive approach to what was being pushed on us. The approach of some of the other groups was to say 'No, not now, not ever' and to resist, resist, resist."

"Sometimes, you can succeed. Other times—in my experience more often—you don't succeed and it really is in your interests to develop a constructive alternative that accommodates your needs, yet at the same time is responsive to the pressures on you," Mr. Vagley said. E1

NAII

Continued from page 12A

However, "the broad base gives us a good perspective on what is best for the industry," added Mr. Duncan, a retired Allstate executive and former director of the Illinois Insurance Department.

Reaching consensus is not always easy, but once members do, "you can get a lot done," he added.

Top NAII executives hope they, along with other trade group leaders, can help persuade the Republican-controlled Congress to enact some pro-insurer legislation this session, said Mr. Ramirez, who joined the group in 1993 and is slated to become president and chief executive officer when Lowell R. Beck retires in June 1996.

The challenge this year will be to get normally pro-business Republicans to enact favorable legislation and to defeating anti-insurer bills, Mr. Ramirez said.

For example, the NAII opposes the Department of Housing and Urban Development's efforts to combat redlining by making discrimination provisions in the federal Fair Housing Act apply to insurers.



Mr. Ramirez

"We support laws against discrimination," Mr. Ramirez emphasized, though the NAII is a staunch believer that states—not the federal government—have the authority to deal with this and many other insurance-related issues. If HUD intervention is allowed, the result will be dual regulation, which is the worst possible kind, he said.

Perhaps the biggest item on the insurance industry agenda again this year is Superfund reform.

Before a proposal died last year in a dispute about wage rules at dump sites (*BI*, Dec. 26, 1994), it had deeply divided the insurance industry. Specifically, companies split on a proposed premium tax that would go into a new Environmental Insurance Resolution Fund.

After the GOP victory in November, the industry returned to its position of seeking repeal—or limitation—of retroactive liability.

"This year the industry is much more united," the Mr. Ramirez. "We have tried very hard to convince Congress and the industry that the subject of taxes need not come up."

Also on the NAII agenda is legislation that would establish a national private corporation to act as a catastrophic reinsurance facility and sell earthquake or hurricane insurance to homeowners in risk-prone areas (*BI*, Aug. 14; June 19). It would provide coverage without making individual insurers responsible for it.

Federal banking and tax legislation also are being monitored.

With President Clinton's health care reform proposal dead, the issue has become less important for Con-

gress, Mr. Ramirez said. Early and ardent opposition to the Clinton plan netted the NAII a plaque from the American Conservative Union for defeating the move toward "socialized medicine."

Backing up such lobbying efforts is plenty of political action committee money. No other property/casualty insurer trade association PAC came close to contributing the \$270,000 that NAII PAC did during the last federal election cycle, said Mr. Ramirez.

On state regulation, among the changes it is advocating are the removal of admission and exit barriers to insurers, countersignature requirements and some data reporting requirements it considers wasteful. The group also favors simplifying the tax payment process and agent licensing, among other issues.

The group also backs proposals to curtail the power of the National Assn. of Insurance Commissioners.

The NAIC "must reverse its trend

toward assuming greater authority in regulating activities of insurance companies," the insurer group said in a recent position paper.

Some staff members and regulators have been leading the NAIC away from preserving competitive markets and toward data collection and market conduct oversight and regulation, said the NAII.

"If leaders of the NAIC seek a greater role for the institution, they must seek a legitimate foundation for it through appropriate state

funding rather than unaccountable assessments on the industry, and through actual delegations of authority by statute," said the NAII. "They will also have to submit to legislative oversight by states exercising their control of NAIC processes, projects and spending."

The NAII recommends that the NAIC make its accreditation program voluntary rather than mandatory.

The trade association also wants
See NAII on next page

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good time to
talk about
the quality
of your
retrocessional
program?



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Insurer Topics

HIAA

Continued from page 12B

such topics as fraud and abuse, disability income, long-term care and supplemental insurance.

The HIAA also sells statistical data on health care charges associated with surgery, anesthesia, medicine, radiology, pathology, laboratory and hospital and dental services. Many health insurers offering indemnity plans have used this data, called the Prevailing Healthcare Charges System, to determine usual, customary and reasonable charges. Companies that contribute a certain amount of information can receive data for free.

The HIAA is building a new database of negotiated rates for the same range of procedures. While the data currently is available only to those who contribute, the organization hopes that within two

years other companies will be able to buy the information.

Membership in the HIAA has declined significantly over the past few years for several reasons.

In 1992, before the federal health care reform movement began, some 287 companies belonged to the group; there are now 214.

HIAA members wrote about \$65 billion in total gross health insurance premiums last year.

In 1992 and 1993, five major insurers left the association to form their own lobbying group (BI, Nov. 30, 1992). The departure of these companies caused the HIAA's revenues to plummet because dues are based on premium volume.

The HIAA has talked with some of the companies about returning to the organization, Ms. Van Gelder said. Some of them likely will come back, she added, declining to identify which companies.

Consolidation within the health

care business and many small health insurance companies leaving the industry in the face of uncertainty about health care reform also contributed to the group's declining membership roster.

The makeup of the HIAA's members has evolved. "The industry is moving in the direction of managed care, so, so are our members," Mr. Gradison said.

"We have probably the most diverse (group of) companies of all the insurance trade associations," Ms. Van Gelder said.

Members include indemnity health insurers, managed care companies, multiline insurers and specialty health insurance companies, she explained.

The HIAA's broad membership base reflects its mission—that "there is a meaningful role for the private sector in providing health insurance in the United States," said Mr. Gradison. **BI**

Alliance

Continued from page 12A

ful in Florida, California and the Northeast this year, Mr. Lawson said.

The Alliance spent its resources recently in some of those states on such issues as redlining and funding for catastrophes.

Allegations of redlining were particularly strong in California, Massachusetts, Pennsylvania and Texas, Mr. Lawson said. Companies need the freedom to maintain underwriting guidelines and keep them proprietary, he said. "The public needs to understand why loss experience might be higher in some areas or why a company might write in some areas and not in others."

On the national level, Superfund remained a major issue for the Alliance for the second year. Chances for successful reform are greater this year, Mr. Lawson said.

"This is a much different experience than what we were involved in a year ago," Mr. Lawson said. "It's a positive turn that groups are working together toward a common goal. We appreciate the opportunity to work with everybody."

Unlike a year ago, when it was divided by internal disagreements, the insurance industry has been presenting a united front this year.

"We did not favor the EIRF last year and we would not favor it this year," said Mr. Lawson, referring to the controversial proposal for an Environmental Insurance Resolution Fund. "If it was put on the table, it could cause a serious split in the ranks of the industry and we have worked hard to avoid that. We hope the proposal does not emerge again."

Under the proposal, policyholders would receive a portion of their Superfund-related costs from the EIRF, but only if they agreed not to sue the underwriter for more money. Policyholders, however, could not be forced to accept an of-

fer from the EIRF, leaving insurers' exposure uncertain.

The Alliance also is working with other groups as a member of the Natural Disaster Coalition, which is pushing for a federally funded catastrophe fund (BI, Aug. 14).

"The real preference in the industry is a private solution to the catastrophic capacity problems," Mr. Lawson said. "It doesn't matter if it's reinsurance or primary companies, large or small. If enough private capacity can be developed, it's far preferable than any program that involves the government."

How the industry deals with catastrophes will continue to be an issue for the Alliance in the future.

The loss potential from a severe hurricane in Florida or a major earthquake in California is so large relative to the amount of surplus, "it's obvious that that kind of event would be devastating to the industry," he said.

As more of the population shifts to catastrophe-prone areas, rates must rise to reflect the greater risk, Mr. Lawson noted. "The coalition has made efforts to develop capacity and keep cost as low as possible. There has to be responsible action taken on the state and federal levels."

Other major issues for the Alliance include:

- Use of state guaranty funds.

The Alliance has criticized a Maine law that aims to cut the deficit in the workers comp residual market through assessments on insurers, employers and the property/casualty guaranty fund (BI, July 17; July 3).

"We want to prevent a precedent from being started. It's absolutely wrong for a state to use the guaranty fund as a way to create cash flow to support a residual market mechanism," Mr. Lawson said.

- State regulation.

The Alliance supports state regulation and the role of the NAIC as a clearinghouse for ideas, Mr. Lawson said. **BI**

ACLI

Continued from page 12C

The ACLI has talked to the House leadership and convinced them that there is a "real problem here," not just with products, but also with larger tort reform issues.

The ACLI hopes to make punitive damages proportional, such as under the House civil justice bill, which would limit punitive damages to the greater of three times economic damages or \$250,000. The Senate, though, was less successful in broadening its tort reform legislation beyond product liability. With other allies, the ACLI will try to "make sure we get a good bill" out of the House-Senate conference committee, said Ms. McNamee.

The ACLI also is active in encouraging regulatory relief in the issue of the Supreme Court's *Harris Trust* ruling. That December 1993 decision held that ERISA makes insurers fiduciaries when they manage non-guaranteed assets in participat-

ing group annuity contracts (BI, Dec. 20, 1993). This limits insurers because fiduciaries have certain prohibited transactions under ERISA. It also sets up conflicts with state law.

"If you're a fiduciary, you must act exclusively for the benefit of plan participants and beneficiaries and solely in their interest, yet the state laws that govern insurance companies say that insurance companies are prohibited from unfairly discriminating among contract holders, so there's a conflict there," said Stephen Kraus, chief counsel-pensions for the ACLI.

The ACLI has filed several requests for relief from the decision with the Labor Department, he said. In July, the department finalized an ERISA exemption for insurer dealings related to investment transactions involving third parties.

This is "an excellent first step in granting the relief" we need, he said. The ACLI still hopes the department will grant an exemption covering the normal activities a

company engages in when operating its general account.

The ACLI is also active in the issue of accelerated death benefits, said Mr. Kraus. In the 1980s, he noted, insurers began to offer policyholders "an option of receiving their death benefit on a life insurance policy before they died under certain circumstances, the most prominent being terminal illness and the need for long-term care."

But a tax question has arisen on these policies. Although the law states that the money beneficiaries receive after a policyholder's death is tax-free, the tax status of early payments is unclear.

"We developed the legislation that we thought would be appropriate to clarify the tax status," said Mr. Kraus. As a result, this provision has become part of a bill that has passed the House. "We're hopeful it will be part of the final tax bill that's passed (by the Senate) and hopefully signed," said Mr. Kraus. **BI**

NAII

Continued from previous page

the NAIC to help the industry to influence policy and questions the commissioners' funding of "narrow-focused, anti-state regulation and anti-free market advocates."

The NAII's commitment to federal and state legislative programs is fueled partly by its grassroots network, dubbed the "EM:POWER" program. It is designed to organize a permanent corps of volunteers willing to contact legislators on is-

suess the NAII considers important.

The program, begun last year, has already shown signs of effectiveness. For example, the grassroots program generated 17,000 calls to Congress on the McCarran-Ferguson issue, Mr. Ramirez said.

While the NAII cooperates with other groups, it does not anticipate resuming merger talks with the Alliance of American Insurers in Schaumburg, Ill. The talks, which began in 1989 and resumed in 1992, foundered for many reasons, including a difference in corporate culture (IT, Feb. 15, 1993). **BI**

NAMIC

Continued from page 12F

forts are aimed not just at Washington but, through its regulatory affairs program, at the states as well. "We realize there are both state and federal problems," Mr. Stillman said.

In the past two years the organization started offering another new service, NAMIC LAW, or Legislative Activity Watch, which tracks state legislative and regulatory activities.

Annual NAMIC dues are based on direct written premium and range from \$420 to \$10,000.

At the high end are companies such as Nationwide Mutual Insurance Co., Liberty Mutual Insurance Co. and State Farm Group. On the low end are insurers writing \$100,000 or less in direct premium annually. "As hard as it is to imagine, we have about 100 members who fit into that category," Mr. Eberhart said.

NAMIC members changed the organization's bylaws last year to re-

duce the size of its governing board to 16 members from more than 50, an unwieldy number that led to the board meeting only once a year, at the annual conference.

"It was pretty hard to keep the board up to speed when they only met once a year," Mr. Stillman said. Instead, a 12-member executive committee conducted most of organization's business the rest of the year.

The new smaller board meets four times a year and can come together on conference calls if necessary. The new structure also provides for an advisory council made up of representatives from all the state mutual insurer associations.

Now in its centennial year, NAMIC sees its membership holding steady, despite an ongoing trend of mergers among its member companies.

"We have a very high retention rate," Mr. Eberhart said. "If you take out the mergers...our retention rate over the past three or four years has been 99%."

Though the mergers may cost it

some members, they produce stronger companies, Mr. Stillman believes. Similarly, the association itself is "stronger than ever," the NAMIC chairman said, and the future bodes well. "I see us going up as opposed to going down," continuing to be a major player." **BI**

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Insurer Topics

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Reaching the final frontier

Managing disability gives employers newfound opportunity to control costs

By Richard Kunnes
and Veronica M. Hellwig

MANAGED CARE IS virtually everywhere, spreading like an enveloping amoeba, taking in more and more populations and specialties, including Medicaid, Medicare, CHAMPUS, workers compensation, oncology carve-outs, ancillary carve-ins and other areas.

But, when it comes to disability, "managed disability" is barely on the horizon. Disability is the final frontier for managed care and represents one way for employers to extend disability coverage to employees without overextending their financial resources.

Why did it take so long for managed care to come to disability—and vice versa?

The real costs of disability are little known. Disability premiums average 7%-9% of payroll. Add to those premiums hidden costs such as replacement, overtime and recruiting of workers, decreased productivity and impaired quality and the real percentage-of-payroll figure ranges up to 20% in a number of industries and still is rising.

Furthermore, because disability often occurs on an erratic or episodic basis, its visibility is lessened. For example, most employers are unaware that one in seven workers between the ages of 35 and 65 will become disabled for five years or more prior to age 65 and that three out of 10 will have a disability of 90 days or more.

Disability often is not considered part of group health. Many professionals in managed care, including benefit managers and treatment providers, and possibly even more in disability, still do not think of disability as part of group health or as appropriate for group health managed care techniques, such as plan designs, case management, provider selection and profiling. Disability is most certainly susceptible to a managed care approach. And managed disability works best when disability is maximally integrated with the rest of group health benefits, specifically in the context of managed care.

The concern for disability

With a managed care approach to disability and the resulting significant savings and decreased premiums, some of the 75% of all employees not protected by disability benefits can begin to be covered.

Several factors are increasing the need to manage disability programs.

Socio-demographic profile changes have effected changes in disability behavior. The two-income family has placed tremendous pressures on parents to spend more time with their children. Going on disability is one way to do this. Skill deficits, in the face of greatly increasing skill level demands in an increasingly technical workplace, "encourage" disability as an "acceptable" escape.

And the voluminous increase in attorneys encourages them to look for new frontiers for litigation as a source of continuing income; disability fits the bill.

Managed disability is not only more necessary in the face of these factors; it also presents an opportunity for the managed care industry.

The managed care industry needs new markets. Having revolutionized hospital utilization, it now needs new frontiers to maintain and expand profitability. Product diversification and new niches, such as managed disability, provide just such an opportunity. This is particularly true because profit margins are beginning to narrow as managed care

organizations run out of excess utilization to manage.

So, what is new and different about "managed disability" and what difference does that make?

Managed care elements

Major managed disability components constitute a new "gold standard" for controlling disability costs. Managed disability has moved far beyond salary continuation, Social Security and workers compensation offsets, vocational and physical rehabilitation and claims payment. The new standard requires that a single managed care organization manage on an integrated basis all of the following:

- Short-term disability.
- Long-term disability.
- Workers compensation.
- Group health.
- Employee assistance programs.
- Drug testing.
- Health promotion and wellness and prevention.

This integrated approach to managed disability best removes the artificial barrier between occupational and non-occupational causes of disability.

Comprehensive integration lessens patient and provider gaming and confusion. It also increases administrative efficiency by requiring, for the employer, only one contract, one rate, one bill, one claim form, one claims administrative location, one senior account manager, and one report.

Disability case managers play a critical role. Ideally, they are experienced in medical utilization management, managed accelerated return to work and managed stay-at-work programs. The case manager's responsibilities include monitoring and assistance in job modification, transitional work and job-sharing techniques. Case managers are disability-specific, not generic case managers.

"Day One Disability" case management begins with monitoring and screening by the fourth day of disability on a centralized basis.

In the case of a large employer, an entire case management unit of a service firm will be dedicated to that company's work.

The best case management departments have teams specializing in major disease and body system categories, such as cardio-pulmonary, neuro-musculoskeletal, or psych-substance abuse-alcoholism.

Case managers have policies and procedures for "job phobic" employees. For example, the case manager, or local subcontracted manager in the event the case management is handled via a phone system, actually may accompany the employee into the office building.

Information technology

System support must be specific to managed disability. Case managers are supported by online information systems that have the following capabilities and data elements:

- Criteria and flags that identify "high risk" employees, such as those with: multiple disability episodes; multiple simultaneous diagnoses, for example, liver disease and alcoholism; certain complex case categories, such as chronic fatigue, cumulative trauma disorders—these claims have grown more than 400% in the last five years—and low back pain.

- Lengths of disability guidelines for the most commonly occurring diagnoses. These disability guidelines should be set in the 10th-to-20th percentile range, not the 50th percentile, in order to avoid unnecessary disability days.

- Online job descriptors. These functional descriptive elements for job banks and job analyses are for the top 300 occupations. They include key functional components, such as standing, stooping, lifting, bending and the frequency, duration and intensity of such components, as well as other components such as hearing, balance, irregular hours, dexterity, visual acuity, humidity, etc.

- Online schedule prompts for contacting treating providers. Such prompts should take into account the company's plan design and claimant history. When available on an online basis, these prompts can increase efficiency and consistency in arranging and monitoring treatment.

- Criteria/flags for referral to legal specialists, Social Security Administration specialists, surveillance specialists, independent medical examiners, physician advisers, Department of Transportation/Department of Energy specialists and vocational rehabilitation specialists.

- Customer friendly, practical and timely client reports. Such reports emphasize "before and after" comparisons, as well as year-to-year comparisons, using disability days per 100 employees, disability claim dollars per 100 employees, short-term disability claims per 100 employees and claim dollars as a percentage of profit, payroll and revenue. Reports should be "drilled down" to major job titles and departments to maximize accountability and associated financial incentives and disincentives for focused disability management.

A single 800-number contact for employees, supervisors and providers is appropriate. Using this number in an advocacy approach for all concerned parties significantly enhances monitoring and managing of disability treatment by giving case managers, treatment providers and patients a central point to coordinate information.

Use of specialty managed care carve-outs in high-volume disability areas can be very helpful. For example, mental health problems and substance abuse account for 30% to 40% of disability claims. Having a managed care carve-out or carve-in for this area can significantly reduce both disability and group health claims.

Specialty carve-outs refer certain types of treatment to providers who specialize in providing and managing specific services, such as pharmacy or chiropractic care, whereas carve-ins are established units of a company's managed care provider network that specialize in managing and providing services in a specialty area.

Low back pain may account for 25% to 35% of claims. Use of a pain clinic carve-out with a sports medicine orientation can drastically drop disability days. These and other managed care components can be applied to and customized for disability management.

As the managed care evolution progresses, disability will move from the last frontier to the mainstream of managed care, resulting in a greatly accelerated return to work and significant, measurable employer savings. E1

Richard Kunnes, M.D., is the national practice director-managed care for Watson Wyatt Worldwide, and Veronica M. Hellwig is the national practice director-managed disability for Watson Wyatt Worldwide. Both are based in the Boston office.



Dr. Kunnes



Ms. Hellwig

Summary of major property/casualty insurers' first-half 1995 results

Ranked by change in net income. All amounts in thousands of dollars.

Rank 1995	Corporate					Property/casualty operations								
	Consolidated revenues 1995	Net income 1995	Percent increase (decline) 1994-1995	Combined ratio 1995	Combined ratio 1994	Net premiums written 1995	Percent increase (decrease) 1994-1995	Pretax underwriting income (loss) 1995	Percent increase (decline) 1994-1995	Pretax investment income 1995	Percent increase (decrease) 1994-1995	Policyholders surplus 1995	Percent increase (decrease) 1994-1995	
1	N/A	62,300	802.9	108.5 ¹	124.5 ¹	840,600	13.4	(82,600)	53.8	142,700	(0.9)	945,200	16.7	
2	6,710,000	409,500	458.3	110.2 ²	116.2 ²	5,100,000 ²	(11.8)	(531,000) ²	44.9	956,400 ²	12.7	5,400,000	11.6	
3	1,437,483	44,615	249.9	101.3 ²	106.1 ²	1,905,055	(6.7)	(13,128)	78.5	121,945	6.8	1,043,326	22.3	
4	946,200	58,400	172.9	108.1	114.7	820,700	0.6	(46,000)	54.0	131,600	5.0	909,000	0.9	
5	9,507,000	495,000	98.8	119.1	127.8	1,778,000	(9.5)	(359,000)	37.4	338,000	4.3	2,020,000	32.9	
6	2,989,900	331,700	50.8	96.3	103.0	2,119,200	9.6	49,900	171.2	294,000	7.1	2,064,100	16.8	
7	3,150,200	397,300	44.5	99.3 ²	106.2 ²	2,595,300	74.8	(22,600)	67.8	435,600	18.4	4,227,900	16.2	
8	2,347,100	189,900	40.3	107.7 ²	110.4 ²	1,819,600	(8.2)	(156,200) ²	26.8	364,700 ²	18.3	2,262,000	0.8	
9	3,129,900	252,700	27.8	109.8	108.8	859,900	0.2	(81,700)	(16.1)	119,800	0.8	1,359,800	(7.4)	
10	2,598,187	223,563	16.3	101.9 ²	105.2 ²	2,011,489	16.6	(41,127)	57.4	359,228	9.2	2,137,719	18.7	
11	802,783	81,080	15.6	103.3	105.3	436,660 ²	4.7	(22,505) ²	8.6	94,281 ²	11.1	1,314,333	10.5	
12	1,920,850	167,909	14.9	102.9	104.5	1,096,555 ²	7.7	(30,438) ²	31.7	145,534 ²	3.8	1,667,950	12.2	
13	12,464,443	1,205,941	14.3	97.3 ²	99.6 ²	6,024,227	9.5	165,728	629.2	757,808	7.4	N/A	N/A	
14	331,600	29,700	13.4	91.2	94.7	198,900	21.4	15,900	78.7	14,000	10.2	294,700	8.0	
15	452,152	31,073	12.7	100.9	98.9	290,442	31.8	(2,680)	(215.5)	47,590	46.6	289,572	20.2	
16	632,238	179,520	9.8	104.6	105.7	668,162	10.1	(18,713)	5.2	226,667	8.4	N/A	N/A	
17	744,015	46,984	9.7	104.7	104.5	585,565	0.8	(33,146)	(12.8)	96,648	9.0	1,051,754	5.9	
18	1,669,300	94,600	(3.1)	107.3	109.9	1,240,700	7.2	(89,700)	26.0	219,000	2.3	1,336,300	(14.0)	
19	5,849,000	228,000	(12.6)	105.4	103.6	3,473,000	5.0	(193,000)	(39.9)	379,000	11.1	3,530,000	10.9	
20	758,264	41,021	(18.0)	108.8 ²	107.9 ²	647,864 ²	(1.3)	(45,040)	10.5	92,806	0.6	700,565	—	
21	137,260	31,939	(28.3)	114.0 ²	99.9 ²	65,656 ²	(44.5)	(10,934)	(522.7)	47,157 ²	(5.2)	662,145	9.6	
22	765,000	(538,000)	(5,480.0)	138.2	111.4	432,000	(48.9)	(427,000)	(344.8)	133,000	15.7	397,000	(35.8)	
23	2,495,100	(349,600)	(5,538.7)	146.9	122.7	2,052,600	(4.8)	(962,000)	(97.8)	434,800	4.6	2,166,000	(13.1)	
—	N/A	N/A	N/A	107.9	110.4	3,900,165	7.4	(327,171)	16.2	437,622	4.9	5,185,987	15.8	
—	N/A	N/A	N/A	108.9 ³	110.6 ³	883,800	5.4	(92,900)	9.1	122,900	13.3	986,000	7.9	
—	N/A	N/A	N/A	110.8	117.5	1,405,828	(5.1)	(146,761)	48.9	156,476	2.8	1,877,645	8.5	
—	N/A	N/A	N/A	112.8	113.2	2,727,400	(3.1)	(362,289)	4.4	524,971	2.2	N/A	N/A	
Cumulative	61,837,975	3,715,145	20.4	107.7	110.1	44,979,368	2.8	(3,866,104)	14.2	7,194,233	8.2	43,828,996	8.8	

¹After dividends ²Statutory ³Before dividends N/A-Company did not provide data

Results

Continued from page 2

"We're all focused now on profitability, understanding that the market is not going to grow appreciably in the coming year or so," said F. Cedric McCurley, president and chief executive officer of American States Insurance Co., a Lincoln National Corp. unit in Indianapolis.

He attributed less frequent liability claims in part to the slower economy and improved management techniques "from both the insurers and the loss-control people."

"We're still seeing a continuation in the competitive market conditions in both commercial insurance and reinsurance," said Louis Paglia, senior vp and treasurer of TIG Holdings Inc. in New York. He added, though, that many companies are operating "with better economic principles in this environment."

"Any notion of a P/C cycle as it occurred historically has been eliminated," said Mr. Paglia. Insurers are picking and selecting risks and managing their expenses better.

"Companies that have been working hard to improve their businesses are showing that in results," said Carol D. Manning, vp with Prudential Securities Inc. in New York. "The underlying fundamentals have improved from where they had been, and that's in the face of a difficult pricing environment for the whole market."

"It appears to me that the industry is again excluding catastrophe losses fairly well right now," said George P. Yonker, vp-finance for Seattle-based SAFECO Corp. "There may be a line or two like general liability that is underpriced, but on balance it appears that we're not doing all that bad."

For the six months ended June 30, 23 major property/casualty insurers surveyed by *Business Insurance* that report this data posted a 20.4% improvement in net income, to \$3.72 billion from \$3.08 billion, despite a \$349.6 million loss by Aetna Life &

Casualty Co. and a \$538 million loss by The Home Insurance Co., which is running off its business not assumed by Zurich-American Insurance Group.

Other key survey findings:

- Net premiums written by the 27 insurers surveyed increased a modest 2.8% to \$44.98 billion from \$43.78 billion. This compares with the 2.1% improvement, to \$21.49 billion, in the first quarter (*BI*, May 22).

- Underwriting losses improved by 14.2% to \$3.87 billion from \$4.51 billion. This compares with the 52.8% improvement posted in the first quarter. Underwriting results for first quarter of 1994 had reflected the Northridge earthquake and claims from severe winter storms in the Northeast.

- Investment income grew 8.2% to \$7.19 billion from \$6.65 billion. This compares with the 9.6% improvement, to \$3.19 billion, reported in the first quarter.

The first-half results caught some by surprise.

"I'd say generally the property/casualty results were much better in the second quarter than we expected, and that was true despite a fair amount of catastrophes," said Gary Ransom, senior vp with Conning & Co. in Hartford, Conn.

"The second quarter in general showed very strong results," agreed Steven A. Gavios, managing director at Bear, Stearns & Co. in New York. "It also showed the increasing bifurcation of results, where higher-quality, better-positioned companies continued to grow in market share of profitable business" at the expense of weaker competitors, he added.

"Overall, I would say it was generally a positive quarter for most companies," though results varied widely, agreed John L. Ward, chief executive officer of the Ward Financial Group, a Cincinnati-based research and consulting firm.

"Part of what makes '95 look like not too bad of a year so far is that '94 was a pretty tough year," so the comparison "tends to make '95 look a little more optimistic," he said.

Catastrophes, reserve additions and a booming stock market all affected first-half earnings.

Insured property damage of \$3 billion, much caused by regional storms, made this one of the worst second quarters ever in terms of catastrophes, said Mr. Ward. Second-quarter catastrophe damages averaged about half that amount in the previous four years.

However, "some companies were hit hard by catastrophes and some didn't have any," said Mr. Ward.

"The lack of property catastrophe losses in many companies was a definite help," added David Seifer, vp with Donaldson, Lufkin & Jenrette Securities Corp. in New York.

Among the notable reserve additions were Aetna Life & Casualty Co.'s nearly \$1.1 billion strengthening for its pollution liabilities (*BI*, July 17) and Fireman's Fund Insurance Co.'s \$800 million boost to its reserves (*BI*, June 26).

"Most company results, whether positive or negative, tended to revolve around how those three factors related to their operations," said Mr. Ward.

First-half improvements were more notable on the property side than in casualty lines.

"The casualty lines didn't really show that much improvement and we're still waiting for all the major commercial casualty competitors of recent years to address their liability questions in terms of reserves," said Mr. Seifer. "But other than that, I would say the primary companies generally didn't show very much in the way of premium growth or investment income growth."

"Their underwriting ratios were better because the experience on the property side was better, and I think that probably in recent years there've been some improvement in property premium pricing that, in the absence of catastrophes, has helped gloss over the inadequacies on the casualty side," he said.

The second half of 1995 is expected to be similar to the first half. "Absent catastrophes, I would expect

more of the same," said Ladenburg, Thalmann's Ms. Vogel.

The companies that keep their focus on cost control and improving their underwriting results "should have a reasonable second half barring any major catastrophes," said Prudential's Ms. Manning. "It's not exciting, but reasonable."

"I think that the outlook for the property/casualty industry as a whole is mediocre at best," said Mr. Gavios, though he added, "My outlook for selected higher-quality property/casualty insurers is rather favorable."

The flight to quality evident in the first-half results is likely to continue, said Ronald Frank, an analyst with Smith Barney Shearson Inc. in New York. "I see no near-term force that would interrupt this and, frankly, I think it's likely to persist over the long term, too."

"I shudder as I say it because it's almost like talking about utopia, but there does seem to be a more or less permanent increase in concern out there among all kinds of constituencies about balance sheets and quality of company. It's something at any rate that seems to be observable in the growth rates of these (quality) companies," Mr. Frank said.

Further reserve increases may be on the way.

CIGNA Corp., for one, has said it is continuing to review the asbestos and environmental reserves, and the outcome "could be material to CIGNA's overall financial condition."

"It's pretty clear, at least to me, that they will be bulk reserving for environmental claims before the end of the year," commented Weston M. Hicks, an analyst with Sanford Bernstein & Co. in New York.

"We're looking for something like an \$800 million addition," said Prudential's Ms. Manning.

Other insurers may follow suit.

"When Aetna put more money into its reserves, I think other companies have taken a look at that and said, 'Well, if they can swallow, maybe we can too,'" said Joanne Morrissey, a principal with Firemark

Consultants Inc. in Parsippany, N.J.

"I think there probably will be other companies that will do it," said David McDonald, senior vp and chief underwriting officer for the Royal Insurance Group in Charlotte, N.C.

"It's most difficult to get your arms around that, but I think companies are for all practical purposes very prudent in terms of trying to ascertain what their liabilities are and to post an appropriate level of reserves. But I would think you'll see some movement in the fourth quarter," said Mr. McDonald.

Insurers may have no choice but to boost reserves, suggested Mr. Frank. Under generally accepted accounting principles, if a potential loss cannot be quantified, then insurers do not have to provide for it in financial statements. "That has been one of the principle outs of insurance companies; that it's unquantifiable," said Mr. Frank.

However, "with each company that puts a number on this thing, it becomes that much more difficult for the remaining companies to claim that it is inestimable, which means there is increasing pressure for them to put up a number," he said.

Jonathan Godown, associate director at Standard & Poor's Corp. in New York, agreed that arguing these losses are not quantifiable "doesn't hold water any more" given the data that is now available. There are still a number of companies out there that will boost reserves, he believes.

But Michael Smith, an analyst with Lehman Bros. in New York, disagreed. "I think we've gotten most of the really visible participants in the game. We've gotten Aetna, Fireman's Fund. CIGNA will come in. Home doesn't matter, anymore. Neither does Continental."

Meanwhile, catastrophes are a wild card, particularly during the third-quarter hurricane season. "We don't know how many other hurricanes there may be out there," and there is always the possibility of a major one like Hurricane Andrew, Ms. Vogel said. ■

INTERNATIONAL

U.K. law may extend cleanup liability to innocent parties

By SARAH GODDARD

LONDON—Innocent owners and occupants of polluted property may be more likely to be held liable for cleanups under the United Kingdom's new Environment Act 1995, warns the Assn. of Insurance & Risk Managers in Industry & Commerce Ltd.

If past polluters cannot be found or have gone bankrupt, the new law—which the U.K. government passed in July (BI, July 24) and takes effect April 1, 1996—could push cleanup responsibility onto the current occupant, according to a recent statement from AIRMIC.

In an effort to reduce the potential for new litigation, the Environment Act 95 states that existing case law will govern whether liability for polluted property is transferred upon a change of ownership.

Court interpretations of the Environmental Protection Act 1990 have generally found that new owners can be held liable for environmental remediation under certain "public nuisance" provisions of the law.

In addition, provisions of the new law aimed at apportioning responsibility among the polluters of a site may leave innocent occupants liable for the cleanup costs of polluters that cannot be found.

If the previous owners and potentially responsible parties for a polluted site are identified, the new law states that they can be liable for cleanup even if they treated the land using technology and techniques that were "state of the art" at the time.

Only financial hardship—which is most likely to be cited by individuals and small companies—or unreasonably high cleanup costs in relation to the extent of the contamination will be accepted defenses under EPA 95.

Involuntary owners, such as administrators of a bankrupt estate, will be exempt from liability under the new act, as long as the pollution was not a result of their own actions.

"There will be an increasing amount of claims on old insurance policies," predicted David Johnson, a partner with London-based solicitor DJ Freeman.

In April 1991, many U.K. insurers changed their policy wordings to cover

only "sudden and accidental" pollution. The specific exclusion of "gradual" pollution will generally protect them from claims that arise under the new act after that date.

However, the Third Party (Rights Against Insurers) Act 1930 may allow third parties to make claims against the old liability policies of insolvent companies responsible for pollution.

The situation is complicated by the retroactive provisions. Some land contamination can be traced back to the 16th century, from processes like iron smelting, though the environmental damage of such operations is small and very localized.

Bigger implications will be felt from industrial operations of the 18th century. "It goes back to the history of the industrial revolution," said Mr. Johnson. He anticipates the bulk of long-tail pollution problems will come from occurrences in the early 19th century onward.

Mr. Johnson foresees a developing battle between current and previous owners over the timing of the pollution of a contaminated site. An industrial site could have been owned by a number of companies, he points out, and sophisticated—and expensive—techniques like chemical fingerprinting may be required to determine liability.

Insurers, risk managers and other interested parties remain uncertain about the practical implementation of the act. The government is expected to issue detailed compliance guidelines within the next few months, though it has not committed itself to a specific date.

The notes are expected to include the provision that sites need only be cleaned up to a "suitability for use" standard.

AIRMIC also is concerned that there is no information on how the new Environment Agency—which will be set up next April as a result of

See *Pollute* on page 17



From left to right, Mario Myre, Raymond Gilbert, Gilles Grenier and Robert Parizeau discuss the Canadian commercial insurance market. Mr. Grenier is vp-finance and treasurer of Sodarcac Inc.

Northern exposures

Sodarcac eyes changes reshaping Canadian market

Canada's property/casualty insurance market is undergoing significant changes and there may be more reforms on the horizon.

As in the United States, the insurance market is witnessing consolidation, and rates, which plummeted in the late 1980s and early 1990s, are on the rebound, especially for property coverage with any earthquake exposure.

Also, some of Canada's government-backed insurance programs like workers compensation and health care have proved to be financially burdensome for the public sector, and growing economic pressures soon may force these programs into the private sector.

Another hot issue in Canada today is the role the country's six chartered banks may play in insurance in the near future. Canada's federal bank laws are due for review in 1997, and there is a powerful bank-led movement aimed at giving banks more freedom to use their branch distribution system to sell property/casualty insurance.

And, in the wake of the government's take-

over of Confederation Life Insurance Co. last summer, solvency and security are more important to Canadian insurance buyers than ever before.

In a recent interview, *Business Insurance's* New York Bureau Chief Michael Schachner discussed a wide range of insurance-related issues with the top executives at Montreal-based Sodarcac Inc., a holding company whose units specialize in insurance and reinsurance brokering, actuarial services and employee benefit consulting. Participating in the question-and-answer discussion were: Robert Parizeau, chairman of Sodarcac; Mario Myre, chairman and chief executive officer of Dale-Parizeau Inc., the company's insurance brokerage unit; and Raymond Gilbert, chairman and CEO of BEP International Holding Inc., the company's reinsurance brokerage unit.

What key trends are happening within the Canadian property/casualty insurance industry?

Mr. Myre: Over the past five to seven years, See Sodarcac on next page

Falling profits lead S&P to downgrade three Canadian life insurers

NEW YORK—Due to weakened positions in an increasingly competitive marketplace, Standard & Poor's Corp. has lowered the claims-paying ability rating of three Canadian life insurers.

The New York-based rating agency recently downgraded the ratings of Canada Life Assur-

ance Co. and London Life Insurance Co. to AA+ from AAA, as well as the rating of North American Life Assurance Co. to A- from A.

S&P said Canada Life's downgrade reflects declining profits over the past three years. For London Life, S&P cited changes in the Canadian

market and London Life's lack of diversification beyond Canada. Finally, for North American Life, S&P said the company is being adversely affected by Canadian market dynamics and its ongoing efforts to sell its trust unit.

—By Michael Schachner

Proposed tax could hamper some German retirement plans

By DON LEWIS KIRK

A planned tax hike on the life insurance that many German companies use to fund retirement plans may lead German employers to curtail or drop their plans.

To boost general revenues, the government has proposed a 33% hike in the levy on both "Direktversicherung," which are pension plans administered by insurers, and on employer-sponsored plans that use life insurance to fund benefits. Other retirement plans, such as deferred compensation arrangements, that do not fund benefits with life insurance are not affected by the tax.

The types of pension plans targeted for tax hikes are a source of retirement income for about 30% of German employees.

The government has proposed raising the premium tax to 20% from the current

15%. The government raised the levy to its current level in 1990, before which the tax was only 10%.

Such an increase would greatly increase the cost of pension plans, said Boy-Juergen Andresen, chairman of the German Pension Plan Assn.

"The move will strengthen a trend to reduce plans or have no plans at all," he said.

Between 1990 and 1993, the percentage of employees with any form of company retirement benefits fell to 53% from 57%, a trend Mr. Andresen attributes to higher taxes and increased regulation.

The proposed tax hikes are expected to particularly hurt smaller companies, which often cannot afford to administer their own pension plans and turn to insurers offering Direktversicherung instead. Eighty-five percent of companies with fewer than 100 workers use Direktver-

sicherung, in which employers transfer a percentage of employees' salary to the insurer as premium for the plan.

Since smaller companies pay the taxes on this insurance themselves—even in case where employees defer part of their income toward these retirement plans—the proposed increase will increase the companies' wage costs.

Henner Humann, division director of Hamburg-based insurer Volksfuersorge Deutsche Lebensversicherungs A.G., said he believes any tax hikes will hinder use of such plans. "If companies don't have them already," he said of pension plans, "they likely will not get them."

Employers currently are limited to paying no more than 3,000 DM (\$2,033) per worker for direct insurance premiums, so that the plans do not discriminate in favor of highly paid workers. Under the proposed change, that limit would rise to

3,400 DM (\$2,304).

Current regulations require beneficiaries to be 60 years old before they can receive benefits, and the insurance policy to fund benefits must run at least 12 years and cannot be canceled.

To preserve the use of insurance-funded Direktversicherung, some German insurers are trying to develop alternatives that could lighten employers' tax burden.

Units of Allianz A.G. Holding, for example, are selling a "mixed form" pension program. Under this program, the employer begins paying premiums and taxes for the first five years, after which the employee assumes responsibility for continuing the premiums and taxes.

In general, German companies are moving more toward deferred compensation as an alternative to direct insurance plans, according to a spokesman for brokerage Jauch & Huebener KGaA.

INTERNATIONAL

Sodarcen

Continued from previous page
the Americans have pulled out of Canada, and it's not the first time they have done this. Every 15 to 20 years they have a tendency to pull out and then come back. It's because of problems on their own turf. They're trying to cut their losses by getting rid of Canadian companies that aren't making enough money or they're trying to plug losses by selling profitable Canadian companies.

It creates a vacuum, which isn't being filled by Canadian companies but by the Dutch, French, Germans and Swiss.

Mr. Parizeau: But we need to emphasize that Canadian companies are still a factor in personal lines and small commercial business. But immediately when you go up to the large commercial companies, the Canadian companies are not there.

Given the fact that foreign-owned insurers are stepping in to fill a void in the market, where are you placing the bulk of your clients' programs?

Mr. Myre: For large commercial and industrial business, there is still a lot of capacity in the United States, which we can tap either directly or through those companies' Canadian subsidiaries. For smaller commercial lines we have seen many of the Canadian underwriters go direct, so we cannot access them. So, we're placing that business with the new European companies.

How soft is the property insurance market in Canada today and are catastrophe exposures, which have become difficult to insure in the United States, creating capacity problems for Canadian risk managers?

Mr. Myre: Rates are certainly increasing but not to the level of 1987. Rates today are probably down 50% from then. On average, rates have recovered since then by 10% to 15% and will make a 25% recovery before long.

We have much less of an earthquake and natural disaster exposure here than in the United States, but that's not to say we have none. British Columbia is very prone to earthquakes, as is Quebec. There is an earthquake exposure in Canada that had been ignored. Over the last five to six years it has become more prominent, but there is capacity.

What is the status of the Canadian casualty market and do rates reflect the recent loss experience of Canadian corporations?

Mr. Myre: On the liability side, we saw a tremendous reduction in rates between 1987 and 1993. The recovery of those rates has been less than in property because the loss experience is not as severe. Around 1984-1986, insurers had enormous (casualty) loss ratios, but since 1987 that ratio went down, and there was little reason to trigger rates upward. Now, we may see 5% or 10% increases, which is half of what we're seeing with property. I'd say rates are pretty good now. But what we don't know is what is in store as far as claims. In the 1980s, we saw claims from what happened in the 1950s and 1960s. What will be the claims of the late 1990s?

Is the average Canadian commercial buyer satisfied with the deals it's getting?

Mr. Myre: It's normal that when rates go up, especially if they exceed inflation, it's not popular. But buyers here still are getting a fantastic deal. Rates fell by 50% over the last seven years, so if they have recovered by 15% or 20%, that's still a good deal. But, whenever you go with rate in-

creases, it's not welcome, and in areas where capacity is scarce—like earthquake—it's a new phenomenon for the client. They think that because the earthquakes and storms are in Florida and California, that it shouldn't affect them in the Province of Quebec.

Is the role of the broker changing in Canada?

Mr. Gilbert: As a general statement, customer satisfaction with insurance brokers has dropped over the last 10 years and only those brokers that are willing to work at their jobs and offer value-added products to their clients will survive.

There's a lot of low-balling of fees these days without customer service. In reinsurance, the only thing that will keep us going is for us to provide technical expertise on claims, accounting, financial analysis, catas-

trophe studies, troubleshooting and to have greater knowledge of the market than we did 10 years ago.

Mr. Myre: Insurance brokers must distinguish between large risks, where everything Ray said is the same, and smaller risks, where brokers have for years been in the driver's seat. For these risks, we cannot just drive the car. We have to give more services because banks are a threat and customers are more demanding. Even without the banks, competition among brokers is up. We have 15,000 brokers across Canada, which is too many.

Do your clients know what they want from their brokers?

Mr. Myre: The risk management community is mature. They're well organized and know the markets. But it's still our responsibility to place their coverage. They just want

to know why we're selecting a particular market.

Mr. Gilbert: On the reinsurance side, consolidation has raised questions about who is who. It's our job to sell security, which is often unwanted. Bermuda, which is very secure, is a tough sell. Lloyd's is also hard to sell. With Lloyd's, everyone is well aware of their problems as a whole. There has been a lot written about Equitas Ltd. and the supposed poor state of Lloyd's. Therefore, some people feel there's only so much money there and Lloyd's will eventually fall apart. But, if you look at the individual reinsurance syndicates we deal with, they're all very solid. We do business with about 20 syndicates and everyone is good.

With Bermuda, questions come in two forms. The authorities still don't look fondly on Bermuda because it's an unlicensed market. And insurers

see the catastrophe reinsurance market there as being a short-term market. My response to that is, so what? Your catastrophe is a short-term loss, not a long-tail liability. The claim should be paid in 12 months.

In the wake of the August 1994 Confederation Life failure, has insurer solvency become a bigger issue?

Mr. Myre: Today, many people are asking about insurers and the regulatory bodies want more control today. On the P/C side, we're living an offshoot of the life market. There are a lot of questions being asked and it's putting more pressure on us to analyze the security of the markets.

On the life side, the Canadian market traditionally has been sound. So with Confederation Life, it's like Fort Knox being hit by an earthquake. It's still Fort Knox, but

Continued on next page

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INTERNATIONAL

Continued from previous page
confidence is shaken.

Mr. Gilbert: The (solvency) problem is affecting local companies and it's because of the population base... How can a small insurer in Edmonton stand up to a large Dutch group that wants that region? What hurts their solvency is that very few people will buy into them. They have to specialize to survive.

It has often been said that Canada has a conservative tort system that benefits insurers and corporations. Is this true? Also, how does Canada compare with the United States and Europe in terms of litigiousness?

Mr. Gilbert: You can always have a situation where the old lady at McDonald's pours hot coffee on herself and then gets a large award. But, in general, awards here have not gone up appreciably and that is because

our system is less generous. It's a non-jury system and there are severe limits on damages for pain and suffering, and there are limits on when lawyers can charge contingency fees.

Mr. Myre: If continental Europe is on one side of the scale, meaning its system is very tough, and the U.S. is on the other, we'd... fall in the middle. The U.S. is much more liberal.

Where do banks currently stand in the Canadian P/C market and what does the future hold in store?

Mr. Myre: Until five years ago, banks were prohibited from getting into insurance, but now they can own insurance companies. In 1997, the government will look into the laws which prevent banks from selling out of branches. I think the jury is out as to whether the government will allow this... I think the chances of banks getting what they want is

better for the life sector... But they would love to sell P/C (insurance) out of their branches.

Mr. Gilbert: I think banks have a hell of a future... They'll swallow up a lot of personal lines business by the year 2000. I'm afraid to say it, but the small broker in Canada will go the way of the dodo bird.

Currently, each of the 10 provinces runs its own workers comp system in which the provincial government acts as the insurer. What is this system's future?

Mr. Myre: All Canadian governmental bodies, either provincial or federal, are having financial difficulties. They're trying to reduce debt and the provinces see workers comp as something that can be moved to the private sector. They're trying to turn a social system into an insurance system. It will be a challenge,

but brokers and insurers support such a change and we're presenting to the governments how they can make this transfer work.

Mr. Gilbert: I believe the movement will begin with the governments seeking relief in the form of (paying) less benefits and (purchasing) reinsurance. Then the whole system will leak into the private sector, but it will take four or five years.

Mr. Myre: Logic calls for a transitional period, but the pressure facing government and the burden of the tax system might make the change occur faster.

Mr. Parizeau: American insurers active in workers comp will take on a much greater role in the negotiations between the public and private sectors. The Europeans will not. They have social systems in their countries that are similar to what we have here. So they don't really know

how to facilitate the change.

Much has been made of Canada's single-payer health care system and whether it could be a model for the United States. What does the future hold for this system?

Mr. Myre: Like workers comp, we believe a good portion... will go to the private sector. The government is already withdrawing, and we'd like to sell that type of product.

Mr. Parizeau: In health care, if you go back six or seven years, the goal was wall-to-wall coverage. But, changes in tax laws and government limiting its involvement have forced private plans to pay more. But, to provide what has been promised, these plans have to pay more. Thus, there's a fundamental change... and great potential for the private sector.

Mr. Myre: With health care, social democracy is coming to an end. ■

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G A I T

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Germany supports marine cover treaty

BERLIN—Germany is calling for compulsory insurance to cover marine transport of dangerous goods.

Transport Ministry Official Manfred Carstens said Germany is taking steps to "close loopholes" in liability coverage for the marine transport of hazardous materials.

Gaps in international regulations make it hard to settle the question of liability between the ship owner, the manufacturer and the recipient of the cargo, Mr. Carstens said.

As a result, Germany supports a treaty between United Nations countries scheduled to be signed in early 1996 that would introduce a "two-stage compensation solution," similar to that used for oil tanker accidents, he said. The treaty would impose strict liability on shipowners and would in effect make the recipient of cargo liable for damages that exceed the insurance of the carrier. A fund to meet those excess amounts would be financed by payments from cargo recipients.

German transport insurers don't expect the treaty to affect rates.

About 400 million tons of hazardous material are transported within Germany every year and is expected to increase, said Mr. Carstens.

—By Don Lewis Kirk

Pollute

Continued from page 15

the act—will exercise its powers.

Local authorities will be responsible for most of the implementation of the new legislation, said Mr. Johnson.

Since little or no extra funding will be given to the authorities, implementation will be "patchy" he said.

"From the environmental viewpoint, it is going to be a disaster." For the landowner of a polluted site, it would be "something of a lottery" as to whether his local authority would be actively implementing the act's provisions, Mr. Johnson said.

The real estate market will be particularly affected by the new law, he said. Land buyers will have to consider the possibility of contamination, he said, and there may be a need for onsite investigations by environmental consultants.

Indemnity may be demanded from vendors, and the legislation will affect the price of potentially contaminated land, Mr. Johnson said.

"It opens up a completely new area which purchasers will have to be aware of," he said. ■

401(k) investors' mixes differ

By DAVE LENCKUS

Young workers make considerably more aggressive investment choices with their 401(k) assets than widely believed, but some workers still invest too conservatively, according to a new study.

"The portfolio of the typical young 401(k) investor is fairly close to the one many financial planners suggest—a mix of 60% equities and 40% fixed-income funds," said Sylvester Schieber, director of research for consultant Watson Wyatt Worldwide in Washington.

The study of the investment elections of more than 36,000 participants in 24 defined contribution plans, which primarily were 401(k) plans, did not look at savings rates, but indications are that plan participants are not saving enough for retirement, Mr. Schieber said.

So employers have to decide whether their priority is providing plan participants investment flexibility or helping them maximize retirement savings, he said.

If flexibility is key, the study results show that self-directed 401(k) plans help employers meet that goal, Mr. Schieber said. If attaining maximum savings is paramount, then employers should consider more traditional defined contribution or even defined benefit plans, he said.

In studying plan participants' investment strategies, Watson Wyatt found that 53% of the assets of those age 21 to 30, and 48% of those age 31 to 40, were invested in equity funds, not counting balanced funds of equity and fixed-income invest-

Benefit Beat

ments.

The 21-to-30 age group invested only 41% of their assets in conservative vehicles like guaranteed investment contracts and bond funds. And, the 31-to-40 group invested only 43% of their assets in those vehicles.

Just 30% of the assets of plan participants age 51 to 60 and 13% of the assets of those 61 and older are held in equity funds. Among those two older age groups, 62% and 85% of their respective assets are invested in conservative investment vehicles, the study found.

Overall, 58.1% of 401(k) assets are held in conservative fixed-income investments, because older workers who are close to retirement hold the bulk of 401(k) assets, Mr. Schieber said. But he warned that older workers should consider investing more aggressively despite their impending retirement. "Someone who has just turned 60 still has a life expectancy of 20 to 25 years," he said. "In most cases, it's still too early to forgo the historically higher returns of stock funds."

And, low-wage earners invest far too conservatively, the study found.

Plan participants earning \$15,000 to \$24,999 invested 63% of their plan assets in fixed-income funds.

And, 23% of the 21-to-30 age group clung to low-risk investments, committing more than 80% of their 401(k) assets to those vehicles, the study found.

The study, "Risky Business: Are 401(k) Participants Misdirecting Their Investments?" will be available for \$75 at the end of August by contacting Watson Wyatt at 800-243-1349.

Health plan changes

Employers in great force last year modified their employee and retiree health care plans in an effort to contain costs, according to a study by Hewitt Associates L.L.C.

For example, 34% of 1,035 employers reported that they offered only a traditional indemnity plan and a traditional health maintenance organization to employees in 1994. That is down strikingly from the 47% that offered only those two health plan options the previous year, according to Lincolnshire, Ill.-based Hewitt.

Other popular plan options last year were a combination of a preferred provider organization plan with a traditional HMO, offered by 24% of the surveyed employers; and a combination of a traditional indemnity plan, PPO and HMO, offered by 12%.

Overall, 80% of employers offer a traditional HMO in some combination with other plans. And, 61% still offer an indemnity plan in some combination with other plans, the survey found.

On average, the monthly contributions that employers imposed for single coverage surprisingly did not vary significantly for various types of plans. Indeed, the average re-

quired contribution of \$33.71 for indemnity plan coverage was slightly lower than for several managed care plans: \$31.82 for PPO coverage, \$32.73 for point-of-service plan coverage and \$35.41 for HMO coverage.

However, that contribution pattern would not be typical in the marketplace, a Hewitt spokeswoman said. The study may show that pattern because Hewitt may have surveyed employers that offer HMO plans with rich benefits and indemnity plans with modest benefits, she said. It also may have surveyed employers in some areas where HMOs have low market penetration and, therefore, higher costs.

The monthly contribution for family coverage for each of those plans was about three times as much as those for single coverage. The percentage of employers that offered some type of an initiative to encourage healthy lifestyles nearly doubled last year to 34% from 18% the year before, according to Hewitt. Imposing higher medical coverage contributions on smokers was the most common incentive/disincentive in 1994, Hewitt reported.

Employers also increasingly require retirees to contribute to the cost of their coverage, Hewitt found. For pre-65 retirees, only 9% did not impose monthly contribution requirements for single coverage, and 7% did not impose contribution requirements for spousal coverage. Those figures are down from 12% and 9%, respectively, in 1993, and 28% and 20%, respectively, in 1990.

Among post-65 retirees, 16% of employers did not impose contributions for single coverage, and 14% did not require a contribution for spousal coverage in 1994. That is

down from 20% and 16%, respectively, in 1993 and 39% and 32%, respectively, in 1990.

The study, "Salaried Employee Benefits Provided by Major U.S. Employers in 1994," is available for \$100 from Diane Schuett of Hewitt Associates L.L.C., 100 Half Day Road, Lincolnshire, Ill. 60069; 708-295-5000.

HMOs, hospital costs

Hospital costs increase more slowly in communities where health maintenance organizations care for at least 15% of the population or the HMO enrollee population is growing rapidly, according to a new Georgetown University study.

The slowdown in cost hikes in areas with a relatively high HMO enrollee concentration affected the entire community, not just HMO enrollees, the study found in reviewing hospital costs in the 85 largest U.S. communities between 1984 and 1993.

Georgetown determined that hospital costs increased 8.3% annually per admission on average where HMOs were popular and 11.2% elsewhere.

Overall, for the 10-year period, taking compounding into account, hospital costs increased 92.7% where HMOs were highly popular, 97.2% where HMOs were moderately popular and 127.7% where HMOs were not popular.

Single copies of the study, "The Impact of HMO Penetration on Hospital Cost Inflation, 1984-1983," are available for free from the Group Health Assn. of America. Request should be faxed to Andrea Sumner at 202-331-7487. **BI**

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RFP 95-445 may be obtained by writing the AC Transit Purchasing Dept., Dan Carmell, Contract Administrator, 10626 East 14th Street, Oakland, California, 94603, or telephoning during regular business hours (7 a.m. to 4 p.m., Monday through Friday) at 510/577-8843.

One signed original and ten (10) copies of Proposals responding to RFP 94-445 should be submitted to Dan Carmell, Contract Administrator, 10626 East 14th Street, Oakland, California, 94603, on or before 2 p.m., September 22, 1995. If delivered by mail, the Proposer is responsible for meeting this deadline.

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* Source Business/Occupational breakdown of qualified circulation, May 29, 1995 issue, as submitted to BPA for June 1995 BPA Publisher's Statement

Drugs

Continued from page 2

grams, so what we are seeing is a trickle down to small and medium-sized companies," said Tom Dessereau, director of the Drugs Don't Work New York Business Alliance in New York. The alliance, which consists of 230 businesses ranging from very small to very large companies, is a unit of New York-based Phoenix House, which operates drug treatment centers in four states.

"They realize it is something good to do, but they have fewer resources and less human resource expertise to deal with the issues. So, it is a good time to get them to join the flock," he added.

Many factors underlie companies' increased interest in drug testing, according to the AMA.

First and foremost is the impact of federal regulations, such as Department of Transportation and Department of Defense regulations, which along with local and state laws, require drug testing in certain job categories.

The latest group to be tested are workers in "safety sensitive" jobs, such as truck drivers and pilots, where an error in their work could hurt the public (BI, Feb. 27). The rules, which took effect Jan. 1 for employers with more than 50 employees, will be extended to smaller employers Jan. 1, 1996.

Other federal laws, like the Americans with Disabilities Act, also play a role. The ADA protects any employee currently abusing alcohol or in a recovery program, but not users of other drugs unless they are participating in a recovery program.

In addition, some corporations are requiring that vendors and contractors certify that they operate drug-free workplaces. Twenty-four percent of the companies surveyed by the AMA impose that requirement.

Companies also require drug tests to help screen out drug abusers, who are perceived as more likely to cause accidents and have health problems, though there is no firm proof of the deterrent effect of testing itself, the AMA reports.

Such corporate policies have been upheld by the courts as well as endorsed by insurers because they help reduce accidents and control health care costs, the AMA said.

Drug abuse is estimated to cost the nation \$67 billion to \$100 billion or more annually.

Testing programs vary from company to company.

Current AMA survey results show that 71% of all companies test new hires in pre-employment physicals, up from 57% in 1992. Those companies also reported that the test-positive rate for job applicants was 3.8%, down from 4.5% in each of the two previous years, the AMA said.

In addition, 67.8% of all surveyed companies test current employees, typically for reasonable suspicion of drug use or through periodic or random testing programs.

The test-positive rate of current employees, which fell steadily from 1989 to 1992 and then leveled off, fell again to 1.9% in 1994, from 2.5% in both 1992 and 1993, the AMA reports.

Drug testing is "an extremely high priority" for Consolidated Edison Co. of New York Inc., which has been randomly testing all employees, including its chairman, since 1992, said Dr. Michael Crane, assistant vp for occupational health in New York.

Though federal contracts require Con Edison to have a drug-free workplace, the company also considers it helpful to confront drug abuse head-on, which helps it reduce general medical costs, he said.

The most typical method of medical drug testing is urine sampling, though hair and blood tests also are used.

For urine testing, the AMA recommends a company first use an "immunoassay" test, and then retest positive samples by using the more sophisticated—and more expensive—gas-chromatography method to rule out chemical combinations that may or may not be controlled or illegal substances. For example, commercial poppy seeds used to enhance the flavor of baked goods register similarly to heroin, the AMA points out.

To help resolve such issues, 76% of the companies surveyed by the AMA said they are using experts to review positive test results, up significantly from 48% in 1994.

"Many companies feel that if they are doing drug testing, they are creating a drug-free workplace. While drug testing is an important element, most companies overlook other key components," at least initially, Mr. Dessereau said.

Creating a drug-free workplace requires more than just drug testing, says Tom Dessereau.

Other components of an effective program include detailed policies and procedures for employees who need help.

The company should aim to promote "a clear policy and supportive programs relating to the detection, treatment, and prevention of substance abuse by employees," the U.S. Department of Labor advises. The policy should outline its goals, scope, procedure and both company and employee responsibilities.

Employee education programs with a companywide focus are also helpful, Mr. Dessereau said.

In addition, "a properly trained supervisor is probably more effective

than drug testing," so providing them with appropriate training is critical, Mr. Dessereau added.

"A supervisor shouldn't be in a position of having to diagnose the employee's substance abuse problem, but instead should be aware of negative job performance characteristics that may indicate a substance abuse problem," said Mercer's Ms. Barger. Frequent absenteeism and accidents, inconsistent work performance, tiredness and slurred speech are all potential trouble signs.

"Once a supervisor observes a pattern of performance problems and lowered productivity, he or she should be trained how to refer an individual to an employee assistance program for counseling," she said.

A work-related job evaluation may be the last chance for a drug-abusing employee to get his life together, she said. "The adage in the treatment field is: The wife may have gone, the kids may have gone, the house may have gone and even the car may have gone—but as long as an individual has a job, he is able

to maintain a level of denial."

To function well, supervisors need advice and support from the human resource department, so they can refer employees with suspected problems to help, which often includes the company's EAP.

Rooted in alcoholism treatment, the counseling programs only broadened to cover drug use and other problems in the late 1970s.

Now, "EAPs are a professional assessment and referral and/or short-term counseling service offered to employees with alcohol, drug, or mental health problems that may be affecting their work. They also include managerial/supervisory consultations and training and employee education," added Dale A. Masi, a professor in the School of Social Work at the University of Maryland in Baltimore. She also designs and evaluates EAPs as president and chief executive officer of MASI Research Consultants Inc. in Washington.

And just as drug testing is ex-

See Drugs on next page

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Funding

Continued from page 1
at least \$1 million (BI, July 10).

While the PBGC estimates that about 100 employers would be affected by the new rules, which are scheduled to go into effect starting

in January, benefit consultants say the number could be substantially higher, perhaps three times as high.

"The consensus is that the proposed regulations are going to affect a lot more companies than the PBGC says they will," said Dick Joss, a consultant with Watson Wyatt Worldwide in Washington.

Indeed, employers with what appear to be substantially overfunded plans may discover, based on the actuarial assumptions they will have to use, that in fact they have underfunded plans, said Michael Johnston, a consultant and actuary with Hewitt Associates L.L.C. in Lincolnshire, Ill.

The principal reason that more employers could be affected by the regulation: the conservative interest rate assumptions companies will have to use in valuing liabilities to determine if their pension plans have at least \$50 million in unfunded vested benefits.

Companies will have to value liabilities annually assuming a rate of return equal to 80%—a figure that is to rise to 85% in 1997—of the 30-year Treasury bond rate. As of last month, the Treasury bond rate was 5.26%.

That is substantially lower, for example, than the rates employers are required to use in another calculation: determining liabilities to see how much they must contribute to their pension plans. Last month, the range of permitted interest rate assumption for this other calculation was 6.51% to 7.88%.

The interest rate assumption employers use to value pension liabilities can make all the difference in determining whether a plan is under or overfunded. For example, a 1% difference in an interest rate assumption can produce a 20% change in liabilities, notes Mr. Joss.

"An employer might think its pension plan is \$100 million overfunded. But by the PBGC calculations, the plan could be underfunded by \$100 million," he said.

The formula to be used for determining the interest rate assumption—which is set by a 1994 federal law and which the PBGC cannot change—isn't the only reason why more employers may be affected by the PBGC regulations.

Some employers, consultants say, may have thought they were exempt from the regulations because none of their pension plans had more than \$50 million in unfunded vested benefits. The law, though, applies to employers whose pension plans have aggregate unfunded vested benefits of at least \$50 million. For example, if an employer had five pension plans, each with \$10 million in unfunded vested benefits, an employer would have to file actuarial information for all five plans.

Underfunded plans cannot be off-

set with overfunded plans. So, for example, a company with one plan overfunded by \$100 million and another with a plan with \$100 million in unfunded vested benefits would still have to make the disclosures.

Among the information employers will have to disclose is a plan's liabilities if the plan was to be terminated. Employers currently do not calculate liabilities this way. Instead, they calculate current liabilities, which would exclude such benefits as plant shut down benefits, that would be payable if a company ceased operations at a site.

Requiring employers to calculate termination liabilities could increase actuarial charges by 15% to 20% in the first year. In succeeding years, the cost increase would be less.

"This is a more difficult calculation," said Sam Kikla, a senior vp and actuary with Sedgwick Noble Lowndes in Philadelphia.

Benefit consultants question if the PBGC really needs to require all employers with at least \$50 million in unfunded vested benefits to calculate termination liabilities.

They say a more logical approach would be for the agency to request the information from the most severely underfunded plans.

Others say the PBGC could estimate termination liabilities from the data employers already provide.

"The PBGC ought to be able to take information out there and reasonably approximate termination liabilities," said Larry Sher, a principal with Kwasha Lipton L.L.C. in Fort Lee, N.J.

Aside from new actuarial information, employers will have to file certain financial reports, such as audited or unaudited financial statements for private firms. Publicly held companies that already file this information with the Securities and Exchange Commission could file a statement with the PBGC indicating where the information can be found.

The PBGC says it will carefully review all comments before drafting final regulations. Comments on the regulations, which were published in the July 6 edition of the Federal Register, are due by Sept. 5. **BI**

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Drugs

Continued from page 19
panding, so is the use of EAPs.

Use of EAPs is "moving dramatically into middle-sized and smaller companies," said Ms. Masi. "EAPs can serve as a relief valve," she said.

The growing list of workplace concerns that EAPs deal with include workplace stress, workplace violence, cultural diversity, sexual harassment, depression and discrimination.

"Emotional problems can be as serious as illegal drugs," said Nancy E. Wallace, president of New Health Directions Inc. in New York City, which provides private EAP-related services to employers of various sizes.

"One of the keys to an EAP is a very hands-on approach and a close relationship with management," so managers feel comfortable about calling the EAP, she said.

Also, "a good EAP provides quality assessment, referrals and follow-ups to outside resources to make sure the employee gets the help he needs and to help reintegrate him back into the workplace," she said.

For a program to work, employees need to believe that it is professional, useful to all levels of employees, including top managers—and that it is confidential.

"Confidentiality leaks undermine the operation of the EAP and the perception by employees that it is an independent source of help,"

Ms. Barger said.

Generally, employee privacy should only be violated in special circumstances, including a court order, a life-threatening situation, suspected child abuse, or a bona fide inspection of EAP records by a program evaluator, explained Ms. Masi.

She added, though, that any worker who files a workers compensation claim can be treated as forfeiting any right to privacy for use of company programs, including an EAP. **BI**

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Hurricane

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one in Hanover, Md., and one in White Plains, N.Y. KFC planned to close the loss control centers at the end of the day Friday, according to Mr. Mandell.

Through the loss control centers, KFC tracked the storm's movements and coordinated getting cash out of the stores, boarding or taping windows, moving employees inland and arranging for increased supply and inventory.

"We have fairly solid facilities," said Mr. Mandell, adding that an important part of the company's disaster plan is getting back to business quickly. "With Andrew, we were up and running quickly and were actually very important for the food supply of people in the disaster area."

The emergency plans and KFC's insurance—property and business interruption coverage under a large annual aggregate plan written in the London market—applies only to KFC's corporate-owned stores. Franchised stores choose their own insurance and emergency plans.

Perdue Farms Inc. of Salisbury, Md., also implemented its contingency plans last week but by Friday was back to business as usual, said Ronald Fisher, risk manager for the poultry company.

Procedures included readying generators for backup power, securing all yard equipment, making sure all roof-mounted equipment was battered down and preparing to move the livestock to high ground, but moving the chickens was not necessary, he said.

"Even if the storm does not hit, we are concerned about flooding in the eastern parts of North Carolina, where we have a lot of producers," he said.

Other industries prepared similarly.

Noland Co., a wholesaler of pipes and other building supplies, was "tightening things up as much as possible" at coastal warehouses, said Richard Welborn, an assistant vp-finance whose duties include risk management.

At the company's main office in Newport News, Va., employees were covering office equipment in plastic and "preparing for the worst because it looks like we are in its path," Mr. Welborn said.

Hotel companies also braced for the storm.

Atlanta-based Holiday Inn

Worldwide implemented emergency plans for coastal hotels and kept an eye on hurricane movement.

Holiday Inn tries to keep employees prepared by providing updated crisis management manuals for hotel managers and also hosting emergency preparedness seminars in areas prone to this type of risk, said Tony Rodolakis, vp of risk management and employee benefits.

At Marriott International Inc., engineers were trying to secure buildings in the path of the storm and to coordinate evacuations, said Arnold Davenport, vp of risk management for the Washington-based lodging company.

As preparations were made on

southwest of the island, bringing hurricane-force winds of up to 86 mph for about 12 hours late Monday and early Tuesday.

Total insured property damage to the island is estimated at \$2 million—mostly for personal and commercial beachfront property—based on insurance company reports of claims, a government spokesman said.

The Pink Beach Club was one of several hotels damaged by the high winds and raging seas.

Waves crashing over restraining walls broke windows and caused severe interior water damage to 12 of the club's beachfront cottage units, said W.A. Cowen, the hotel's

beach," Mr. Davenport said.

Any damage to structures will be covered under property insurance from Allendale Mutual Insurance Co. of Johnston, R.I.

Marriott will make a claim for business interruption coverage not only for guests who left the island or received rate adjustments but also for potential loss of business while beachfront facilities are being repaired, Mr. Davenport said.

At the Sonesta Beach Hotel, heavy winds and high surf damaged the roof, flooded suites on the beach and broke a few windows but caused no serious structural damage, said David Boyd, hotel manager.

Commercial insurance will cover both the damage and loss of business, said Mr. Boyd. Adjusters were still assessing the damage late last week.

Hotels throughout the island reported similar damage.

The hurricane-force winds blew down one satellite dish and several connections to customers of Bermuda Cablevision Ltd. of Hamilton.

The self-insured company estimated damage at more than \$100,000, said General Manager Don Greiner.

The Bermuda Electric Light Co. Ltd. of Hamilton also sustained damage from the storm, mostly to poles, overhead wires and transformers. The physical plant suffered no damage and a spokeswoman estimated overall damage expenses at less than \$250,000, for which the utility is self-insured.

Yacht clubs and golf courses reported minor damage from the storm.

Domestic insurers, reinsurers and captive insurers on the island reported no damage to their own facilities.

To prepare for the hurricane, employees at broker HJF International Ltd. just "unplugged everything in case of a power surge," said Executive Vp Michael G. Foulger. HJF's offices were closed on Monday and sustained no damage from the storm, he said.

"The buildings around here are not like in Florida. Everything is built out of stone, so 100 mph winds are not a big problem," he said.

With damages unexpectedly mild for the island and Felix waning off the coast of North Carolina, Bermuda-based reinsurers seem to have dodged a bullet.

"It doesn't seem to be the fearsome beast we were keeping our eyes on last week," said Henry Keeling, chief underwriting officer at Mid Ocean Reinsurance Co. Ltd. of Hamilton, adding that the storm "should not cause a major effect on the reinsurance industry." ■

Hedging bets on storm losses

HAMILTON, Bermuda—Insurers can now more precisely reinsure their hurricane exposure by time and place with a product being offered by Centre Cat Ltd.

The product, called "catastrophe hedge insurance," also permits insurers to determine the minimum strength of the hurricane they wish to insure against, said Charles Kline, president of the Hamilton, Bermuda-based reinsurer.

For instance, an insurer can obtain coverage against a hurricane that is Category 2 or higher that hits Dade and Broward counties in Florida in September. A Category 2 hurricane, under the widely used Saffir/Simpson Hurricane Scale, has winds of 96-110 mph. Last week's Hurricane Felix was a Category 1.

Centre Cat, which is offering coverage in \$5 million increments, has sold two policies, both covering Dade and Broward counties, since July, said Mr. Kline.

Insurers can obtain coverage for hurricanes ranging from Category 2 all the way to Category 5, which are marked by winds of at least 155 mph. Coverage can be written for the entire hurricane season or by the month.

It is available for the Northeast, Florida and Texas, with southern coverage more expensive than northern. The policies will specify the longitudes and latitudes covered, said Mr. Kline, who noted the product was developed by Centre Cat actuary Eric Lemieux.

"In general, the product is not intended to cover storms that have already formed," said Mr. Lemieux.

Mr. Kline would not discuss rates but said he anticipates the product ultimately will account for 10% to 20% of the reinsurer's income.

"Now that everybody's modeling their exposure, everybody has a good sense of the exact event that concerns them most, so our objective is to sell them only the cover they want rather than selling the redundant coverage," said Mr. Kline. "If that's done on a broad basis, it should be a less expensive way to cover yourselves for rare events."

—By Judy Greenwald



AP/WIDE WORLD

Hurricane Felix disturbed the peace on Bermuda's beaches, but the damage was not as catastrophic for the island as 1987's Hurricane Emily.

the East Coast of the United States, citizens of Bermuda cleaned up from the storm.

Felix doused Bermuda with heavy winds and rain Monday night, causing limited property damage but nothing near that of Hurricane Emily, which hit the island in 1987 (BI, Oct. 5, 1987).

Felix's eye passed 75 miles to the

managing director.

Property damage and business interruption costs were still being assessed by Pink Beach's property and business interruption insurer, Bermuda Fire & Marine Insurance Co. Ltd., but Mr. Cowen estimated the damage at \$250,000.

At Marriott's beachfront Castle Harbour Resort in Bermuda, refreshment and beach huts and piers suffered the most damage, but winds also damaged the main building.

"Where there once was a refreshment hut, there may now be a

(the vote) either way," said Mr. Rich, adding that he did not "think there will be any change in the foreseeable future."

Even with the resignation of the premier and potential for power shifts in the government, Mr. Rich said he did not anticipate any implications for Bermuda-based international insurance business.

Johnson & Higgins Ltd. of Bermuda does not anticipate any difference, either, said the captive manager's chairman, Brian Hall.

"The hurricane shook us up more than the present events," said Mr. Hall, adding that he felt Bermuda remained a very positive environment for international business.

Because of the decisiveness of the vote, Bermuda will likely remain a British colony for some time.

"It was a fairly resounding vote against independence. I think it would be a bit of a mistake for either party to call for another vote in the near future," the government spokesman said.

—By Lee Velker

Bermudians roundly reject independence

HAMILTON, Bermuda—Bermuda will remain a British colony after Bermudians, in a referendum delayed by Hurricane Felix, rejected independence by a margin of nearly 3-to-1.

Some 16,369 votes were cast against independence and 5,714 in favor of it, said a government spokesman. More than 58% of the 37,841 eligible voters on the island voted, above the 40% turnout required by the referendum.

Premier John Swan tendered his resignation to his political party, the United Bermuda Party, on Thursday morning, as he had said he would if independence was voted down.

Premier Swan will stay in office until his party chooses a new premier, the spokesman said.

The political atmosphere did not cause much concern in the island's international insurance community.

ACE Ltd. felt "comfortable" with the vote, said Brad Rich, legal counsel for the Hamilton-based high-layer liability insurer.

"We were not worried about

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Windows

Continued from page 1

Redmond, Wash.-based Microsoft projects that between 20% and 25% of U.S. corporations will jump to Windows 95 right away. The rest will evaluate the system and wait until future upgraded versions are issued.

Until companies purchase all new software, their computers may run faster and look somewhat better, but they won't be able to use some of Windows 95's intended "multitasking" enhancements.

Minneapolis-based Norwest Corp. delayed implementing a new RMIS system until its vendor, Anistics Inc., could provide a Windows system. But the entire corporation will hold off on switching to Windows 95.

"Norwest is going to test it for six months to a year before they decide," said Allan P. Harris, risk management analyst at Norwest. "Until our vendor switches, I can't see a lot of advantages."

Some corporations may choose the Windows NT server instead, which is geared toward business users but has the same look and feel as Windows 95 to the user.

"Corporate America is leaning more toward NT than Windows 95," said Ted Burns, vp of product development for DAVID Corp. in San Francisco. "Microsoft is really giving price breaks there."

Some companies will have to make significant hardware improvements in order to run Windows 95.

Microsoft says Windows 95 will run on a computer with a 386 processor and 4 megabytes of system memory, or RAM, but the preferred configuration is a 486 processor with 8 megs of memory, Mr. Burns said.

Mark E. Dorn, president and CEO of Dorn Technology Group Inc., is recommending 16 megs of RAM to run the operating system.

Most of the Livonia, Mich.-based RMIS vendor's clients already have either 8 or 16 megs, he noted.

The required hardware improvements also concern Mr. Pettegrew of Western Staff Services. Not all of his department's PCs could even accommodate 16 megabytes of RAM and buying additional memory would be a more significant financial outlay than the cost of purchasing the Windows 95 operating system.

Another hindrance to switching to Windows 95 now is that most software that risk managers use will run on the new operating system though it is not specifically designed to take full advantage of the new system's features.

RMIS vendors report that their product versions for Windows 95 are expected to be released later this year.

"We are redeveloping our entire product line for Windows 95 and Windows NT," DAVID's Mr. Burns said.

"We've been writing software to leverage" the improvements on the new operating system, Mr. Dorn said.

Dorn Technology's June release of Riskmaster/Win 2.0 already utilizes the "common look and feel" of Windows 95.

Corporate Systems also is developing Windows 95 software.

"As soon as (clients) ask for it, we will be able to make a transition quickly," Mr. Duden said. "We recommend they wait until the bugs come out. Windows 96 will probably have fewer."

Updated versions of new operating systems often are released about six months after the original, Mr. Burns noted.

Transition time also is keeping some businesses from embracing Windows 95 this year. Coming out relatively late in the year could make it difficult to have the operating system running smoothly before year-end reports are due.

Despite identifying many reasons why clients should wait to make the leap to Windows 95, RMIS vendors expect it to be the operating system of the future.

Many have been testing Windows 95 for months and have favorable reports.

"No. 1, it's reliable. No. 2, it

Windows 95 to enter EBIS arena gradually

Employee benefit managers aren't likely to be the first in line to purchase copies of Windows 95.

Most benefit managers and vendors of systems and software say programs already in place are adequate for administering benefit plans, so the new version of Windows isn't needed—at least not yet.

Others predict, though, that as the new system gains wider acceptance it will make benefit administration easier, particularly for interactive benefit systems that employees use.

The new Microsoft Corp. operating system, scheduled for release this week, promises to enhance and simplify the "point and click" system now used in Windows, while enabling the more efficient operation of multiple applications.

"It will take a while, but Windows 95 is going to be a better operating system than the old DOS," said Arnold Heinrich, president of SBPA Systems Inc., a Houston-based system vendor whose clients include self-insurers, third-party administrators and managed care companies.

But as of yet, there hasn't been much interest among clients in modifying software to conform with the Windows 95 system, said Mr. Heinrich. "Nobody's asking for it out of our user base or out of our prospect base."

"I think what will happen with Windows 95 is that it will probably pick up the movement to enhance the user interface" on all systems, whether they are PC-based or not, he said. "It's a continuing kind of thrust to get a more intuitive interface."

"My guess is smaller (public) entities and even smaller corporations may find it a useful tool," said Ron Guilfoile, director of risk and employee benefits for the city of St. Paul, Minn. "We've talked about it" but decided that the expense and time involved in installing a new system to administer benefits for 3,400 employees and 1,800 retir-

ees would not be well spent, he said.

Some vendors that supply older versions of Windows in applications developed for clients say those systems are still adequate.

The additional "bells and whistles" that Windows 95 would provide would not be critical to the benefit information systems that Parsons, McKee, Sommers & Co. provides, said John R. Parsons, chairman of the Westlake, Ohio, vendor. Interactive systems "need to be simple, and that simplicity can be achieved even without (Windows 95)," he explained.

While many benefit vendors and administrators apparently are content for now with their current systems, some observers are excited about how Windows 95 could enhance benefit administration.

"We're very interested in what Windows 95 can do," said Bruce Higer, project manager with Watson Wyatt Worldwide in New York. In Mr. Higer's opinion, "self-service" interactive benefit systems that allow employees to directly access information will operate better under the new operating system.

"You're going to need machines equipped with Windows 95 or something like it," said Mr. Higer. "Even Windows 3.1 is getting a little long in the tooth," he said of the last Windows upgrade.

Mr. Higer acknowledged that a downside to the new Windows system is its speed and appetite for memory. For optimum performance, Windows 95 runs much better on a 486 machine that has 8 megabytes of RAM. Some vendors recommend as much as 16 megabytes of RAM.

"That can be a problem" if a client doesn't have the same capacity, Mr. Higer said.

But it's only a matter of time before everyone is up to speed with Windows 95, he predicted. "It's not a question of if, it's a question of when. We're closely monitoring how corporations embrace Windows 95. We see some clients that have a problem moving to Windows 95 with the memory and hardware requirements."

But, he added, once the product is proven in the marketplace, buyers' trepidations will dissolve.

—By Michael Bradford

Designed for



Microsoft®
Windows 95

runs Windows and DOS applications faster," Mr. Dorn said. Dorn Technology's Riskmaster for Windows will run on the new system, he said.

Applications can run in protected mode, which makes it harder to interrupt functions. It has better user interfaces than the

current Windows, making it easier to "cascade through menus faster," Mr. Dorn said. Users will have easier access to different parts of the system, shortcuts to creating new icons and find key files accessible via a main menu bar.

"The learning curve for the end

user is not substantial," Mr. Dorn said. "At this price point, it's reasonable. We have tested it for nine months and not seen any level of bugs or errors."

The price for commercial users will be negotiable, depending upon how many users and computers a business has.

It will retail for \$85 to \$109 for individual use. ■

Superfund

Continued from page 2

The new coalition, known as the Superfund Reform Group, is chaired by Jo Ann Emerson, vp-public affairs for the American Insurance Assn. in Washington. Ms. Emerson is also the wife of Rep. William Emerson, R-Mo.

"We are basically supporting the principles outlined by Mike Oxley," said Ms. Emerson. "If you want to be part of the leadership coalition, you have to basically sign a blood oath that you support the Oxley principles down the line," she added.

For the time being, the Superfund Reform Group will focus on getting the Oxley bill through the House, she said. "I think once we get through the House, we'll be concentrating more in the Senate," she said, pointing out that the Senate leadership does not have as formal an apparatus for pulling such coalitions together.

The House Republican Conference, which is chaired by Rep. John Boehner, R-Ohio, used similar coalitions to push for specific portions of the GOP's "Contract With America," such as welfare reform. Ms. Emerson said that the previous coalitions proved their value. "This is a way to pool resources, everybody still does all their own things, but we're all on the same message."

Companies and associations do

not have to pay to participate, said Mrs. Emerson. Members include associations like the National Federation of Independent Business as well as individual companies such as Occidental Chemical Corp. and American International Group Inc., she said. She added that more than 25 companies and groups have already paid \$2,000 each to join the group's steering committee.

By creating a leadership coalition, the House GOP leaders elevated the Superfund issue in terms of priority and said they would apply their energy to get the bill passed, said Julie Rochman, assistant vp in the Alliance of American Insurers' Washington office. She said Rep. Boehner called in all the stakeholders and said, "Look, we want this bill passed this year, and we're going to do everything we can to get this passed."

Ms. Rochman added that it is "my hope that most of the activities take place out in the members' districts," rather than inside the Washington Beltway.

Although the group plans to hold staff briefings on Capitol Hill, it also will sponsor press conferences, town meetings and other activities throughout the country, said Mrs. Emerson.

According to K.C. McKee, legislative representative for the Washington-based NFIB, participants will be "working grassroots efforts and chatting it up on the Hill."

Ms. McKee said that the NFIB's

goal is simple: "getting rid of liability for as many of our small-business members as we can."

Susan Eckerly, director of regulatory policy for the Washington-based Citizens for a Sound Economy, a free-market consumer group with about 250,000 members, said her group is involved with the coalition to reform Superfund's liability and cleanup standards, to resist new taxes and to give state and local governments a bigger role in cleanup efforts.

Participants in the reform group make clear, however, that they are not writing the legislation that will embody the Oxley principles. "Basically, our mission is to assist Rep. Oxley and the GOP leadership in executing a legislative strategy to completely overhaul Superfund. The policy certainly is going to be made on Capitol Hill, not by a group of downtown lobbyists," said Peter A. Lefkin, vp-federal affairs for Fireman's Fund Insurance Co. in Washington.

Mr. Lefkin added that he considers the "most important thing about the coalition is it's not an insurance industry effort."

"It's as open and as inclusionary as possible," said Ms. Emerson. All members have to do is support the Oxley principles.

Some groups that do support the principles, such as the Risk & Insurance Management Society Inc. have not yet formally joined the coalition.

Nevertheless, the reform group is unusual in that it unites, at least for the time being, organizations that have not always seen eye to eye on the specifics of Superfund reform, notably insurers and the Chemical Manufacturers Assn.

The CMA is the only major stakeholder group to continue pushing for some sort of new taxes on insurers to help pay for environmental cleanup on return for reform of the liability system, in addition to the current levies on chemical firms (BI, June 26). And the organization made clear that its support for both the Oxley package and the leadership coalition is conditional.

"We're still sort of feeling our way through," said a spokesman for the Washington-based CMA. "We have not signed on to any legislative package."

For the CMA, "the No. 1 overriding issue is the funding issue," he said. He said that while the CMA agrees that "full repeal of retroactive liability would be a desirable outcome," the group believes that doing so will cost at least \$2.5 billion a year, whereas the House has cut appropriation for Superfund to about \$1 billion for the next year.

"How we reconcile the cost of reform with the money being made available is a question that has to be resolved and resolved soon if we have any hope of completing a reform package this year," the spokesman said. ■

U.K. loss adjuster collapses, for sale

LONDON—Increased competition, dwindling fees and the probable loss of a major client are behind the collapse of Toplis & Harding Group Ltd. of London, says the firm's receiver.

Price Waterhouse took over the loss adjuster at management's request on Aug. 14, after no buyer could be found. The firm has 40 U.K. branches and employs 250 people, many of whom have been laid off.

The receivership does not affect Toplis & Harding Inc. of North America, which is unrelated to the U.K. firm.

But Toplis & Harding operations elsewhere could be affected. Most non-North American, non-U.K. operations are held through a Dutch holding company, Toplis & Harding International B.V. The collapsed U.K. unit held all the shares in the Dutch company and the receivers are trying to sell these non-North American operations intact.

Toplis & Harding U.K. is handling about 13,000 claims on behalf of about 100 insurers. Ongoing U.K. loss adjusting work will be transferred to other adjusters or sent back to insurers for reassignment, said Price Waterhouse, which is notifying the U.K. firm's clients. —By Michael Schachner

Normandy Re parent suspends IPO

NEW YORK—Thirty-year-old investor Christopher K. Bagdasarian has lost the battle of Normandy.

Mr. Bagdasarian's Normandy America Inc. last week withdrew its \$180 million initial public offering, tersely attributing the move to "adverse conditions in the public market."

The company said it is "evaluating its alternatives" for capitalizing a proposed Nebraska-domiciled casualty reinsurer.

Market conditions were fine for other reinsurance stocks, though, and analysts pointed to other possible reasons the offering was pulled.

Among these were questions raised about Mr. Bagdasarian's investment track record and the fact that Salomon Bros. and its co-underwriters were forced to buy back at least 2 million of the 7.2 million Normandy shares as the stock dropped \$1.75 to \$23.25 in brief trading.

Mr. Bagdasarian and a Normandy spokesman could not be reached.

Normandy America filed a registration statement with the Securities and Exchange Commission earlier this year, initially seeking to raise \$262.9 million with an offering of 10.5 million shares (BI, June 19).

The bulk of the proceeds were to be contrib-

uted to Normandy Re Inc., a Nebraska-licensed reinsurer that would have invested most of its assets in common stocks rather than bonds. Potential cedants were told they would share in Normandy's investment returns, and offering documents touted Mr. Bagdasarian's investment track record.

That record, according to the offering documents, showed Mr. Bagdasarian building a \$36.9 investment portfolio he managed as a 19-year-old college undergraduate in 1984 into a \$599.4 million portfolio by year-end 1994.

The documents do not identify Mr. Bagdasarian's investors or describe any of the investments that reportedly have produced average annual returns of between 25% and 29% since 1984. Speculation about this and other aspects of Normandy's plans grew after the filing, reaching a crescendo last week when new questions were raised about Mr. Bagdasarian.

In an SEC filing for another of Mr. Bagdasarian's firms, he reported holding several jobs in the 1980s that apparently did not involve money management. During 1985, the filing says, he owned a catering company; from 1986 to 1988, he headed a cookie manufacturer; and from 1987 to 1989, he worked as a vp in his father's life insurance agency, leaving to form

his investment management firm in 1990.

Mr. Bagdasarian's Los Angeles-based lawyer, Michael Barnes, could not be reached, but was quoted in the Wall Street Journal saying that Mr. Bagdasarian's job with the life agency included investment work. Also, Mr. Bagdasarian was not required to disclose pre-1990 investment activity because he had fewer than 15 clients, Mr. Barnes was quoted as saying.

In 1989, Mr. Bagdasarian filed with the SEC for a private placement of securities of MBA Growth Fund Ltd., a limited partnership investment fund that raised \$2 million from nine investors.

Normandy's shares hit the market last Tuesday, after Saloman and co-underwriters Alex. Brown & Sons and Wertheim Schroder & Co. reduced to offering to 7.2 million shares, raising \$180 million.

The stock dropped immediately from its offering price of \$25 per share, though, and Saloman and its co-underwriters bought back at least 2 million of the shares at the offering price. Normandy then withdrew the offering.

Meanwhile, Risk Capital Holdings Inc., a reinsurance holding company organized by Marsh & McLennan Risk Capital, delayed last week's scheduled closing of its IPO to this week, in part because of fallout from the Normandy debacle, sources say.

—By Douglas McLeod

Harassment

Continued from page 2
tolerate such conduct and that she could report it to the employer without fear of adverse consequences," the court said in its July 28 ruling.

The court also said that, given the employer's policies and conduct, any sexual harassment would have occurred outside the scope of the supervisor's employment.

The suit against the supervisor, James Edward Long, was dismissed because he could not be held liable under law in his personal capacity.

The transit authority's staff counsel did not return phone calls.

Employment law specialists called the decision very helpful for employers, though not unique. They said it could carry weight because the District of Columbia appellate court is held in high esteem by other circuits, which often look to its opinions.

Still, it is not enough to merely have a policy on file against sexual harassment, said Neal Mollen a senior associate with Paul, Hastings, Janofsky & Walker in Washington. Employers must have a mechanism for reporting, investigating and mitigating harassment. They must also communicate the policy effectively so they can contend employees knew of it or should have known of it.

In addition to not finding a hostile environment, the court also found no grounds for a quid pro quo action, the other typical grounds for sexual harassment suits. Quid pro quo harassment—often a promotion or other perks for sexual favors—was absent because the supervisor did not carry out promises to make her job easier or threats to terminate her employment and she did not submit to the defendant's demands.

Employees could have a harder time pressing harassment suits under this ruling, said Steven Reade, a partner with Arnold & Porter, the Washington firm that represented Ms. Gary.

Ms. Gary alleged in her suit that Mr. Long, attempted to coerce sex from her between May 1989 and February 1990. She also alleged the harassment culminated in rape at a transit authority storage facility.

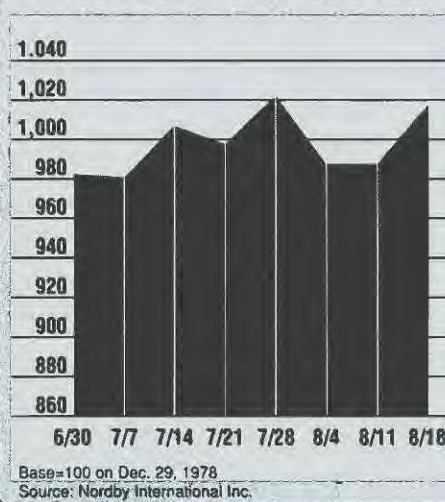
Ms. Gary did not report the harassment for months after the alleged rape.

Mr. Long has denied the allegations, and the transit authority argued it should not be held liable because of its anti-harassment program.

The transit authority had sponsored numerous seminars on sexual harassment, issued notices to employees that the conduct would not be tolerated and publicized its civil rights policy statement and made available the names and telephone numbers of Equal Employment Opportunity Commission counselors to whom employees can report acts of discrimination or harassment.

Coramae Ella Gary vs. James Edward Long et al., U.S. Circuit Court of Appeals for the District of Columbia; No. 94-7012.

BI Insurance Index



Catastrophe Insurance option call spreads

As of Aug. 18			As of Aug. 18		
Call spread	Price bid/ask	Rate on line %	Call spread	Price bid/ask	Rate on line %
Eastern September 1995			Eastern September 1995		
45/65	-7	-35	50c	-16	-10.6
50/70	-5.6	-28	150c	-5	-10
60/80	-5.7	-28.5	20p	-4	-
100/120	1.9/2.4	9.5/12	70p	-30.2	-

Total volume: 188 Total open interest: 2,405
For quotes, call the CBOT trading floor at 312-341-3342. For general information, call 312-435-3674.

Source: Chicago Board of Trade

British Issues

Aug. 17 Companies	Price pence	P/E	Div. pence	Yield %	1 week high-low
Comml Union	667	12.4	33.0	5.4	609-606
Genl Accident	608	8.9	36.3	6.0	610-608
Gdn Royal Exch	217	N/M	10.3	4.7	224-217
Independent	328	9.1	11.9	3.6	328-318
Royal	344	6.5	15.0	4.4	345-344
Sun Alliance	346	11.6	19.7	5.7	347-345

Brokers	Price pence	P/E	Div. pence	Yield %	1 week high-low
Bradstock	55	6.2	7.7	12.9	55-55
Fenchurch	145	10.1	10.3	6.9	145-145
CE Heath	213	13.4	20.3	9.4	213-213
JIB Group	124	10.8	9.4	7.6	124-124
Lloyd Thompson	161	11.2	9.8	6.1	164-161
Lowndes Lmbt	174	9.7	10.3	5.9	176-174
Nelson Hurst	145	11.2	8.3	5.7	145-145
PWS Holdings	16	N/M	0.8	5.0	16-16
Sedgwick Grp	131	11.9	8.1	6.2	137-129
Steel Bri Jones	99	11.6	11.3	11.4	104-99
Willis Corroon	142	N/M	8.3	5.8	143-139

Source: Phillip Olsen, London * Estimated 1994 data

BI Industry Stock Report AUG. 14, 1995, THROUGH AUG. 18, 1995

BROKERS	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	S Div.	% Yield	P/E	Book value	Mkt./Bk. value	Price	Weekly % change	Year to date % change	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value			
				High	Low										High	Low									
Acordia Inc.	NYS	28.125	-4.26	-16.04	34.50	25.63	45	0.72	2.56	14	14.00	2.01	NAC Re Corp.	NDO	36.125	-2.36	7.84	37.25	24.25	109	0.2	0.55	14	18.23	1.98
Alexander & Alexander	NYS	23.125	-5.61	25.00	26.44	18.50	205	0.1	0.43	-11	19.17	1.21	National Re Corp.	NYS	32	-2.66	21.90	34.38	22.25	84	0.16	0.50	16	17.05	1.88
E.W. Blanch Holdings Inc.	NYS	17.875	0.00	-13.33	23.00	16.50	211	0.4	2.24	14	1.40	12.77	Navigators Group	NDO	14.25	-5.00	-1.72	19.75	12.75	31	0.00	0.00	102	10.21	1.40
Gallagher Arthur J. & Co.	NYS	37.375	0.00	16.80	38.00	29.63	37	1	2.68	16	6.48	5.77	Nobel Insurance Ltd.	NDO	11.125	0.00	34.85	11.25	8.00	23	0.00	0.00	0	6.84	1.83
Hild, Rogal & Hamilton	NYS	13	0.00	7.22	13.38	10.50	275	0.56	4.31	16	1.21	10.74	Ohio Casualty Corp.	NDO	31.625	-1.17	11.95	34.25	27.00	173	1.52	4.81	13	23.64	1.34
Marsh & McLennan	NYS	78.625	0.96	-0.79	86.00	71.50	588	2.9	3.69	15	19.95	3.94	Old Republic Int'l	NYS	27.25	2.35	28.24	27.25	18.88	173	0.52	1.91	10	25.79	1.06
Poe & Brown	NDO	24	-3.76	10.34	24.50	19.50	10	0.48	2.00	15	5.15	4.66	Orion Capital Corp.	NYS	41	0.00	16.31	42.50	28.13	85	0.3	1.95	9	26.00	1.58
AVERAGE			-1.8	4.2				2.6	11				Partner Re Ltd.	NDO	26	1.96	25.30	26.25	18.50	840	0.00	0.00	0	20.37	1.28
													Penn-America Group Inc.	NDO	10.5	1.20	42.37	11.25	6.50	17	0.12	1.14	11	6.40	1.64
													Philadelphia Cons. Holding	NDO	17	6.25	38.78	17.25	10.25	15	0.00	0.00	15	9.05	1.88
													Phoenix RE Corp.	NDO	25	-4.76	-11.50	29.00	21.00	228	0.6	2.40	4	2.27	1.18
													Provident Life	NYS	24.625	4.23	13.22	29.88	20.50	150	0.72	2.92	2	22.34	1.10
													Reliance Group Holdings	NYS	7	12.00	34.94	7.50	4.88	544	0.32	4.57	0	3.42	2.05
													Reliastar Financial Corp.	NYS	38.25	0.33	31.90	39.63	27.00	182	1	2.61	0	24.53	1.56
													RLI Corp.	NYS	21.875	-1.13	33.38	23.63	16.00	10	0.52	2.38	1	20.51	1.07
													St. Paul Companies	NYS	49.5	0.76	10.61	51.88	39.38	2323	1.6	3.23	9	32.46	1.52
													SAFECO Corp.	NDO	59.375	1.82	14.18	59.88	47.13	1070	2.12	3.57	1	44.95	1.32
													SCOR U.S. Corp.	NYS	10.5625	-0.59	26.12	12.25	7.50	18	0.2	1.89	3	15.60	0.78
													Selbels Bruce Group	NDO	0.875	0.00	-65.00	3.50	0.75	33	0.00	0.00	0	0.04	21.88
													Selective Ins. Group	NDO	32.5	-1.52	28.71	33.75	23.50	80	1.12	3.45	0	25.23	1.40
													Sphere Drake Holdings	NYS	16.5	-0.75	18.92	17.38	10.75	68	0.00	0.00	0	12.86	1.19
													TIG Holdings	NYS	25.125	3.61	34.00	25.50	17.00	359	0.2	0.80	9	16.62	1.51
													Titan Holdings, Inc.	NYS	13.375	4.90	37.18	13.88	8.25	52	0.3	2.24	0	5.04	1.48
													Tokio Marine & Fire	NDO	59.75	5.52	-1.65	63.63	49.88	14	0.4	0.67	52	57.72	1.04
													Torchmark Corp.	NYS	38.75	0.65	12.32	44.50	32.38	527	1.16	2.99	10	17.37	2.23
													Transatlantic Holdings	NYS	69.25	1.09	23.94	70.13	47.75	180	0.4	0.58	13	35.30	2.08
													Transnational Re Corp.	NDO	22.375	0.00	-4.79	24.00	18.75	37	0.00	0.00	6	18.84	1.19
													Travelers Corp.	NYS	47.125	0.27	45.56	48.25	30.38	2513	0.8	1.70	11	24.77	1.90
													Trenwick Group Inc.	NDO	46.875	0.27	10.62	47.50	36.50	41	1.12	2.39	12	25.23	1.60
													United Fire & Casualty	NDO	33.75	5.47	21.99	33.75	26.38	6	0.8	2.37	9	26.96	1.17
													Unitrin	NDO	48	-1.03	11.63	51.50	41.50	405	2	4.17	13	37.51	1.28
													UNUM Corp.	NYS	47.375	1.34	25.50	50.00	35.13	546	1.06	2.24	23	26.45	1.79
													US Facilities Corp.	NDO	18	0.70	80.								

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