

Business Insurance

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

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AIG offering \$1.2 billion for Hartford Steam Boiler

HARTFORD, Conn.—American International Group Inc. has proposed a \$1.2 billion purchase of HSB Group Inc., the parent of Hartford Steam Boiler Inspection & Insurance Co.

The deal, announced Friday, will enable Hartford Steam Boiler to expand its products and its reach, according to HSB Group Chairman, President and Chief Executive Officer Richard H. Booth. Hartford Steam Boiler will continue to operate

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Results worsen

Reliance Group Holdings Inc.
First-half results

	2000	1999
Revenues	\$2.18 billion	\$1.49 billion
Net premiums	\$1.02 billion	\$1.36 billion
Net loss	\$359.0 million	\$172.4 million
Surplus	\$1.14 billion	\$1.31 billion

Reliance debt looms large

May file for bankruptcy

By DOUGLAS McLEOD

NEW YORK—As it struggles under a massive debt burden, Reliance Group Holdings Inc. is facing questions not only about its own survival but also about the fate of the property/casualty operation it is now planning to run off.

Reliance last week announced a whopping reserve increase that created a \$504.5 million second-quarter net loss. At the same time, it reported plans to place its existing property/casualty business into runoff and disclosed that the holding company, saddled with \$735.1 million in debt, may be forced

to seek bankruptcy protection.

State insurance regulators are not expected to allow subsidiary Reliance Insurance Co. to pay its parent enough in dividends to cover upcoming debt obligations, and industry analysts express doubt that the holding company will be able to renegotiate the debt.

In addition, while industry observers express hope that Reliance succeeds with a solvent runoff—avoiding a regulatory takeover and the involvement of state guaranty funds—questions remain about the runoff plan's prospects.

See Reliance on page 22

DOL ruling opens door to benefits in captives

By JERRY GEISEL

WASHINGTON—The U.S. Department of Labor's proposed approval of a big natural gas company's plan to reinsure a long-term disability benefits program through its captive could give other employers a road map to do the same thing.

Last week, the department gave preliminary approval to Columbia Energy Group's application to use the Vermont branch of its Bermuda-domiciled insurance subsidiary, Columbia Insurance Corp. Ltd., to reinsure LTD policies written by Liberty Mutual Insurance Co. unit Employers Insurance Co. of Wausau.

That action—if finalized, as is virtually certain—could lead dozens, if not hundreds, of employers that have been long stymied by regulatory obstacles to broaden their captives' portfolios to take on employee benefit risks. This

Columbia Energy Group

move would not only expand their captives' premium base significantly but also potentially reap tax breaks.

"This is the holy grail employers have been seeking for years," said Henry Saveth, an attorney with William

M. Mercer Inc. in Washington.

While employers have been eager to expand their captives' role to take on employee benefit risks, nearly all have been blocked until now by a more than two-decade-old Labor Department rule.

That 1979 rule says, among other things, that for a employer to use its domestic captive to fund employee bene-

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Mixed bag from candidate

Gore presidency would help, hurt employers

By MICHAEL PRINCE

WASHINGTON—If Vice President Al Gore is elected president, his administration will likely present both pluses and minuses for employers on issues related to employee benefits and risk management, experts say.

For example, a Gore administration would firmly support patient protection legislation. Mr. Gore currently backs a measure, passed by the House of Representatives, that would create liabilities for health plans and employers.

But Mr. Gore also supports efforts



that could aid employers struggling with rising health care costs, such as legislation to add a pharmaceutical benefit to the federal Medicare programs and efforts to reduce the esca-

lating cost of prescription drugs.

The vice president, however, has opposed a sweeping pension reform measure now awaiting Senate action that would allow employees to contribute more to their pension plans and would cut some of the red tape associated with administering the plans.

And in the property/casualty arena, Mr. Gore almost certainly will oppose tort reform proposals, observers say.

Perhaps the most contentious benefits-related issue for employers is

See Gore on page 6

2000 Ward's Results

Ward's 50

Property/Casualty

and

Life/Health Insurers

Page 3

Superior National averts claims freeze

Insurer battling for funds

By ROBERTO CENICEROS

CALABASAS, Calif.—The cash-strapped conservator for the troubled insurer units of Superior National Insurance Group Inc. has received funds from a fronting insurer, ending a suspension of workers compensation claims payments.

Conservator and Special Deputy Insurance Commissioner Richard Krenz has been working on several fronts to collect funds he says are due the insurer units of Superior National Insurance Group, which are under regulatory conservation, and avoid liquidation of the insurers.

Last week, a deal was reached by the conservator with one of Superior

National's fronting insurers to advance an unspecified amount of disputed funds, thereby lifting a temporary suspension of claims payments only a few days after it was entered.

Mr. Krenz had taken that step last Tuesday, after failing in court to recover \$60 million in collected premiums held by Superior National Insurance Group Inc., a holding company for the insurers in conservation, which is in bankruptcy protection. At that point, he also announced an acceleration of the liquidation date for the Superior National units to September from a planned October date.

"I was under pressure to make a decision how low I could go on my

operations without suddenly confronting a train wreck and running out of capital," Mr. Krenz said.

"Because of the holding company's intransigence in releasing funds to us, they have thrown a monkey wrench in our plans," he said.

Superior National was the second-largest workers compensation insurer in California, with its units writing \$482 million in premiums last year, according to the Workers Compensation Rating Bureau of California. In March, the California Department of Insurance seized control of Superior National's units after concluding they were underreserved and insolvent by \$247.1 million (BI, See Superior on page 7

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UPDATES

AIG to buy HSB for \$1.2 billion

Continued from previous page

as an independent company within AIG after the deal.

AIG's resources will allow the Hartford, Conn.-based boiler and machinery insurer to offer insurance programs to large policyholders that it currently is too small to serve, and AIG's worldwide licenses will help Hartford Steam Boiler to broaden its international business, Mr. Booth said.

And the purchase will enable AIG to expand its "nominal" boiler and machinery business and offer additional services to its existing clients, AIG Chairman and CEO Maurice R. Greenberg said in the conference call.

Under the terms of the deal, AIG will pay stock in an amount equivalent to \$41 per share for HSB Group. If AIG's stock price falls before the deal closes, the insurer likely will make up the difference in cash, Mr. Greenberg said. The deal, which still requires approval from regulators and HSB Group shareholders, is expected to be closed by the end of the year, he said.

Suit against Nabisco reinstated

NEW ORLEANS—The 5th U.S. Circuit Court of Appeals has reinstated an ERISA suit filed against an employer involving the 1987 purchase of a single-premium annuity from the now-defunct Executive Life Insurance Co.

The case, *Bussian vs. R.J.R. Nabisco Inc.*, had been dismissed in 1998 by the U.S. District Court in Houston, where it had been filed in 1991 after California regulators seized ELIC and placed it in rehabilitation.

The trial court found there were no violations of the Employee Retirement Income Security Act of 1974, according to Randall W. Wilson, an attorney with Sussman Godfrey of Houston, who represented the class of 1,500 annuitants who brought the suit.

But in its Aug. 14 decision, the 5th Circuit in New Orleans reinstated the case and remanded it to the district court in Houston for trial. The court said it was possible that Nabisco had violated its fiduciary duty when it terminated the pension plans of several of its subsidiaries and purchased a \$62.5 million annuity from ELIC to fund those plans' obligations.

HHS issues claim standards

WASHINGTON—The U.S. Department of Health and Human Services is introducing new standards to streamline the processing and payment of health care claims.

The department expects the standards to save the health care industry \$29.9 billion over 10 years by promoting the use of electronic transmissions and reducing paperwork.

The regulation, which was required by the Health Insurance Portability and Accountability Act of 1996, is expected to be followed later this year by additional mandatory provisions. Those provisions will establish a system that allocates national identification numbers to employers and health care providers in order to speed processing and lower costs.

In addition, HHS will lay out steps to make electronic data secure and protect the privacy of patients' medical and health insurance records. "This will be done without the need for a unique personal identifier for individual patients," according to the HHS statement.

However, if privacy protections for individuals are not in place, HHS "will seriously consider suspending or withdrawing the transaction regulations, pending appropriate privacy protections," the department said.

ADA suit against state rejected

PHILADELPHIA—States and their agencies cannot be sued under Title I of the Americans with Disabilities Act because the law does not remove a state's immunity from suit under the 11th Amendment of the U.S. Constitution, a federal appellate court has ruled.

The Aug. 8 decision by the 3rd U.S. Circuit Court of Appeals in Philadelphia relies heavily on the U.S. Supreme Court's decision this year in *Kimel vs. Florida Board of Regents*, which used similar logic in ruling that states cannot be sued under the Age Discrimination in Employment Act.

"In light of *Kimel*, and based on the terms of the statute and its legislative history, we hold that the ADA... does not abrogate the state's 11th Amendment immunity from suit," wrote U.S. Circuit Judge Leonard I. Garth in *Jeffrey D. Lavia vs. Commonwealth of Pennsylvania*.

Judge Garth and two other judges unanimously found that states lose their immunity from ADA lawsuits only when they violate the 14th Amendment, which gives equal protection and due process to all U.S. citizens. Furthermore, the opinion added, Congress' power is limited to remedying constitutional violations committed by the states themselves, not by private members of society.

Court clarifies disclosure duty

SAN FRANCISCO—Employers that are seriously considering offering more-generous pension benefits as a retirement incentive are obligated to inform employees about the planned move only if they are asked, a federal appellate court has ruled.

Employers are not, however, obligated to volunteer information about any changes prior to their final adoption, the 9th U.S. Circuit Court of Appeals in San Francisco said in its Aug. 10 decision. See *Updates on page 22*

Enhanced RIMS Web site planned for next year

By MICHAEL BRADFORD

NAPLES, Fla.—A revamped Web site will give members of the Risk & Insurance Management Society Inc. a host of state-of-the-art electronic services at a time when the group wants to add value and members to the organization.

RIMS is spending \$650,000 to update its current site at www.rims.org and expects to unveil the new Internet presence at next year's national conference in Atlanta, said RIMS President Roger Andrews. The current site is "five or six years behind in terms of technology," he said, and the new version is expected to



Mr. Andrews

RIMS is developing the new site at a time when its membership ranks are declining. The organization has lost members in recent years partly because mergers and acquisitions have reduced the

provide a number of member benefits and "save us money in the long run in terms of the services we provide to our members."

number of corporations eligible to participate in the society. RIMS is hoping its enhanced Internet site will generate increased value for its members and help attract new participants to the organization.

Mr. Andrews, speaking at the 2000 Florida Chapters 25th Annual Joint Educational Conference in Naples, Fla., last week, said the site will allow risk managers in similar industries to communicate with each other and even form virtual industry-specific chapters.

"One thing that risk managers really like is to network within their own industry or their own interest group," said Mr. Andrews, who is general counsel and

See *Web site on page 19*

Stock values rise with results

P/C business improving

By JUDY GREENWALD

Business results are beginning to look up for commercial property/casualty insurers in the United States.

Although, at best, first-half earnings met lowered expectations, analysts say the more-significant development is that the industry's financial outlook continues to improve as rate hikes take hold.

The industry's improved prospects have also led to better stock market performance. And some observers suggest that this, in turn, will lead to increased merger and acquisition activity, as higher stock valuations provide

insurers with a stronger currency with which to pursue deals.

Others, though, say insurers may be wary of assuming potentially troublesome acquisitions just as earnings are starting to improve.

"The real news in the quarter wasn't the earnings news," said Michael Lewis, senior insurance analyst with Warburg Dillon Read in New York. Instead, Mr. Lewis said, the news was that rates hikes were continuing to im-

prove in both breadth and depth.

That, coupled with actions taken by some of the better-run companies to improve overall profitability, "should result in distinctly better earnings results in the second half of the year and beyond," he said.

"Very good things are happening out there on the rate front, and we expect P/C industry earnings to be stronger looking out towards 2001," said Ken Zuckerman, vp in equity research at New York-based Wasserstein Perella Securities Inc.

"Obviously, the outlook for the commercial lines property/casualty business is much better today

See *P/C on page 20*



Pension expenses scrutinized

By VINEETA ANAND
Crain News Service

WASHINGTON—Employers are crying foul over a move by the Labor Department to quietly begin asking some employers to reimburse their retirement plans for thousands of dollars in expenses paid for with plan assets.

The action was initiated by officials in the Kansas City, Mo., region of the Labor Department's Pension and Welfare Benefits Administration.

Now, Labor Department offi-

cial are deciding whether to extend that enforcement project to other regions, or to take it nationwide.

Among the expenses at issue are those associated with converting a plain-vanilla defined benefit plan into a cash balance plan.

The Labor Department's Kansas City office also is questioning:

- The cost of giving investors information about pension liabilities in annual financial statements, as required under accounting rules.

- The cost of legal and other expenses to file government paperwork for obtaining tax-favored status for defined benefit pensions and 401(k) retirement savings plans.

- Costs associated with shutting down a pension plan, as well as preparing for and conducting union negotiations, and examining the impact of proposed legal or regulatory changes on the plans and their administration.

- The costs of outsourcing the administrative functions of a

See *Expenses on page 19*

INSIDE

- The Labor Department should no longer stand in the way of companies wanting to use their captives to fund benefits, one of this week's editorials says. **PAGE 8**

- British Aviation Insurance Group's purchase of Associated Aviation Underwriters could prompt firmer pricing in the market. **PAGE 4**

- In Perspectives, Gregory G. Kile writes that silent PPOs hurt providers and patients. **PAGE 13**

- Ongoing questions about the cause of last month's Concorde crash have led British Airways P.L.C. to ground its fleet of the supersonic aircraft. **PAGE 15**

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Ward identifies what makes some insurers a cut above

By **RODD ZOLKOS**

Faced with increased competition, falling regulatory barriers and ongoing industry consolidation, the top insurance company performers are those that take a tightly focused approach to distribution, have strong in-house claims staffs and procedures, and emphasize effective loss control programs.

Those are among the conclusions of the Ward Financial Group's annual study of best practices in the insurance industry. The study by the Cincinnati-based insurer management consulting and investment banking firm uses a combination of statutory data and proprietary information to develop a picture of the factors behind the success of the top performing insurance companies.

The analysis begins with an examination of all companies in the insurance industry—2,700 property/casualty and 1,300 life/health companies—using statutory information obtained directly from the National Assn. of Insurance Commissioners to identify the top-performing companies.

"The good thing about that source of information is that everybody's included," said John L. Ward, chairman of Ward Financial Group.

In addition to its consistency and completeness, "the benefit of using the publicly available data is that you're getting information on 100% of the industry," Mr. Ward said.

But, once the publicly available data has been used to determine which companies are the best performers, "it's difficult to drill down into that data and say, 'Why are they so good?'" Mr. Ward said.

Consequently, to take that "next step" in its analysis, Ward uses its own proprietary data analyses to provide benchmarks for insurance companies. Over 200 companies throughout the United States and Canada provide the company with data that is analyzed for the Ward annual benchmarking programs.

"The 'who' is the NAIC database," Mr. Ward said. "For the 'why'—or what do they do to make them good—we segue over to this Ward benchmarking program."

The benchmark findings, developed from information in Ward's proprietary database, allow the company to identify and examine the best practices that set the top-performing companies apart from the other companies in the industry, and to support claims of the value of those best practices with quantitative data.

"Every year we try to pick a best-practices drill-down topic," Mr. Ward said. "This year, it's distribution systems, claims and loss control."

"Why is it important for companies to look for best practices? Because competition is intensifying, the regulatory barriers are falling," Mr. Ward said. "There's more and more pressure being put on the management of insurance companies to be competitive, to be more efficient."

The most notable factor behind this pressure, perhaps, is the federal Gramm-Leach-Bliley Financial Services Modernization Act, Mr. Ward suggested. By eliminating Depression-era prohibitions against bank/insurer affiliation, the law, passed last year, gives insurers a new group of competitors—as well as new business opportunities.

In stressing the importance of the insurer best practices, Mr. Ward dispelled a commonly held misconception about them.

"A lot of people have the perception that a best practice is the most common practice," he said. "But our experience is that best practice tends to be a minority practice."

In each of the three broad topics examined in this year's analysis, the Ward study identified several best practices:

Distribution

In the distribution area, the best practices revolved around penetration, automation, commissions and agency management, Ward found.

In terms of penetration, the Ward's analysis found that the "high performers" among the companies examined in the benchmark analysis accounted for a significant volume of business in the offices of the producers distributing their products.

The study shows 40% of the companies in Ward's benchmarking universe achieved a strong critical mass in terms of premiums written per distribution outlet. And, among agency companies in that universe, 39% focus on achieving a strong position within the agency.

"What our data leads us to conclude is that the companies that work to achieve more product distribution with fewer producers are more effective," Mr. Ward said.

And, he noted, "Those that focus on achieving a strong penetration within the agency tend to have better perfor-

mance."

Ward's data shows that, for personal lines direct writers, high-performing companies—which are companies in the benchmark analysis from Ward's 50—average \$2.2 million in premiums per individual producer, while the other companies in the benchmark analysis averaged only \$1.8 million.

The difference is even greater among commercial lines direct writers, where the high performers average \$1.7 million in premium per individual producer, compared to \$1.1 million on average for the other companies analyzed.

Among commercial lines independent agency companies, the high performers average \$794,000 in premium per agency, compared to \$504,000 per agency on average for the other companies.

"Many companies, especially when the market has been soft in the recent past, have worked hard to appoint more agents," Mr. Ward said. But, he noted, Ward's analysis shows that the best performers are those companies that appoint fewer agents, monitor their performance closely and retain only the most successful.

"Ideally, you'd have quality and quantity," Mr. Ward said. But, when companies work with a more select group of agents, "those agents you are working with are more in tune with your book of business," he said.

Savvy use of Internet-based technology is another frequently seen hallmark of the top performers.

Among the agency companies, there is clear evidence of the value of effective use of information technology, Mr. Ward said. "This is a best practice," he said. "It's a more effective way to interact with your agents."

The study showed that among agency companies, 29% of those benchmarked rely heavily on Internet-based technology as a replacement for traditional upload technology.

Another best practice involves the way top performers compensate their distribution forces. Ward's analysis found that 24% of the companies examined use a combination of relatively low base commissions and exceptionally high contingent commissions that are based on the profitability of business.

In general, the more successful companies tend to be those that use both methods of awarding commissions but put greater emphasis on performance, Mr. Ward said.

There also are best practices to be seen in the way the top performing companies involve themselves in the management of the agencies with which they work.

According to Ward, 33% of the benchmarked companies

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**Best practices
in loss control
page 10**

Ward's 50 property/casualty

Alfa Insurance Group
Allstate Insurance Co.
American International Group
American Modern Insurance Group
American National Property & Casualty Cos.
Amica Mutual Insurance Co.
Auto Club Insurance Assn.
Auto-Owners Insurance Group
California State Auto Assn.
Canal Insurance Group
Central Mutual of Ohio Group
Chrysler Insurance Co.
Chubb Insurance Group
Church Mutual Insurance Co.
Cincinnati Insurance Group
Colonial Penn Group
The Commerce Group Inc.
Concord General Group
Country Companies
The Doctor's Co.
Empire Fire & Marine Group
Erie Insurance Group
Foremost Insurance Co.
Frankenmuth Mutual Insurance Co.
GEICO
GMAC Insurance
Greater New York Group

Harleysville Mutual Insurance Co. Group
Hastings Mutual Insurance Co.
Heritage Mutual Group
Horace Mann Insurance Group
Insurance Co. of the West
Interinsurance Exchange, Automobile Club of Southern California
Kentucky Farm Bureau Mutual Insurance Co.
Markel Corp. Group
New Jersey Manufacturers Group
Pekin Insurance Group
Protective Insurance Group
RLI Insurance Group
SAFECO Insurance Group
Southern Farm Bureau Casualty Insurance Co.
St. Paul Cos.
Tennessee Farmers Mutual Insurance Co.
Travelers Insurance Group
United Fire & Casualty Group
USAA Group
Virginia Surety Co.
West Bend Mutual
Western World Group
Westfield Cos.

Source: Ward's Results, 2000 Property/Casualty edition

Ward's 50 life/health

Alfa Life Insurance Corp.
American General Life Insurance Co.
American Life Insurance Co.
American National Insurance Co.
American United Life Insurance Co.
Ameritas Life Insurance Corp.
Cincinnati Life Insurance Co.
Combined Insurance Co. of America
Country Life Insurance Co.
Farm Bureau Life Insurance Co.
Farm Bureau Life Insurance Co. of Michigan
Federated Life Insurance Co.
First Colony Life Insurance Co.
Golden Rule Insurance Co.
Great American Life Insurance Co.
Guardian Life Insurance Co. of America
Hartford Life Insurance Co.
Horace Mann Life Insurance Co.
IDS Life Insurance Co.
Jackson National Life Insurance Co.
Jefferson-Pilot Life Insurance Co.
John Hancock Mutual Life Insurance Co.
Liberty National Life Insurance Co.
Massachusetts Mutual Life Insurance Co.
Merrill Lynch Life Insurance Co.
Midland National Life Insurance Co.

Minnesota Life Insurance Co.
Mutual of Omaha Insurance Co.
National Life Insurance Co.
National Western Life Insurance Co.
Nationwide Life Insurance Co.
New York Life Insurance Co.
Northwestern Mutual Life Insurance Co.
Ohio National Life Insurance Co.
Pacific Life Insurance Co.
Pekin Life Insurance Co.
Penn Mutual Life Insurance Co.
Physicians Mutual Life Insurance Co.
Principal Mutual Life Insurance Co.
Protective Life Insurance Co.
Provident Mutual Life Insurance Co.
SAFECO Life Insurance Co.
Security Benefit Life Insurance Co.
Southern Farm Bureau Life Insurance Co.
State Farm Life Insurance Co.
Teachers Insurance & Annuity Assn. of America
Transamerica Occidental Life Insurance Co.
Travelers Life & Annuity
USAA Life Insurance Co.
Western & Southern Life Insurance Co.

Source: Ward's Results, 2000 Life/Health edition

BAIG takeover of AAU may trigger firmer rates

By DAVE LENCKUS

LONDON—If British Aviation Insurance Group Ltd.'s acquisition of U.S. underwriting consortium Associated Aviation Underwriters Inc. is completed as planned by September, it likely will fuel a hardening commercial airline market this fall, market executives say.

The deal also is expected to be the first in a series of consolidations that will restructure the aviation insurance market due to poor underwriting results over much of the last decade.

Exactly how the new organization will look, though, is unclear, because BAIG and AAU management can say little about the deal until after it receives regulatory approval.

BAIG on July 31 announced that it planned to acquire the 71-year-old AAU of Short Hills, N.J., for an undisclosed price from subsidiaries of Chubb Corp. and CNA Financial Corp. The two U.S. insurers each hold a 50% stake in AAU and participate in its pool of underwriters.

For at least the near term, BAIG plans to retain both the BAIG and AAU organizational names but place both units under a new holding company, Global Aerospace Underwriting Managers Ltd.

Peter Bernhard, a director and the controller of reinsurance for BAIG, said that each unit will have a separate management team that will report to London-based managers of the organization. He also said that all functions of the two units will be coordinated.

While BAIG and AAU executives could not discuss other plans for the new organization because of regulatory restrictions, a BAIG press release noted that Chubb and CNA will continue to underwrite for AAU as part of a new underwriting pool beginning Jan. 1, 2001.

Mr. Bernhard said BAIG's underwriting pool consists of CGNU P.L.C., Zurich Financial Services Group Inc. subsidiary Eagle Star P.L.C., Mitsui Marine & Fire Insurance Co., Munich Reinsurance Co., Royal & SunAlliance Insurance Group P.L.C., and Tokio Marine & Fire Insurance Co. Ltd.

The existing AAU pool consists of subsidiaries of Atlantic Mutual Insurance Co., Employers Reinsurance Corp., Kemper Insurance Cos., NAC Re Corp., and Underwriters Reinsurance Co.

At the Aviation Insurance Assn.'s annual meeting last May, AAU President and Chief Executive Officer Daniel M. Izard encouraged underwriters to improve their dismal underwriting results by not only boosting rates but also expanding their market reach globally.

During the 1990s, the market eked out only two years of small underwriting profits. Over the past three years, underwriting losses have totaled at least \$800 million, according to Steven Doyle, a director at Aon Group Ltd. in London (BI, Feb. 7).

Market observers, a couple of whom referred to the new underwriting operation as a "900-pound gorilla," agreed that the deal will provide the new operation opportunities that neither BAIG nor AAU had themselves, despite being market leaders.

AAU has a large book of U.S.

airline, aircraft manufacturing and satellite business. BAIG has a large book of international airline and manufacturing business.

"So, their books are complementary," said Harold Clark, chairman and CEO of New York-based U.S. Aviation Underwriters Inc. USAUI is the management company of aviation underwriting pool U.S. Aircraft Insurance Group.

BRITISH AVIATION INSURANCE GROUP



BAIG obtains a large book of the type of mature business it did not have, and now it can look at trimming some cost redundancies, Mr. Clark said. Without the deal, BAIG would have had to increase staff to compete for that type of business, he said.

Some market observers said the deal would mean that the new organization would have a share of the commercial airlines and aviation market twice as big as BAIG and AAU had separately.

Aviation reinsurance consultant Ric Parker, principal of F.W. Parker Associates of Greenwich, Conn., estimated that BAIG and AAU each had as much as a 10% market share. Mr. Parker is a former AAU executive who had been with the underwriting consortium for 25 years. He left AAU in October 1997.

Mr. Bernhard said the deal mirrors the consolidation that has occurred among the underwriters' policyholders and will enable the new underwriting operation to provide the global servicing that global airline risks require.

In particular, the merger will mean improved claims servicing capabilities for international airlines and manufacturers with U.S. exposures, AAU's Mr. Izard said.

The deal also creates a good spread of risk for the new underwriting operation, said Mr. Bernhard.

For the commercial airlines market in general, the creation of a global market leader portends continued market stability, Mr. Bernhard said.

Through July, the commercial airline insurance market generated an 11% increase in premiums, said Aon's Mr. Doyle. Those figures are based on the lead London terms for airlines with average fleet values in excess of \$150 million.

While helpful, the increase in premiums is still insufficient, Mr. Doyle said.

Several market observers agreed that the transaction likely will affect the commercial airlines market, though not all agreed when that would occur.

Because of market overcapitalization, which some observers estimate is as much as 100%, the BAIG/AAU consolidation in the short term may not shrink capacity enough to affect the market significantly, said Mr. Doyle.

Still, he said, the deal would reduce the number of underwriters in the market, which tends to reduce competition and the attendant price cutting.

Mr. Doyle predicted the deal

likely will have some market impact later this year during the fall renewal season, when around three-quarters of the world's airlines renew their hull and liability coverages.

"Obviously, a combination of carriers of this size, I can't believe they can write their maximum line," Mr. Doyle said.

"From a broker's or manufacturer's point of view, to have a pair of hands is unsatisfactory," he said. "It would be difficult for many brokers to allow BAIG to have a large line following the AAU."

Mr. Parker agreed that the deal's immediate effect would be to accelerate market hardening this fall. But a London broker said he thought that the deal's impact on the market will not be seen until the fall 2001 renewals.

Mr. Clark said that a restructured underwriting pool would not likely mean a reduction in market capacity, because the new pool would replace the capacity the old pool provided.

Even if some capacity were lost, it would be redundant capacity, he said.

By itself, he said, the BAIG/AAU deal likely will have little effect on the market, but it comes at a time when several separate capacity-shrinking events all together could help turn the market. Those events include some markets constricting their operations and the expected tightening of the excess-of-loss reinsurance market, Mr. Clark said.

The BAIG/AAU deal is "another link in a chain of events which is leading toward market stabilization," Mr. Clark said.

While the new entity will be a dominant factor in the reinsurance market, Mr. Parker predicted that AAU could increase its retentions significantly and purchase less reinsurance. That would "increase their efficiency tremendously," he said.

It also means that reinsurers will have less access to aviation business, which could prompt them to move some of their capacity into business other than aviation, Mr. Parker said.

Mr. Clark disagreed. He said the BAIG/AAU deal could free up reinsurance capital if the new BAIG/AAU operation purchases less reinsurance than the two operations had purchased separately.

Market observers said they expect to see additional consolidation among airline and aviation underwriters.

"I would be surprised if it's the only one," Mr. Doyle said.

"It's going to force the market to respond to this move," said Mr. Parker, comparing the deal to those in the retail insurance brokerage industry in the early 1990s that sparked massive consolidation among the brokers in recent years.

Airline and aviation underwriters will have to consider whether to buy other underwriting facilities, sell out or form underwriting alliances to compete effectively, Mr. Parker said.

"It forces new strategic thinking for those that want to remain in the market," he said.

"It's part of the evolutionary process of the market," and the pattern has been established by reinsurers, brokers and insurance buyers, Mr. Izard said. **BI**

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What can we do to help you?

Gore

Continued from page 1

Mr. Gore's support of a patient protection measure introduced by Reps. Charles Norwood, R-Ga., and John D. Dingell, D-Mich. That bill and a considerably different measure approved by the Senate are pending before a congressional con-

ference committee. The Norwood/Dingell bill would allow patients to sue their health plans—and, in certain situations, their employer sponsors—over coverage disputes. Employers and health plans have lobbied strongly against the bill, arguing it would significantly inflate health care costs and lead to more companies dropping or reducing coverage.

Mr. Gore had harsh words for the HMO industry in his acceptance speech at the Democratic National Convention last week in Los Angeles.

"It's just wrong to have life-and-death medical decisions made by bean-counters at HMOs, who don't have a license to practice medicine... It is time to take the medical decisions away from the HMOs and insurance companies and give them back to the doctors, the nurses and the health care professionals," he said.

Mr. Gore's support of the House patient protection bill likely would continue if he were elected president.

"There's not a great deal to be hopeful about," said James Klein, president of the Assn. of Private Pension & Welfare Plans in Washington. "I don't think there is a meeting of the minds between the employer community and Al Gore," Mr. Klein added, referring to the patient protection measure.

On the other hand, the vice president also supports the Clinton administration's plan to expand Medicare to cover a portion of prescription drug expenses, which would cut costs for employers with retiree health care plans that provide prescription drug benefits. The administration proposal calls for the government to pay 50% of drug costs for the first \$5,000 of a Medicare beneficiary's expenses.

"A new prescription drug benefit

under Medicare for all our seniors, that's a family value. And let me tell you—I will fight for it," Mr. Gore said last week in his address at the convention.

While such a move could cut costs, some benefit lobbyists worry that the savings could be ephemeral.

posed the measure, because it would weaken current rules that prevent pension plans from discriminating against lower-paid employees.

In addition, in that same town hall meeting, Mr. Gore responded to a question about cash balance pension plans by saying that changes employers make to pension pro-



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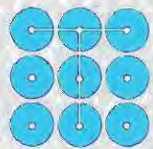
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'There's not a great deal to be hopeful about. I don't think there is a meeting of the minds between the employer community and Al Gore,' says James Klein.

Although some employers might benefit from government coverage of drug costs for Medicare recipients, Mr. Klein said that any gain could vanish if the government were to inadequately fund the program. He cited the shortfall in funding for the Medicare+Choice HMO program—and the current HMO exodus out of that program—to illustrate his concern.

On another issue related to prescription drugs, the vice president supports the increased use of generic drugs as a way to reduce costs. Mr. Gore is in favor of fostering the use of generic drugs by denying patent extensions to drug makers, said Andrew Zembrak, a consultant in the Washington office of Hewitt Associates L.L.C.

When it comes to pensions, the vice president receives a mixed grade from employers.

Mr. Gore last week said he supports new ways for individuals to supplement Social Security benefits.

Under one proposal, an employee would be able to deposit pretax dollars into an account and direct the investment of those funds. The government would then match a certain percent of this money, but total contributions could not exceed \$2,000 per year from both sources, Mr. Zembrak said.

"I'll fight for a new tax-free way to help you save and build a bigger nest egg for your retirement. I'm talking about something extra that you can save and invest for yourself—something that will supplement Social Security, not be subtracted from it," Mr. Gore said in his acceptance address.

The accounts could help employers by giving employees an additional vehicle for retirement savings, taking some of the burden away from employer-sponsored pension plans, said Jeanette Jang, another Hewitt consultant in Washington.

On a more important issue, however, the vice president has gone against employers. Mr. Gore opposes the Portman-Cardin pension reform bill that passed the House last month, Ms. Jang said. The measure was introduced by Reps. Rob Portman, R-Ohio, and Ben Cardin, D-Md. In addition to other pension changes, the law would allow a participant in a 401(k) plan to put more pretax tax-deferred money into his or her accounts. Mr. Gore, in an earlier town hall meeting, said he op-

grams need to be fully disclosed to plan participants.

He also said that any such changes needed to be examined by independent agencies to ensure they conform to current law.

In another area of interest to employers, Mr. Gore's record of opposing product liability reform and reform of the class-action lawsuit system raises concern among observers. As a U.S. senator in the 1980s, Mr. Gore voted against product liability reforms when he was a member of the Senate Commerce Committee.

That concern is only somewhat assuaged by the vice president's choice of Sen. Joseph Lieberman, D-Conn., as his running mate.

"We're a little concerned" about the vice president's record with regard to legal reform, said Robert Dibblee, senior vp-government relations in the National Assn. of Independent Insurers' Washington office.

David M. Farmer, senior vp-federal affairs for the Alliance of American Insurers in Washington, noted that Sen. Lieberman would bring more of a pro-business perspective to a Gore-Lieberman administration. Sen. Lieberman has supported a number of significant tort reforms, including restricting the liability of manufacturers of biomedical materials.

"If you were to take a look at the voting records of Vice President Gore and Sen. Lieberman, you would see that, on issues of concern to insurers, Sen. Lieberman's votes have been ones that we would characterize as being more centrist," he said.

"We would anticipate a more-balanced view in a Gore administration from the perspective of the insurance industry because of the anticipated partnership arrangement with Sen. Lieberman," Mr. Farmer added.

"Also, the fact that his home state is Connecticut indicates an understanding of the insurance industry," he noted.

Mr. Dibblee hailed Sen. Lieberman's record on a variety of tort reforms, calling his addition to the ticket "a very positive step." He added, however, that Sen. Lieberman "has said when the president makes a decision, he will wholeheartedly support it."

Washington Editor Mark A. Hoffmann contributed to this article.

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Superior

Continued from page 1
March 6).

After losing a court fight with California regulators over a rehabilitation plan for its insolvent workers comp insurance units, management of the holding company sought bankruptcy protection (*BI*, May 1). Since then, Superior National has battled in U.S. Bankruptcy Court with state regulators seeking to gain control of the \$60 million in premiums.

Attorneys for the Conservation and Liquidation Office have argued that those funds are derived from paid premiums and that they are assets of the conserved insurance companies and, as such, should be used to make claim payments.

On Thursday, the U.S. Bankruptcy Court judge agreed to release \$24 million of the disputed amount, subject to a state trial court hearing.

As a result of the difficulties in collecting the funds, Mr. Krenz on Aug. 15 temporarily suspended his claims managers' check writing authority.

An Aug. 15 e-mail memorandum from a Conservation and Liquidation Office claims manager to other office personnel with check-writing authority described the matter as "a very serious situation regarding available cash."

"We need to preserve cash to ensure that we are able to maintain our ability to function administratively by paying salaries, office space, etc.," incurred by the companies in conservation, the e-mail stated.

The e-mail went on to say that claims payments would be temporarily suspended to injured workers, as well as to medical and legal providers, rehabilitation vendors and others.

"It is unusual that a holding company would have \$60 million in premium and be totally unwilling to release it, since it was those executives who put this company in the perilous financial condition it was in the first place," Mr. Krenz said.

Superior National Insurance Group President and Chief Executive Officer J. Chris Seaman declined to comment. He said a court order prohibits him from interfering with the conservator's operations.

Meanwhile, some claims administrators for Superior National policies are left in a bind.

"They have stopped the checks," John Keenan, president of Torrance, Calif.-based broker and third-party administrator Keenan & Associates, said before the suspension was lifted. Keenan & Associates placed \$26 million of Superior National business, for which it provides claims services.

Mr. Keenan said he has not been paid for the TPA services he has been providing, while faced with spending \$125,000 a month for his

claims administrators' salaries.

Although Mr. Keenan's firm has continued paying claims, he has heard—for the first time since the conservatorship—that some claim-

Co., one of its fronting insurers. Centre's Bermuda affiliate, Centre Solutions (Bermuda) Ltd., is among Superior National's largest shareholders.

'Work comp claimants should not have to call around to see where their check is,' says John Keenan of broker and third-party administrator Keenan & Associates. 'That is a tragedy.'

ants are not being paid.

"Work comp claimants should not have to call around to see where their check is," Mr. Keenan said. "That is a tragedy."

But three days after the temporary suspension was ordered, it was lifted, after Mr. Krenz reached an agreement with Centre Insurance

In addition to Centre Insurance, the other two fronting companies that Superior National relied on are Zurich Centre Insurance Co. and Underwriters Insurance Co. All three companies are owned by Zurich Financial Services Group Inc.

Mr. Krenz said he is pursuing Su-

perior National funds held by the fronting companies. Last week, after months of demands by the conservator, Centre reached an agreement to forward an unspecified amount of money. A source familiar with the deal placed the amount at \$52 million.

A telephone call to Mike Maloney, senior vp for Centre in New York, was not returned.

Even with the Centre funds, however, Superior National is still likely to be liquidated, so that guaranty funds can help meet claims obligations.

Mr. Krenz said he cannot access funds from the California Insurance Guaranty Assn. until the Superior companies are liquidated. He did not seek liquidation earlier because he was intent on rehabilitating the companies and arranging a smooth transition of their business to another insurer.

Mr. Krenz said that, under an ar-

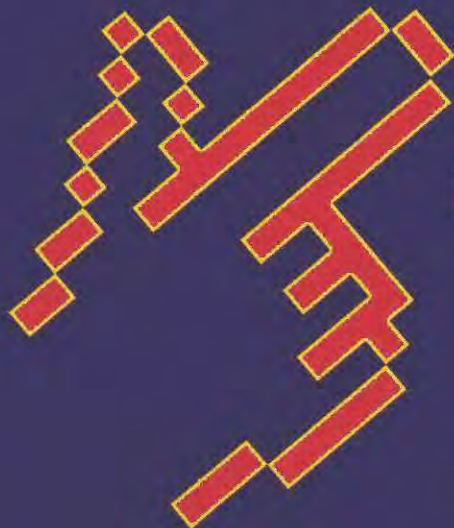
angement that was finalized on Friday, Kemper National Insurance Cos. will take over claims administration for non-fronted business written by the Superior National units, with CIGA providing funds for claims once liquidation occurs. Guaranty associations in other states will fund obligations in their respective jurisdictions.

Kemper reinsured a cut-through agreement on claims incurred between early April through June 30.

Kemper will have rights to any Superior National renewal business and will have access to policyholders whose Superior National contracts were canceled. Kemper will also take over Superior National facilities in California and retain about 350 former Superior National employees, Mr. Krenz explained.

Another 200 employees will remain with the conservation office, as it continues collecting and disbursing reinsurance funds. **BI**

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OPINIONS

Agency's decision welcome

ONE YEAR AGO, we asked why employers should be denied the opportunity to fund their employee benefit plans through captive insurance subsidiaries.

Last week, federal regulators, following through on signals they sent last year, agreed they shouldn't. The U.S. Labor Department has proposed allowing Columbia Energy Group to reinsure its long-term disability benefits program through the Vermont branch of its Bermuda captive.

As long as the arrangement is in the best interest of plan participants and the appropriate safeguards are in place, the Labor Department won't stand in the way of companies wishing to use captives to fund benefits. Safeguards should include using top-rated fronting insurers as well as having an independent fiduciary monitor the arrangement.

The Labor Department's new stance is a dramatic and welcome change from what clearly had become an obsolete 21-year-old rule.

That rule, known as a class exemption, said that as long as certain conditions were met, a parent could use its captive to fund benefits for its employees. The chief requirements were that the captive insurer be licensed domestically and that 50% of the captive's business not be related to the parent. Situations in which captives were used to reinsure commercial insurers for benefit risks would be decided on a case-by-case basis, according to the federal agency.

It was the 50% test that stood as a near-impossible barrier to fund benefits with captives.

Employers would much prefer to use captives for their own risks, given how some captives were burned in the past when they took on third-party business for which they had little control or knowledge of actual exposures.

As for protecting employees, which was regulators'

original intent when devising the 50% test, we were hard-pressed to see how the test achieved that result. Consider two situations:

- In one, an employer uses low-rated fronting insurers and takes on very risky third-party business through its captive to clear the 50% threshold.

- In the second situation, the employer uses the highest-rated fronting insurers, while all of the captive's business is related to the parent.

Did federal regulators really believe that the captive in the first situation was better suited to fund employee benefit risks than the captive in the second situation?

Clearly they did not, hence the change in the Labor Department's position. To be sure, the 50% test has not been abandoned, at least not formally, but as is clear in the Columbia Energy ruling, the Labor Department will look at other factors to determine if a captive funding arrangement is in employees' best interests.

We commend the Labor Department for its new flexibility. We also applaud the efforts of Columbia Energy and its advisers, who have opened the door for other employers to use their captives to fund employee benefit risks.

The advantages of such arrangements are numerous.

They include broadening a captive's premium base, spreading out fixed captive expenses over a broader book of business and potentially—based on earlier appellate court decisions and an Internal Revenue Service ruling—increasing the likelihood a parent can deduct property/casualty premiums paid to its captive.

Given those advantages, this is an area that risk and employee benefit managers should be examining very closely.

How to avoid getting burned

THIS SUMMER, THE BIG SKY is filled with smoke.

As wildfires have devastated large portions of the American West, the situation in Montana has grown so dire that the entire state—the fourth-largest in the Union—has been declared a disaster area. Losses from these and other wildfires—particularly the fires in and around Los Alamos, N.M.—already have caused \$170 million in insured damages, according to industry estimates. That toll is certain to rise as more blazes occur and as the losses caused by other Western fires are tallied.

The wildfire peril isn't likely to abate any time soon. In fact, as property development spreads ever farther from urban centers, it's likely to get worse.

Although the recent fires have been concentrated west of the Mississippi River, there's no reason for any risk manager to shrug off the exposure by saying, "It can't happen here." Given the right conditions, wildfires can wreak havoc on just about any part of the country. Even in situations where its property is not directly threatened by wildfires, a company can still suffer financial losses from transportation shutdowns and lack of access to critical

suppliers or customers.

Fortunately, risk managers and others responsible for loss control can take a few basic steps to protect their property. Perhaps the most basic—and one of the simplest to carry out—is to keep weeds and undergrowth cleared from around facilities. Doing so helps deprive fires of the fuel they need to spread.

Making sure that buildings exposed to wildfire peril are constructed defensively, even if it means some retrofitting, can also pay handsome dividends.

Having access to adequate water supplies is critical, too. That can be a challenge, though, in drought conditions.

Coordination with local fire authorities is a crucial part of any pre-disaster and post-disaster recovery plan. Such plans need to be in place long before a fire—or, for that matter, any other natural disaster—occurs. They also need to be updated on a regular basis as exposures, and the means of dealing with them, change.

Wildfire exposure is certain to grow more serious and widespread in the foreseeable future. That means the time for preventive measures and planning is now.

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Ward

Continued from page 3
frequently evaluate agency performance and actively manage problem agencies. In addition, 46% focus on agency perpetuation planning.

"What our data indicates is that it's more important than ever for the agencies and the companies to work closely together to make the entire pipeline as efficient as possible," Mr. Ward said.

What's more, "companies that don't focus on agency perpetuation are at risk of losing large blocks of business," he said.

The top performing companies are aware that ownership transitions at agencies won't necessarily focus on the insurance company's best interests, and they realize they need to involve themselves in shaping their agencies' futures.

"Most agency companies are really in tune with this," Mr. Ward said.

Claims

The best practices the Ward analysis studied in the claims area involved adjusting, file review, subrogation recoveries, physical damage claims and fraud detection.

In the area of adjusting, the firm's findings show that companies relying heavily on staff adjusters and appraisers, where feasible, tend to be the better performers. Of the Ward benchmarking universe, 59% of companies use such an approach.

"On balance, the staff adjusters and appraisers do a better job managing the claims and providing good service than do the independents," Mr. Ward said.

In fact, Ward's benchmarks show that among the high performers, external claims service expenses equal 1.8% of gross premiums written, compared with 2.4% for other companies.

A widely utilized best practice in the adjusting area is the use of glass networks to expedite the handling of windshield claims, with 90% of the company's benchmarked using such networks.

The networks of glass repair shops function much in the same way as medical networks organized across the country. "Most companies do this," Mr. Ward said.

In the area of file review, top performing companies are likely to have in place a formalized file review approach to provide timely and honest feedback to claims personnel. Of the companies in Ward's benchmark universe, 45% have implemented such an approach.

Mr. Ward noted there is a distinction between companies that have some sort of file review guideline or policy, and those that have a genuinely effective approach in place. "Our conclusion is that about 45% of our insurers have established a file review process that is particularly effective," he said.

Subrogation recoveries is an area where the techniques Ward's analysis has identified as best practices can pay significant dividends.

"There's just a tremendous difference between the high performers and the average," Mr. Ward said.

The proportions of companies employing the best practices are relatively small, however. For example, 20% of the companies benchmarked use a centralized

approach for subrogation handling, and 27% focus more on effectiveness than speed—two best practices Ward Financial identified in the subrogation area.

"Our analysis would indicate that companies that use a more centralized approach for handling subrogation with a dedicated team of specialists... achieve a better result," Mr. Ward said.

Ward's benchmarking data shows that, in terms of dollars of net subrogation recoveries as a percentage of paid losses, the high performers recover: 23.7% of personal auto collision losses paid vs. 11.6% for other companies; 9.4% of paid personal auto comprehensive losses vs. 4.6%; 12.9% of commercial auto collision losses paid vs. 10.2%; and 3.1% of commercial property paid losses vs. 2.0%.

The data also clearly support the notion that the top performers

are emphasizing effectiveness over speed with regard to subrogation. The top-performing companies spend much more time "working the file," Ward concluded.

'Subrogation can have a tremendous impact on a company's loss rate if they do a good job,' says John Ward.

The high performers average: 163 days to close personal auto collision files vs. 154 days for the other companies in the analysis; 167 days for personal auto comprehensive files compared to 143 days; 243 days for commercial auto collision vs. 199 days; and

556 days for commercial property claims vs. 385 days.

"It indicates that the best practice is to take your time identifying the claims that have subrogation potential," Mr. Ward said.

"Subrogation can have a tremendous impact on a company's loss rate if they really do a good job on the recovery side," Mr. Ward said.

In the area of physical damage claims, 57% of the companies benchmarked have implemented direct repair shop programs to replace independent appraisal firms.

Those direct repair shop programs, which involve networks of body shops similar to the glass networks, speed up the process for the customer. Among other benefits, they eliminate the need for independent appraisers, Mr. Ward said.

"This is a trend that is increas-

ing," he said.

Fraud detection is another area where the top performing companies benefit significantly from utilizing what the study identified as a best practice. According to Ward Financial, 35% of the benchmarked companies track fraud investigation results, including the costs and related benefits.

"Most companies have a fraud unit. Our analysis shows that only about 35% do a good job of detecting it and deterring it," Mr. Ward said. "Our experience is that effective fraud units will normally save seven to nine times their cost. So it's a good return on investment."

For both the high performers and other companies analyzed, the percentage of fraud claims investigated per 100 reported claims seems small. The top performers

See Ward on next page

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Trends in claims

Selected benchmarks	High performers	Average performers
Adjusting		
• External claims service expense as a % of gross premiums written	1.8%	2.4%
Subrogation		
• Dollars of net subrogation recoveries as a % of paid losses:		
— personal auto collision	23.7%	11.6%
— personal auto comprehensive	9.4%	4.6%
— commercial auto collision	12.9%	10.2%
— commercial property	3.1%	2.0%
• Average time to closure:		
— personal auto collision	163 days	154 days
— personal auto comprehensive	167 days	143 days
— commercial auto collision	243 days	199 days
— commercial property	556 days	385 days
Fraud detection		
• Fraud claims investigated per 100 reported claims	0.6 claims	0.3 claims

Source: Ward Financial Group annual benchmarking programs and Electronic Best Practices software databases.

Less can be more

Focus crucial to loss control success

An analysis of the best practices in loss control used by insurance companies shows that the companies achieving the best results generally aren't those spending the most.

The question isn't one of how much companies are spending on loss control, but rather how they are spending it, according to John L. Ward, chairman of

'Basically, the high performers are spending a heck of a lot less on loss control,' says John L. Ward.

Cincinnati-based Ward Financial Group, which produces an annual study on insurer best practices.

Using publicly available data, Ward identifies the top-performing insurers and then analyzes those companies against information on other companies in its proprietary databases to determine what factors fuel the top performers' success.

The insurance consultant concluded that the high-performing companies actually spend less on loss-control activities than is spent by the other insurers examined.

For the top-performing companies, loss control efforts are a matter of quality over quantity, while "companies at-large tend to lose sight of the effectiveness of (their loss control activities) and focus only on cost. And as a result, they lose both battles," Mr. Ward said.

In fact, according to Ward's analysis, the top-performing companies focus their loss control resources on the accounts

for which loss control can have the greatest impact. Other companies tend to allocate their loss control resources indiscriminately, Ward found.

"The average company tends not to focus on the type of account in offering loss control services," Mr. Ward said. "The higher performers focus on the riskier accounts."

"The average guys are spending more, but they're not getting the same results," he said. "The higher performer is good at focusing on about 10% of their book of business that is the highest risk."

Ward's analysis shows that, among the high performers, risk management and loss control expenses represent 0.2% of commercial premiums, as opposed to 0.5% for the other companies analyzed.

Likewise, the high performers average 3.6 risk management and loss control employees per \$100 million of commercial premiums vs. 7.1 employees per \$100 million in premiums at the rest of the companies Ward studied.

And the average compensation per risk management and loss control employee also is lower at the top-performing companies. Average compensation at the high performers is \$49,900 vs. \$56,300 elsewhere.

"Basically, the high performers are spending a heck of a lot less on loss control," Mr. Ward said. "The message here is not that you should spend less on loss control, but that being effective doesn't mean you have to be the highest spender."

"If you spend less but target it to the high-risk accounts, it's possible to be more effective than the average companies," Mr. Ward said.

—By Rodd Zolkos

Ward

Continued from previous page investigate 0.6 claims per 100, but that's twice the rate of 0.3 claims per 100 investigated by the other companies, Ward found.

"It's still a small number, but high performers do it about twice as often," Mr. Ward said. "And it's critical, because this is how you minimize and prevent fraud, by conducting these investigations."

Loss control

The best practices the firm

identified in the area of loss control revolve around companies' philosophy toward loss control activities, and an emphasis on quality over quantity.

Among the benchmarked companies, 26% focus on the effectiveness of the loss control function rather than the volume of loss control surveys conducted (see related story).

And the same percentage employs another best practice—integrating training seminars and regular communications with the ongoing loss control program.

"This is an area that's changing

a lot," Mr. Ward said. "If you have a lot of customers, you can't go to every one. But some companies are doing a good job on focusing on lower cost techniques that reach a broader audience."

There is a genuine trend among the most successful companies to finding ways to reduce losses, Mr. Ward said. And for the top companies, there also is an increasing emphasis on identifying the greatest risks in the book of business and devoting loss control resources to those customers where there is the greatest potential for savings. **BI**

How Ward selects its lists

The Ward's 50 Benchmark Group lists reflect data from the property/casualty and life/health insurers that have the best balance of financial safety, consistency and performance over the past five years.

The first step in the process involves analyzing publicly available data provided to state regulators to identify the 50 property/casualty companies and 50 life/health insurers that make up the Ward's 50 Benchmark Group lists. The firm then uses proprietary information in its own databases to compile various aggregate financial measures for each group.

Ward Financial, a Cincinnati-based insurer management consulting and investment banking firm, compares each group's aggregate financial measures to those of individual companies and peer groups in that industry segment that are categorized by product mix, premium level, location and type of ownership.

Risk and employee benefit

managers can compare the strength and performance of their own insurers against the benchmark groups using statistics in two Ward's Results volumes the firm produces annually.

Unlike rating agencies, which develop their own qualitative assessments, Ward's evaluation is based solely on the statutory data that insurers provide to regulators.

Among the companies listed on this year's Ward's 50 property/casualty list, there are 13 that have made the list 10 straight years. Among the companies on the Ward's 50 life/health list, there are three such companies.

"It's a short list," Mr. Ward said. "It's hard to have long-term consistent performance in this business."

The 10-year property/casualty companies include: Alfa Insurance Group, Auto-Owners Insurance Group, Canal Insurance Group, Chrysler Insurance Co., Cincinnati Insurance Group, Em-

pire Fire & Marine Group, Erie Insurance Group, Frankenmuth Mutual Insurance Co., GEICO, RLI Insurance Group, SAFECO Insurance Group, Tennessee Farmers Mutual Insurance Co. and USAA Group.

The 10-year recipients among the Ward's 50 on the life/health benchmarking list are: Jefferson-Pilot Life Insurance Co., Midland National Life Insurance Co. and Physicians Mutual Insurance Co.

The latest edition of Ward's Results analyzes some 2,700 property/casualty and 1,300 life/health companies in the United States.

The 1999 property/casualty and life/health editions of Ward's Results are available from Ward Financial Group for \$545 each.

They can be obtained by contacting Ward Financial at 8040 Hosbrook Road, Suite 100, Cincinnati, Ohio 45236-2908. The telephone number to order the volumes is 513-791-0303; the fax number is 513-985-3442. The volumes can also be ordered on the Internet at www.wardinc.com.

E-mail error underscores privacy risks

By JEFF TIEMAN
Crain News Service

OAKLAND, Calif.—Kaiser Permanente says that patient confidentiality may have been compromised when it mistakenly sent more than 850 e-mail messages to the wrong Kaiser members earlier this month.

A total of 858 e-mails that should have been sent to the e-mail addresses of 858 Kaiser members went instead to only 19 of those addresses, a Kaiser spokeswoman said.

She blamed the mistake on a technological glitch and human error. Kaiser has sent apologies to the 858 members.

Most of the e-mails contained "routine information," the spokeswoman said.

But Kaiser acknowledged that some of the messages—which were sent on Aug. 2—contained patients' confidential information, such as requests for prescription refills and responses to medical questions.

The mistake highlights the conflict that can arise between increased use of the Internet to communicate with patients and protecting the confidentiality of medical information.

Some of the messages that landed in the wrong electronic mailboxes included patients' names, medical record numbers and, in

some cases, phone numbers and addresses, the spokeswoman said.

"In developing any kind of e-business capability, you have to think about all the security issues and all the risks," said Linda Tiano, senior vp and general counsel for New York-based Empire Blue Cross & Blue Shield. Appointing a privacy officer and developing policies to comply with the Health Insurance Portability and Accountability Act of 1996 are steps health care organizations can take to prevent such mishaps, Ms. Tiano said.

Jeff Tieman is a reporter for Modern Healthcare, a sister publication of Business Insurance.

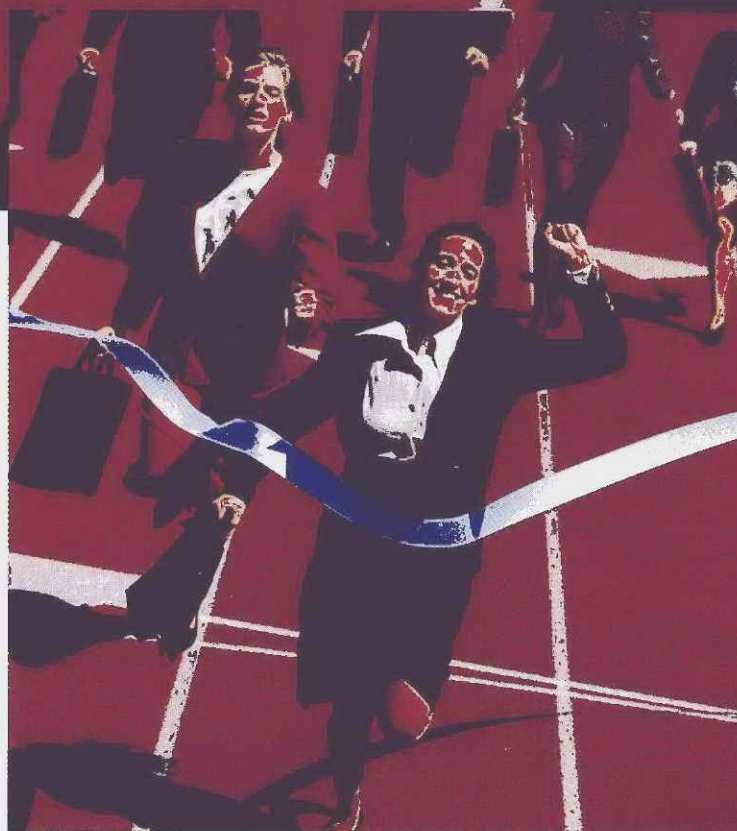
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Site to offer commercial P/C cover online

NEW YORK—A Web site set to launch in September will give risk managers and agents a place to bind commercial property/casualty insurance online.

CoverageConnect.com offers a "risk manager in a box" service that contains information on exposures faced by 1,300 types of small businesses and the coverages they need.

Users will be able to buy coverage from several insurers that have relationships with the new Internet service, including Argonaut Insurance Co., Great American Insurance Co., Hartford Financial Services Group Inc. and others.

"We're an online business insurance agent," said Charles Ruoff Jr., senior vp of CoverageConnect.com in New York. The site is set up to "assist the traditionally underserved small business owner," he noted.

Mr. Ruoff said the service will be teaming up with trade associations to allow their members to purchase "private label" coverage from the associations' Web sites. The process will look and feel as if the coverage is being purchased from the association but will, in fact, be handled by licensed insurance agents at CoverageConnect.com.

Mr. Ruoff said plans are for the site to also operate as a wholesale broker for retail agents. The site can provide retailers with hosting services, including the risk manager in a box, e-mail, a proprietary database and other features that will allow the agent to place coverage with CoverageConnect.com's markets.

The site, located at www.coverageconnect.com, is in beta form until its planned launch next month.

PRODUCTS & SERVICES

Wells Fargo work/life

LAS VEGAS—Bellevue, Wash.-based employeesavings.com, a leading provider of Web-based work/life solutions used by Fortune 500 companies, has contracted with San Francisco-based Wells Fargo & Co. to provide employees with an extensive array of customized products and services to help balance the responsibilities of work and home.

Through customized Web sites, printed catalogs and point-of-purchase value cards, Wells Fargo employees will have access to more than 600 time- and money-saving products and services.

"One way to strengthen employee commitment is for a company to show that it cares about its workers," said employeesavings.com President and Chief Executive Officer Norman Bahar.

"By working with employeesavings.com, Wells Fargo is providing employees with valuable tools to balance their work and home lives. This balance, in turn, provides the greatest commodity of all—time, which makes employees feel highly valued," he said in announcing the contract during the Annual Society of Human Resource Management's recent conference and exhibition in Las Vegas.

BLS adds benefit data

WASHINGTON—The Bureau of Labor Statistics has improved its Internet site to provide new data on human resources, including employee benefits, employment,

occupational safety and health and employment projections.

Among the changes are a new wage query system that allows users to specify the geographic area, occupation and work level for a specific job and receive a published estimate of pay for that job.

The BLS Internet site also features a new news service, which allows users to obtain a free e-mail subscription to key economic news releases.

For more information on these updates to the site, check out stats.bls.gov.

Intellectual property

NEW YORK—A new facility called IP-CAT is providing catastrophic liability coverage for intellectual property risks.

The program, developed by Marsh Inc., the New York-based brokerage unit of Marsh & McLennan Cos. Inc., provides limits of up to \$250 million above deductibles of at least \$10 million. Underwriters on the program include Swiss Re New Markets, a unit of Swiss Reinsurance Co.

"The explosive growth of the Internet and the rapid deployment of new technology worldwide have expanded potential liabilities related to intellectual property," said Dominic Davison-Jenkins, Marsh's intellectual property practice leader, in a statement announcing the new facility.

Patent, copyright and trademark infringements may not be covered by standard liability insurance contracts, according to the brokerage. As a result, some

companies could be responsible for large losses, some of which have exceeded \$100 million, the brokerage claims.

IP-CAT was designed to respond to such catastrophic exposures. It provides customized liability coverage for damages and legal expenses, including those related to injunctive relief.

Available to all types of businesses worldwide, the coverage can be written on a multiyear basis.

More information is available from Peter Gerken, vp of Marsh's intellectual property division, at 212-345-6390.

Enhanced D&O cover

HARTFORD, Conn.—Travelers Casualty & Surety Co. of America and Kevin Davis Insurance Services are teaming up to offer an enhanced directors and officers insurance program for community associations.

The coverage, written to limits of \$1 million or \$2 million, is available to boards that govern condominium associations, homeowner groups, timeshare rental associations and other groups. Deductibles generally are \$1,000 but can be higher.

Kevin Davis Insurance is a Los Angeles-based managing general underwriter.

Travelers has enhanced its D&O coverage by adding automatic coverage for association managers and extending the time during which builders/developers are covered. While many similar policies cover builders/developers only for the time they serve on an association board, the Travelers policy extends that coverage to the end of the policy period, ac-

ording to Paul Brodeur, vp-bond, commercial risk at Travelers Casualty & Surety in Hartford.

Travelers has changed provisions on the claims-made D&O insurance to require notice of a claim to "as soon as practicable" after the end of the policy period.

Travelers introduced the D&O coverage for community associations in 1998. The program continues to provide coverage for prior acts, punitive damages where those damages are allowed to be covered and employment practices liability.

Agent inquiries about the program should go to Kevin Davis Insurance at 877-807-8708 or 213-626-1060 fax.

Comp service locator

WEST CHESTER, Pa.—A new Web site is up and running to help employers, associations and employer groups find vendors that can provide services for self-insured workers compensation programs.

The site, www.managewc.com, sorts third-party administrators, excess insurers, private investigators and others into categories that include links to their web sites. Vendors are required to identify the states where they provide service, and users can narrow searches to certain geographic areas.

Other vendors at the site include those that provide bill utilization review services, case management, claims audits, consulting and legal services.

The site was created and is sponsored by George W. Scherbak, president of Manage Comp Consulting Inc. in West Chester, Pa. **EI**

DATEBOOK

AUGUST

AUG. 28-31. Voluntary Protection Programs Participants' Assn. 16th Annual Conference in Seattle; VPPPA, 703-761-1146; www.vpppa.org/conference.

AUG. 29. Business Life Insurance and Retirement Benefit Planning Course in Wethersfield, Conn., sponsored by Independent Insurance Agents of Connecticut; \$100 for members and \$150 for non-members. IIAC, 30 Jordan Lane, Wethersfield, Conn. 06109; 860-593-1950; fax: 860-563-6730.

AUG. 29. Long-Term Care Symposium in Milwaukee, sponsored by American Assn. for Long-Term Care Insurance; \$125. AALTCI, 888-599-5997; e-mail: info@AALTCI.org.

SEPTEMBER

SEPT. 10-13. Benchmarking Conference in Bermuda, sponsored by PricewaterhouseCoopers; \$1,605. Cheryl Bailor, 800-599-4950; fax: 212-967-8021.

SEPT. 12. Insurance Coverage for Securities Litigation Seminar in Washington, sponsored by McKenna & Cuneo L.L.P.; \$20. Monica Shah, 1900 K St., Washington, D.C. 20006; 202-495-7731; 202-486-7756.

SEPT. 12-13. Customer Relationships Conference in Chicago, sponsored by PricewaterhouseCoopers; \$1,495. Cheryl Bailor, 800-599-4950; fax: 212-967-8021.

SEPT. 12-14. Reinsurance Seminar in Irving, Texas, sponsored by University of Dallas Graduate School of Management; \$795. Bruce Evans, 372-721-5360; e-mail: bdevans@gsm.udallas.edu.

SEPT. 13-16. 17th International Conference of the International Society for Quality in Health Care in Dublin, Ireland, sponsored by Department of Health and Children, Lilly and Healthcare Risk Resources International; ISQua, fax: 61-3-9417-6851; www.isqua.org.au.

SEPT. 17-19. Insurer Internet and Investment Forum in Ponte Vedra, Fla., sponsored by A.M. Best Co. and several investment management companies; \$995. Alton Colgert, 35 Martin St., Suite 2040, Blaine, Wash. 98230; 360-332-1839; fax: 360-332-1040; www.saaiainter-active.com.

SEPT. 17-20. 19th Annual Employee Benefits Symposium in San Diego, sponsored by International Society of Certified Employee Benefit Specialists; \$650 for members and \$700 for non-members. ISCEBS, 18700 W. Bluemound Road, P.O. Box 209, Brookfield, Wis. 53008-0029; 262-786-8771.

SEPT. 19. Insuring International Risks Seminar in Wethersfield, Conn., sponsored by Independent Insurance Agents of Connecticut. \$55 for members and \$80 for non-members. IIAC, 30 Jordan Lane, Wethersfield, Conn. 06109; 860-593-1950; fax: 860-563-6730.

SEPT. 19-22. John Hancock International Group Program Seminar in Boston, \$670 before Aug. 28. Barbara Peterson, 617-572-8666; fax: 617-572-8628; e-mail: bpeter@jhancock.com.

SEPT. 22. Property Underwriting Course in Wethersfield, Conn., sponsored by Independent Insurance Agents of Connecticut; \$250 for members and \$350 for non-members. IIAC, 30 Jordan Lane, Wethersfield, Conn., 06109; 860-593-1950; fax: 860-563-6730.

SEPT. 26-28. Advanced Pension Conference in Chicago, sponsored by Corbel/PPD; \$775. Lesley Mauldin, 800-326-7235, ext. 1237; e-mail: educational.services@corbel.com; www.corbel.com.

SEPT. 27. Trust in Online Trade's Inaugural Summit in San Francisco, sponsored by American International Group Inc., Cambridge Technology Partners and Trade Card; Steven Longworth, 212-593-6349; www.thetrustforum.com.

OCTOBER

OCT. 10-12. Defined Contribution 401(k) West Coast Conference in San Diego,

sponsored by Pensions & Investments and the International Business Forum; \$1,295 for service providers and \$695 for plan sponsors. International Business Forum, 516-594-3000, ext. 17; e-mail: craigs@ibforum.com.

OCT. 10-13. Cyberinsurance Conference in Southampton, Bermuda, sponsored by Strategic Research Institute; \$1,695. SRI, 333 Seventh Ave., Ninth Floor, New York, N.Y. 10001-5004; 212-967-0095; fax: 212-967-8021.

OCT. 11-13. Product Management Skills and Techniques Seminar in Atlanta, sponsored by Dorman Consulting Associates; \$995. Richard W. Dorman, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678; fax: 216-464-2727.

OCT. 12-13. Frauds and Abuses in Life Insurance Seminar in Washington, sponsored by National Assn. of Insurance Commissioners; \$325 for government employees and \$525 for non-government employees. NAIC, Education and Training Department, 2301 McGee St., Suite 800, Kansas City, Mo. 64108-2604; 816-783-8200; fax: 816-460-7544; www.naic.org.

OCT. 12-13. Environmental Risk Management Seminar in Chicago, sponsored by Society of Environmental Insurance Professionals; \$550. Cindy Dybdahl, 115 Penn Warren Drive, Suite 300, Brentwood, Tenn. 37027; 877-735-0800; 608-798-1013.

OCT. 13. Property Underwriting Course in Wethersfield, Conn., sponsored by Independent Insurance Agents of Connecticut; \$250 for members and \$350 for non-members. IIAC, 30 Jordan Lane, Wethersfield, Conn. 06109; 860-593-1950; fax: 860-563-6730.

OCT. 15-17. Liberty Mutual's Ninth Annual Risk Management Forum in Baltimore. Tina Ziegler, Liberty Mutual, 175 Berkeley St., Boston, Mass. 02117; 617-357-9500, ext. 45727.

OCT. 16-18. Premium Audit Forum in Charleston, S.C., sponsored by Insurance Services Office Inc.; \$550 for members and

\$650 for non-members. ISO; 800-856-7730; www.iso.com.

OCT. 16-17. Pricing and Rate Making in Plain English Seminar in Atlanta, sponsored by Dorman Consulting Associates; \$895. Richard W. Dorman, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5578; fax: 216-464-2727.

OCT. 17-18. The 11th Annual PricewaterhouseCoopers Executive Forum for the Life Insurance Industry in New York, sponsored by The Conference Group Ltd. and PricewaterhouseCoopers; \$1,200. The Conference Group Ltd., 3409 Meadow Bluff, Charlotte, N.C. 28226; 704-541-2800; fax: 704-541-2888; www.conferencegroup Ltd.com.

OCT. 17-18. e-Health and Life Insurance Summit in New Orleans, sponsored by International Quality & Productivity Center; \$1,599. IPQC, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-862-8684; fax: 973-256-0205; www.iqpc.ccm; e-mail: info@iqpc.com.

OCT. 18. 10th Annual Insurance Executive Forum-Breakfast Seminar for Insurance Executives and Risk Managers in Chicago, sponsored by Illinois State University's Katie Insurance School; 309-438-3021; e-mail: bacopes@ilstu.edu.

OCT. 19-20. Online Liability Conference in Chicago, sponsored by American Conference Institute; \$1,499. ACI, 47 W. 25th St., New York, N.Y. 10010; 888-224-2460.

OCT. 22-25. National Assn. of Independent Insurers Annual Meeting in Lake Buena Vista, Fla.; \$400 for members and \$500 for non-members. NAII, 847-297-7800; fax: 847-297-5064; www.naii.org.

OCT. 23-25. Medicare Compliance Conference in McClean, Va., sponsored by Institute for International Research; \$1,395. IIR, Shari Rosen, 708 Third Ave. New York, N.Y. 10017; 212-661-3500; fax: 212-599-2192.

OCT. 25-26. Third Annual Data Mining Conference in Ponte Vedra Beach, Fla., sponsored by Shelter Island Risk Services;

\$950. Richard F. Denning, 631-749-1535; e-mail: rdenning@sirisk.com.

OCT. 29-NOV. 2. Insurance Conference and Exhibition in Las Vegas, sponsored by The Health Insurance Assn. of America; \$595 for members and \$795 for non-members. HIAA, 555 13th St. N.W., Suite 600 E., Washington 20004-1109; fax: 202-824-1720.

OCT. 30-NOV. 2. Isotech Technology Conference in Las Vegas, sponsored by Insurance Services Offices Inc.; \$650. ISO, 800-856-7730; fax: 212-898-6606; www.iso.com.

NOVEMBER

NOV. 2-3. Pricing and Rate Making in Plain English Seminar in Chicago, sponsored by Dorman Consulting Associates; \$895. Richard W. Dorman, 1 Haverhill Court, Beachwood, Ohio 44122; 216-464-5678; fax: 216-464-2727.

NOV. 3. Property Underwriting Course in Wethersfield, Conn., sponsored by Independent Insurance Agents of Connecticut; \$250 for members and \$350 for non-members. IIAC, 30 Jordan Lane, Wethersfield, Conn. 06109; 860-593-1950; fax: 860-563-6730.

NOV. 13-15. World Captive and Alternative Risk Financing Forum in Palm Beach Gardens, Fla., sponsored by Business Insurance, Skandia/SINSER and Tillinghast-Towers Perrin; \$975 for members and \$1,250 for non-members. World Captive Forum; 952-928-4653; fax: 952-929-1318; www.captive.com/captiveforum.

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Business Insurance reserves the right to select those meetings of greatest interest to its readers and cannot guarantee that notices will be printed.

Datebook listings also are available on the World Wide Web at www.businessinsurance.com.

Insurer Topics

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Legislative battles loom on the horizon

Consumer privacy, agent licensing among hot issues on state and federal level

By MICHAEL PRINCE

Insurers and agents and brokers will find themselves addressing a host of legislative concerns this year and next. From privacy protection to agency licensing to the reform of tort, pension and workers compensation laws, insurers and intermediaries are gearing up for what many believe will be a busy state and federal legislative session next year. And the outcome of some of these federal efforts, lobbyists note, will likely be affected by the results of November's presidential election.

Although 2000 has been a relatively quiet year for insurance-related concerns, activity at both the state and federal levels is expected to greatly increase next year, said Bob Zeman, vp of state legislative affairs for the National Assn. of Independent Insurers in Des Plaines, Ill. Many state legislatures were not in session in 2000, and, for those that were, this year's elections often precluded getting much work done.

"They held off acting on some issues this year," Mr. Zeman said.

Perhaps the biggest issue the states will be addressing is privacy. In the wake of the Gramm-Leach-Bliley Act that modernized the financial services industry, states will be required to pass legislation addressing the privacy of personal information, such as health care information (see story, page 12E).

Another significant issue that will be addressed at the state level is agent licensing. Currently, many states have barriers to the licensing of non-resident agents, hindering

the ability of individual agents to operate in multiple states.

"Agent licensing is an area that needs modernization," the NAI's Mr. Zeman said.

But many insurers, agents and brokers are concerned about a change from the current, state-based licensing system to a federal approach. Under the financial modernization law, unless at least 29 states pass laws by November 2002 to bring uniformity or reciprocity to their licensing laws, Congress has the power to create a federal agency, the National Assn. of Registered Agents and Brokers, which would serve as a clearinghouse for multistate licensing.

"It's a threat to the states," Mr. Zeman said.

If fewer than 29 states have passed such laws by the deadline, NARAB will be able to issue to agents licenses that every state will be required to recognize.

"It will be a passport for them to sell insurance in every jurisdiction," said Joel Wood, senior vp, government affairs, for the Council of Insurance Agents & Brokers in Washington.

And time is running out for the passage of state licensing laws. Adding to the pressure is the fact that six are not in session in 2002 and must pass the laws next year, lobbyists explained.

The individual states can either pass laws that are based on the model legislation drafted by the National Assn. of Insurance Commissioners or that extend licensing to any agent who is licensed in any other state. So far, two states—Kentucky and New Hampshire—have passed the NAIC model law, while

Missouri and North Carolina have passed reciprocity laws.

"A lot more states are looking at legislation," said Nicole Allen, director of state affairs for the CIAB.

Insurers are pressing for passage of these laws to avoid a federal takeover of agent licensing. "We want to preserve state regulation for the business of insurance," Mr. Zeman said.

Several insurer and agent trade groups—including the Alliance, the CIAB and the National Assn. of Professional Insurance Agents—have banded together to promote passage of the state laws. As part of this joint strategy, each state has been assigned to a particular group that will spearhead the lobbying efforts there, explained John Lobert, senior vp, state government affairs for the Alliance of American Insurers in Downers Grove, Ill.

As part of the coalition's strategy, members of the various groups will meet with insurance regulators in the states and enlist their help in passing the bills.

"We plan to turn up the volume and get on with it," Mr. Lobert said.

One impediment, though, is opposition by agents who want to change the model law so that insurers' customer service representatives will have to become licensed, Mr. Lobert said.

Furthermore, the CIAB prefers state passage of the NAIC model law over that of a reciprocity law.

Failing the passage of state uniform licensing laws, "at this point, we would much prefer to see NARAB," rather than a patchwork of reciprocity laws, Ms. Allen said. Such a patchwork would not ease the licensing burdens of national brokers, she noted.

Also in the wake of the financial modernization law lies the issue of federal chartering of insurers.

The state licensing system now in place creates "barriers to interstate coverage," said Mr. Wood of the CIAB, whose members generally have a national presence and look favorably on federal licensing. State licensing means an insurer must file rate and policy changes with 50 different departments and await approval from each.

The issue is currently on the agenda in Congress, although it probably won't become law this year, Mr. Wood said. In the past, the forces that favored state regulation have been very strong. Now, though, with new entrants into the insurance field—primarily banks and other financial institutions—the pro-federal option is gaining more support.

"The political dynamic is shifting," Mr. Wood said.

"Next year, will probably see some proposals before Congress that will make (a shift to federal regulation) a more prominent issue," said Robert Dibblee, senior vp for government relations for the NAI in Washington.

Looking ahead, Mr. Wood said that if the Democrats take over the House, he expects that Rep. John Dingell, D-Mich., will become head of the Commerce Committee. Rep. Dingell, who has championed the issue in the past, would "very aggressively challenge the state regulatory system," he predicted.

Even if such a development does not result in the passage of any federal laws with regard to licensing, it could scare the states into harmonizing their own licensing procedures, Mr. Wood said.

Without this federal action, Mr. Wood said, he's not sure the states will be moved to act. "Pressure needs to be applied by Congress to create the political dynamic that leads to national treatment" he said.

But not everyone prefers national licensing of insurers. The NAI, for one, favors a state-based approach, Mr. Dibblee said.

The class-action legal mechanism is another issue ripe for reform on the federal level, lobbyists said.

Class-action lawsuits can be quite costly to insurers, said Ann Spragens, senior vp for public policy development and general counsel for the Alliance.

Possible federal legislation, if passed, could limit the venues in which attorneys for class actions could file their suits or decrease attorneys' incentives for bringing such suits, Ms. Spragens explained.

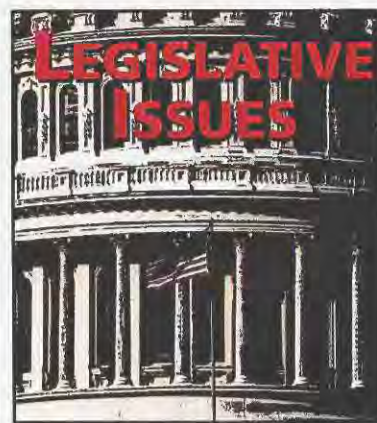
Two types of laws could serve as models for states to follow, she said. One would reduce the amount of money that a defendant would have to post to appeal a verdict. Such a measure was passed in Florida this year and was used by tobacco companies after they were recently hit with a \$145 billion verdict in the state.

Furthermore, some states have passed laws requiring the disclosure of fee arrangements between a state attorney general and the private attorneys hired to prosecute class-action suits on behalf of the state, Ms. Spragens said.

Insurers also advocate passage of reform that "would allow class actions to be referred to federal courts from state courts," Mr. Dibblee said. Such a measure would prevent so-called forum shopping, in which attorneys seek to file suits in states most favorable to their clients.

A bill with such a provision has passed the House and the Senate Judiciary Committee and is awaiting action before the full Senate, although President Clinton opposes the bill. This is the furthest this provision has progressed in Congress in recent years, he said.

Because the two major presidential candidates hold opposing views about tort reform, the bill's future may be tied to the results of this fall's presidential election, Mr. Dibblee said. Texas Gov. George



W. Bush supports tort reform, while Vice President Al Gore opposes it.

Also at the federal level, modernization of the Employee Retirement Income Security Act is looming in the future, said the CIAB's Mr. Wood. It's not moving ahead this year but could emerge next year, particularly if Gov. Bush, who supports the idea, is elected. Specifically, the proposals seek to eliminate, in some situations, the fiduciary liability of employers that provide investment advice about employees' 401(k) plans and to lower the number of employees required to permit the creation of self-insured health plans.

Agents and brokers also support the passage of the Portman-Cardin pension reform bill, which would make 401(k) plans more attractive to employers by relaxing certain restrictions on the plans. The bill passed the House by a large margin, but it has yet to be approved by the Senate. Mr. Wood said that a vote in the Senate may take place sometime in September, but President Clinton has indicated he would veto the measure.

Mr. Wood predicted that a Bush presidency would probably aid passage of a pension reform law. That's because, even if the legislation doesn't reach the president's office this year, it likely will pass both houses of Congress next year.

"Early next year, this will be on the first tax bill to reach the president's desk," Mr. Wood said.

At the state level, insurers seek reform of workers comp laws in California. The insurers favor legislation that would reduce administrative costs and help them return to profitability, but have not yet been successful in passing such a measure. "But it will be back next year," the Alliance's Mr. Lobert predicted.

Deregulation of commercial lines is also an ongoing issue in the states. In recent years, 25 states have passed deregulation bills. But Mr. Lobert said he regards many of these as flawed, because they establish a premium threshold for deregulation that is too high—up to \$250,000 in some states.

Insurers want to push through deregulation bills with lower thresholds, typically at levels of about \$25,000, he said.

Deregulation has been opposed by agents and brokers, as well as by consumer-advocate groups in some places. Despite this, Mr. Lobert said, insurers plan to make a major push in 2001 for the passage of deregulation laws. **BI**

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- ▶ PRE-CONFERENCE WELCOME RECEPTION

Tuesday, October 17, 2000

- ▶ REGISTRATION AND CONTINENTAL BREAKFAST

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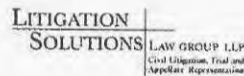
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Privacy

Continued from page 12E
privacy bill in."

With legislative activity on privacy apparently in a holding pattern, the focus shifts to the activity of state regulators, with the National Assn. of Insurance Commissioners' Privacy Working Group developing a model privacy regulation.

"Probably the major venue for privacy regulation right now is the NAIC," Mr. Becker said.

The NAIC's working group on

privacy is considering model regulations related to both financial and health information. "Those, for us, are both a cause for concern," the Alliance vp said. Both proposals, as currently written, are "overly broad," he said.

There's also concern about the NAIC's decision to apply the privacy regulations to information involving workers compensation claimants.

The NAIC's Ms. Rowen said that her organization believes that if workers comp is included in the privacy regulations—as is the case in the current draft—it should be

on only a very limited basis, requiring claimant approval before information is shared with non-affiliated third parties.

With insurance companies required to comply with Gramm-Leach-Bliley's privacy regulations by July 1, 2001, the industry is looking for the NAIC to promote a uniform approach to privacy among the states.

"We need direction from state regulators," Ms. Rowen said. "And many of those regulators don't have authority in their states to implement" privacy regulations, as doing so would require legislative

action, she said.

"This is such a tremendous test of state regulation. This is one issue where we really need uniformity," the group's senior counsel said. "If there are 40 sets of regulations floating around out there, I can guarantee you there's going to be a backlash. Companies are going to go to the federal government and say, 'One regulation, please.'"

Mr. Becker said the Alliance believes legislatures and the NAIC should get together and promote a privacy approach that is consistent with the language in the Gramm-Leach-Bliley Act, giving those pro-

visions a chance to work before interfering with them.

He remains wary of the potential for the various state efforts to take a different turn in next year's legislative sessions, recalling that, though little was enacted this year, numerous bills were introduced.

"We dodged a bullet this year, but next year, we may not be so lucky," Mr. Becker said. "We're probably going to see a replay of what we saw this session, and that's a concern for us, because you can have a hodgepodge of 50 different state privacy regulations." **BI**

Financial old guard faces new competitors

By GAVIN SOUTER

Well-established financial services companies are losing some of their natural advantage over newcomers due to radical changes in the way business is conducted, says an executive for a financial services group.

Maurice Lippens, chairman of Fortis Group of Brussels, Belgium, said that more-open markets and developments in technology are making it easier for new entrants to establish themselves in markets that previously were dominated by entrenched institutions.

To maintain their advantage over the newcomers, traditional banks and insurers must focus on their strengths and be willing to drop businesses that are not sufficiently profitable, Mr. Lippens said.

Mr. Lippens made his remarks at the annual seminar of the International Insurance Society held last month in Vancouver, British Columbia.

"The advent of the euro, the liberalization of financial markets, the mobility of capital and digitization, with its enormous impact on transaction costs, are creating an entirely different playing field for traditional or incumbent banks and insurance companies," Mr. Lippens said.

New market and corporate structures are developing as a result of these changes, he said.

And traditional insurers and banks are losing some of their advantage over newer rivals, Mr. Lippens said.

Customers of financial services companies, however, do not change companies overnight, he said.

"Customers, make no mistake about it, do move their business to other institutions, but only if they have a compelling reason for doing so," Mr. Lippens said.

So, if traditional financial institutions are to remain successful, they must become "nimble incumbents," he said.

"Nimble incumbents know how, where and when to move. They exhibit a healthy sense of urgency and know how to pace themselves. They have the guts to divest from certain businesses and focus on some other ones in which they are really good," Mr. Lippens said.

Few institutions have the expertise or capital to compete successfully in all major banking and insurance lines, Mr.

Lippens said.

Instead, successful financial services companies will focus on a limited number of sectors, Mr. Lippens said. And while most companies will remain regional or local in their reach, they will still need to focus on a specific number of areas, rather than trying to offer a full range of products to everyone, he said.

Also, individual sectors of the banking and insurance business are going through significant changes, Mr. Lippens said. For example, he said, life insurance has become a significant savings instrument for consumers.

Success in the new economy will be a matter of meeting specific customer needs, Mr. Lippens said. And the needs will differ depending on whether the customer is retail or wholesale, he added.

"It will be a real challenge for traditional banks and insurance companies to ensure they have the right combination of banking, asset management and insurance skills to serve one or more of these emerging customer segments in a competitively superior manner," he said.

Fortis is adapting to the new environment by analyzing its business sectors and attempting to determine whether each produces a satisfactory return on equity, Mr. Lippens said.

Where the returns are good, the company seeks to identify the reasons behind the success, he said. For poor-performing sectors, Fortis tries to determine what improvements it needs to make and whether it is capable of making those changes. If the company determines that the improvements are not feasible, it disposes of that business, Mr. Lippens said.

"We already have done so in the past, for instance, with our reinsurance business and, when necessary, will do so again," he said.

Also, in its successful businesses, Fortis is establishing itself in other countries, either independently or through joint ventures, Mr. Lippens said.

All of the changes within the banking and insurance industries will produce a wider variety of institutions, and each will have its own identifiable profile, he said.

"If we can project a clear image and are able to consistently align all our resources for an impeccable delivery, then strong trust of customers and growing shareholder value will go hand in hand," Mr. Lippens said.

Internet changing face of personal lines sales

By GAVIN SOUTER

The Internet will transform the personal lines insurance marketplace, says the head of an online insurance brokerage company.

Consumers will be able to choose from a wide selection of insurers and obtain information on those insurers with the click of a mouse, said Robert S. Bland, chairman, president and chief executive officer of Darien, Ill.-based Quotesmith.com Inc., which offers life insurance quotes over the Internet.

And online technology will allow insurers to slash their costs and improve their service by greatly reducing the number of errors that are made in policies, he said.

Further regulatory reforms, however, are needed before insurers can fully realize the possibilities of the Internet in the United States, said retired Gen. Robert T. Herres, chairman of United Services Automobile Assn. in San Antonio.

Despite the repeal last year of the Depression-era Glass-Steagall Act, which barred certain affiliations among financial services companies, financial services regulation is still too complex and must be modernized to incorporate sales over the Internet, he said.

Such sales will be the domain of a new breed of financial services "supermarkets" that will exploit the full power of the Internet to offer better service to customers, Mr. Herres said.

The two executives were speaking at the International Insurance Society's annual seminar, held last month in Vancouver, British Columbia.

Consumers are turning to the Internet for instant insurance quotes from a broad range of insurers, as well as for information—including unbiased ratings—about those insurers, said Mr. Bland.

Indeed, one of the key changes that the Internet has brought to the insurance market is an increase in the amount of information available to consumers, which shifts the buying process from one controlled by intermediaries to one that is controlled by consumers, Mr. Bland said.

And although consumers have greater power through the Internet, they do not always opt for the cheapest coverage, he said.

Quotesmith's two most popular insurers do not offer the cheapest coverage, Mr. Bland said. "Price is secondary to ratings and coverage," he noted.

For insurers, the Internet minimizes acquisition and operating costs and helps reduce data errors by eliminating some data entry, he said.

And Internet-based sales need not disrupt insurers' relations with agents and brokers, Mr. Bland said. Policies that require little or no advice—including low-value life insurance, auto insurance and homeowners policies—can be easily bought over the Internet by a consumer, while other products will still require the assistance of a broker or agent, he said.

The Internet also will make it easier for insurers to enter markets in other countries, Mr. Bland said. Quotesmith will likely expand outside of the United States into other English-speaking countries, he added.

But for insurers to take full advantage of the Internet, the regulatory environment in the United States must be modernized, said Mr. Herres.

"The regulatory environment is complex in our country, and integrating e-commerce into that will be a big challenge unless there are some big changes," he said.

And the opportunities for financial services companies are so great that regulatory barriers will have to be eliminated or they will be circumvented, Mr. Herres said.

In particular, the Internet has created new opportunities for companies to become financial services "supermarkets" offering a wide range of products, Mr. Herres said.

Although companies that have tried to develop one-stop financial services shopping in the past have achieved only modest success, the Internet will increase the chances of success for such businesses, he said.

"The Internet is going to create supermarkets galore," Mr. Herres said.

The Internet has already become a new marketplace for many consumers, he said. And although the conventional insurance distribution networks will not be entirely replaced, they will have to change, Mr. Herres said.

So far, most insurers have focused on using the Internet chiefly as a marketing tool, but its more important use to insurers will be as a way to provide better products and improve service, he said.

"The Internet is another tool, not the only tool...but you have to be ready to exploit all of the possibilities," Mr. Herres said.

So far, banks and stock brokerages have made more use of the Internet than have insurers, he said.

"We should not overlook the fact that product design and development can be enhanced dramatically through software tools. If we are not creative and innovative with insurance products, there are other products outside the insurance industry that will achieve the financial protection that people seek," Mr. Herres said. **BI**



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Finding affinity success means finding the best TPA

By Peter F. Headley

IN TODAY'S universe of job trotters and independent consultants, these "movers and shakers" can secure life and health insurance coverage through affinity groups and associations when they can't through a traditional employer.

Insurance underwriters largely acknowledge that affinity/association business is potentially lucrative, yet, like any market, it presents challenges that can seem daunting.

The administration of the business is particularly intimidating. In the affinity marketplace, administration is an art, and mastering that art is the difference between mediocrity and success. Selecting a third-party administration professional can help insurers attain that mastery.

The foundation for success in the affinity marketplace is attributable to several factors:

- **Sheer Size.** It's a large market, with a universe of 20 million association members desiring a wide range of coverages. Within each affinity group lies distinct needs according to salary, trade specifics (such as risk factors or trends in retirement), median age of group and gender breakdown, all of which widen the coverage possibilities.

- **Defined Audience.** The affinity marketplace, in contrast to the individually insured marketplace, presents a captive audience for marketing and generally requires less prospecting. Marketing is naturally targeted because the audience is defined from the start, and the geographic spread of prospects within the group is most conducive to direct mail and Internet marketing.

- **Revenue and Profit Potential.** With its size and accessibility, the affinity marketplace represents a potential for significant revenue and, with smart handling, a significant profit margin.

While the factors above help explain why affinity business has proved lucrative for several insurers, administration of these programs is potentially the ultimate stopper for some companies.

Why? A key reason is that the expectations of affinity groups seem—and often are—higher than those of an employer group, because their primary mission is to foster and grow relationships with members and potential members.

Those expectations encompass several disciplines. When selecting

insurance for their members, for example, affinity groups frequently seek extensive market research and product development. They want competitive products that will attract and retain members, and they expect to see current product offerings from other groups—affinity and employer.

Product development, then, should respond to the general insurance marketplace as well as the specific needs of the affinity group. Achieving this blended solution is precarious, and many insurers are understandably hesitant to put internal resources in place due to cost and staffing concerns.

And, even if the affinity group clients don't require it, often the volume of applications, claims and mere inquiries necessitate dedicated staff for new business, claims and call centers. The anticipated influx of customer communications from affinity business alone could hinder insurers from venturing into the marketplace.

The process of weighing pros and cons can mistakenly steer insurers away from the affinity marketplace. For example, they may have sufficient underwriting capabilities, but perhaps not enough marketing and consumer service staff to interact proactively and successfully with customers.

However, with sound administrative resources, the affinity marketplace can be a boon. Often these resources can be found cost effectively within an insurance administration organization, so knowing what organizational characteristics to seek is paramount to success.

The process of selecting a third-party administrator should presume a long-term, multiple-account relationship. The decision to accept that first affinity group typically leads to a "snowball" effect of increasing business. The TPA that is ultimately selected, therefore, should be "dedicated to affinity."

Additional considerations for an insurer's TPA selection are as follows:

- **Strong track record of market research and data collection.**

You'd be hard pressed to find a TPA that *doesn't* claim to have strong market research capabilities, but the proof "is in the pudding." Ask the right questions to identify the signs of true dedicated in-house market research:

- Is the market research department distinct and full-time? If the answer is no, chances are it doesn't dedicate much time to market research amid other

IT PERSPECTIVE

priorities.

- Does the TPA have a compendium of association-sponsored plans within a particular industry? If not, could the staff develop one at short notice, based on experience?

- What are internal auditing protocols for regularly evaluating sponsored plans against those available in the general marketplace? Are in-house market comparisons conducted?

- Is the TPA active in trade organizations? Active involvement in the insurance industry—nurturing ongoing relationships with various insurers and industry

Achieving success in the affinity marketplace is as easy as finding the right organization to help administer the business.

— Peter F. Headley

associations via conferences, speaking engagements, trade shows and participation in publications—should enhance your comfort level.

- **Product development ability.**

Underwriting resources are complemented by product development professionals who provide information about specific needs of each group, and will recommend opportune products. And the best product development professionals are dedicated staff with close interactions with market research and sales departments—with the ability to negotiate plan features (based on group and market research). Expect the staff to initiate new product discussions on behalf of insurable members regularly.

- **Solid marketing program.**

For affinity groups with members scattered regionally or nationally, direct mail is a preferred method for reaching out to every individual. It's personal, direct and any TPA that specializes in affinity markets essentially will be a direct response organization. You should determine how expert the TPA is in direct marketing methods, and how capable its marketing and sales systems are. Questions to ask:

- Who are the TPA's creative partners? What is their experience and record? In what capacity are they used?

- Are modeling and segmenting employed in-house? Ask specifically about the perspective processes and the TPA philosophies that shape them.

- What is the TPA's in-house experience with building databases? Are the databases expandable? Could the TPA expand your affinity customers' databases?

- Can the TPA forecast thoroughly for your affinity group

customers? How are forecasts developed?

- Ask to see the direct mail campaigns from the past. How were they devised? What data did they use? How successful were they in terms of response rates?

- What marketing systems are available to supplement the direct response program? Public relations? Web strategy? Advertising? Trade and sponsorship activities?

- **New business and policy issuance handling.**

The speed and efficiency of new business intake is critical in retaining customers. The TPA absolutely should have document protocols and audit results outlining new business standards.

Documentation should include production figures (i.e., time, accuracy) for turning around applications. Customer response times are also important: How long does it take the TPA to respond to new business inquiries originated by customers? How quickly and accurately does the TPA react to coverage change requests?

- **Comprehensive claims processing.**

If you decide to use a TPA's services, consider having the TPA adjudicate claims payments (provided those capabilities are available). TPAs paying claims should have documented standards for processing turnaround times and accuracy rates that go above and beyond those that are required by the state.

A TPA claims department should be able to substantiate claims-specific itemized reports of response rates to correspondence, as well as telephone response rates.

- **Proven customer service.**

Customer service debacles have been the downfall of many an account. Yet it's an area that can be overlooked during a particularly copious evaluation of other operational departments. It shouldn't be. By the time you've finished auditing the customer service department of a prospective TPA client, you should have a good idea of the volume of incoming calls the staff could potentially handle, and should know the answers to the following questions:

- What is the level of insurance-specific training and experience?

- What are objectives for time dedicated to phone lines, timeliness in answering calls and avoiding placing calls in the queue? What are results, objectives vs. actual?

- How are calls recorded, tracked and followed up?

- How interactive is the phone system used by the TPA? Can it generate reports? Does it have quick-fax capabilities? Is it Web-enabled?

- **Thorough training.**

A veteran market researcher with limited insurance experience won't work smart for you. Nor will inadequately trained claims, customer service or accounting employees. Ask about the staff

experience—specifically, the staff's insurance-specific training, courses and designations.

Ask the TPA to describe the product training that the staff will undergo specific to your clients. Perhaps most important, the customer service staff must recognize the value of membership to the sponsor and exhibit, correspondingly, a deeper dedication than that of a routine customer service operation.

- **Proficient legal and compliance experts.**

The bottom line? Select a TPA with a legal staff that complements yours. Just make sure prospective TPAs have the legal expertise you need. Here's how to gauge:

- Ask for licensure details (history, renewals, maintenance). Does the TPA have the requisite authorization and licensure to operate its business efficiently and without interruption?

- Does the staff have extensive knowledge and up-to-date documentation of state insurance legislation? How does the staff keep abreast of and document the dynamic legislative environment?

- Is the background of the legal staff insurance-specific and extensive?

- Reliable financial systems

As with any potential business arrangement, a review of the TPA's financial systems and accounting procedures is critical. Your expectations of the TPA staff can be based on several benchmarks:

- Is premium cash balanced daily?

- Is premium billing for premium due accomplished on at least a weekly or even a daily schedule?

- What is the TPA's record-keeping system for bill notices sent to your customers? Are receipts reported by date posted, state of issue or residence of the customer, plan ID and by coverage period?

- Does the TPA have at least one certified public accountant on staff? Do all accounting staff members have at least five to 10 years in insurance administration? What is the background of each actuary with whom the TPA works?

In many cases, achieving success in the affinity marketplace is as easy as finding the right organization to help administer the business. While the due diligence necessary to discover the "right" TPA is extensive, it's worth it.

One good TPA, in fact, is worth a wealth of customers—whose sheer volume, well-defined makeup, and potential for revenue and profit make the affinity marketplace too consequential *not* to look into. Remember, administering affinity business is an art. Make sure you find the right artist. **BI**

Peter F. Headley is president and chief executive officer of AMA Insurance Agency Inc., a TPA that administers insurance plans for affinity groups nationwide. The agency is a subsidiary of the American Medical Assn.

Errors & omissions

- In a July Insurer Topics story, "Functional Web Sites Keep Users Sticking Around," remarks attributed to William S. Scudder, president of Scudder Financial Communications in Malvern, Pa., should have been attributed to Rick Morgan, managing director and president of information technology solutions for AllianceOne in Boulder, Colo.

Silent PPOs hurt providers and patients

By Gregory G. Kile

A PATIENT IS ADMITTED to a hospital for open-heart surgery. He has health insurance coverage with a traditional indemnity plan provided through his employer. The bill comes to \$40,000 and the payer pays the claim but tells the hospital it is part of a preferred provider organization and so takes a 20% discount off the charges.

But when the hospital, surgeons and patient receive their explanation of benefits, the discount is identified but the payer is not identified as having a PPO contract with the provider. In fact, the payer is using what is called a "silent PPO," a scenario that plays out all over the country everyday.

A silent PPO can be defined as an undisclosed network in which payers or managed care companies assume a preferential rate but do not disclose that rate. It is a complicated repricing scheme that was not intended by the creators of managed care products.

The ultimate losers with silent PPOs are the providers, the doctors and hospitals that are paid a lower rate due to these unauthorized discounts. But there are others who are affected as well. If providers discover an unauthorized discount, they may choose to bill the patient directly for the unpaid balance. Employers also may be held responsible for those charges and benefits managers are likely to get an earful from employees and management.

In addition, silent PPOs do not reflect well on the preferred provider organization industry, which has continued to grow faster and serve an ever-increasing and far-larger segment of the health care market than any other managed health care delivery system model.

There is great diversity among PPOs. A recent industry profile compiled by the Chicago-based SMG Marketing Group found that 616 out of 1,088 PPOs were owned by insurance companies, followed by 100 owned by HMOs, 48 by third-party administrators, 42 by independent investors and 40 by provider-driven hospital alliances.

With a vested interest among its provider owners, this last group of provider-driven PPOs has an especially strong interest in protecting against silent PPOs. But silent PPOs are opposed by the industry in general. In fact, on July 7, the American Assn. of Preferred Provider Organizations passed a policy opposing "silent PPO" activity. The policy states that PPOs and providers must disclose all contractual intents and purposes when applying contractually permitted provider discounts.

The fundamental value of PPOs lies in their ability—as provider networks—to contract with insurance companies to offer members a preferential rate on medical services for using network providers. They support their members with care management efforts that improve the quality of care and they serve members actively. Members carry benefits identification cards that include the logo of participating PPOs and receive provider directories.

On the other hand, silent PPOs offer only discounts and do not focus on patient care and providers.

Silent PPOs use several techniques. The first is indemnity discounting. The typical encounter involves a patient covered by indemnity insurance going to the hospital, which verifies coverage and bills the patient's insurer for an average of 80% of the full fee. The patient is expected to pay the remaining 20%.

The insurer, possibly through a broker or other third party, finds out if the hospital has any PPO contracts. Once this information and discounted fee information is in hand, the insurer sends the hospital a discounted payment. While the hospital may verify that the hospital has PPO contracts, it may not be able to verify that the insurer belongs to the PPO and deserves the discount.

Another technique is called "cherry picking." With this method, the payer contracts with multiple PPOs that have overlapping provider contracts. When the payer receives the claim from a provider, it identifies the PPO with the best rate and applies it to that claim.

A similar technique is called "stacking," where a company contracts with more than one PPO in a specifically defined service area. The payer contracts with a primary PPO but fails to honor exclusivity and contracts with several other PPOs. The payer loads all PPOs into its computer, effectively eliminating out-of-network providers. So all providers are paid as being in-network, but the exclusivity clause is violated.

It can be difficult to distinguish a silent PPO, particularly since some PPOs may form alliances that appear to have market overlap and resemble cherry picking or stacking. However, these alliances should include contracts that give one PPO exclusivity in a particular county or geographic area.

A final technique is called the "no-network" or "out-of-network" method. In this scenario, a payer contracts with a primary PPO and pays in-network benefits. But the payer also contracts with a silent PPO as its secondary PPO, for which it should pay out-of-network benefits for this provider group. The payer reprices all claims as in-network discounts.

While these silent PPO techniques pose a threat to the financial reimbursements of providers and the integrity of managed care business practices, it should be noted that the growing sophistication of regional PPOs have proved to effectively counter this trend. By working with providers and employee benefits managers, these silent PPOs can be silenced.

If the threat of silent PPOs is to be silenced by benefit managers, providers and other PPOs, it's important to recognize the characteristics of legitimate and effective PPOs. We suggest that a more effective PPO model includes these characteristics:

- Financial incentives provided with each payer agreement, including at least a 10% difference between in-network vs. out-of-network coverage.
- Mechanisms in place to steer members to in-network services.
- Network identification required on a benefit

identification card, which must be presented at registration or receipt of services.

- Giving PPO members provider directories and insurance plan information.
- Giving providers payer/employer lists on a monthly basis.
- An effective provider relations department that communicates and educates providers on key issues.
- Safeguards in place by conducting repricing on all claims.
- Contracts required by each payer, administrator, network and employer.
- All rate and exclusivity clauses as confidential.

While silent PPOs are all about reimbursements, well-managed PPO models go beyond discounts and include wellness and prevention services designed to improve the health of its members. These services may range from active smoking cessation programs to on-site health fairs for member businesses.

Well-managed PPOs also include resources to help serve providers and customers better. They have the resources to handle customer questions, whether they are about individual accounts or industry-wide trends related to managed care. In addition, PPOs can be an important source for community education on important health care issues.

Providers and benefits managers should be diligent in guarding against silent PPOs. This includes consulting with people who have knowledge of managed care contracts, being specific with your contract language, defining all terms adequately and defining penalties and clean claims.

We encourage benefits managers to get to know their PPO and find out about the wellness and prevention services that are available. A well-managed organization will offer its member businesses these resources, as well as important customer services.

Benefits managers, employees and providers all stand to lose from silent PPOs. If a provider discovers silent PPOs have been taking advantage of unauthorized discounts, the provider can balance bill these patients and may hold the employer accountable.

On the other hand, everyone has much to gain by contracting with well-managed PPOs. Providers gain increased use of their network, patients gain quality care at an affordable price and employers gain a healthier, more productive workforce. **BI**



Gregory G. Kile is the executive director of the Lehigh Valley Physician Hospital Organization, Inc. and Valley Preferred, a regional, provider-owned and -operated PPO based in Allentown, Pa.

Court cannot overrule plan letting benefits expire at 65

The 6th U.S. Circuit Court of Appeals has ruled that, under the clear terms of a union-provided benefit plan, health and life insurance benefits expired when a retired employee turned 65.

In overturning a trial court decision, the Cincinnati-based appellate court cited a provision in the plan that states, "Coverage ceases when the individual reaches age 65."

In 1987, Local 284 of the Teamsters union approved a plan to provide health insurance coverage to former officers, staff and agents of the local. Under the plan, an individual becomes eligible for health and life insurance coverage when that person is at least 57 years of age, with a minimum of 10 years of service with the local; or should he or she become permanently and totally disabled while working as a full-time employee, regardless of that individual's length of service with the local. The plan also

provides that coverage ceases when the individual reaches age 65, dies or becomes eligible for active medical insurance coverage by returning to employment of any kind. Coverage was also extended to former employees.

In September 1987, Donald Linville retired as a business agent for the local due to disability. He was awarded Social Security disability benefits, commencing March 1988. The local began paying retiree benefits to Linville and his wife in February 1988.

In June 1992, the local reduced Linville's coverage so that his retiree benefits were less than those provided to active employees. Linville sued the local under the Employee Retirement Income and Security Act. The trial court held that, so long as Linville remained a retiree, he

was entitled to receive benefits under the plan.

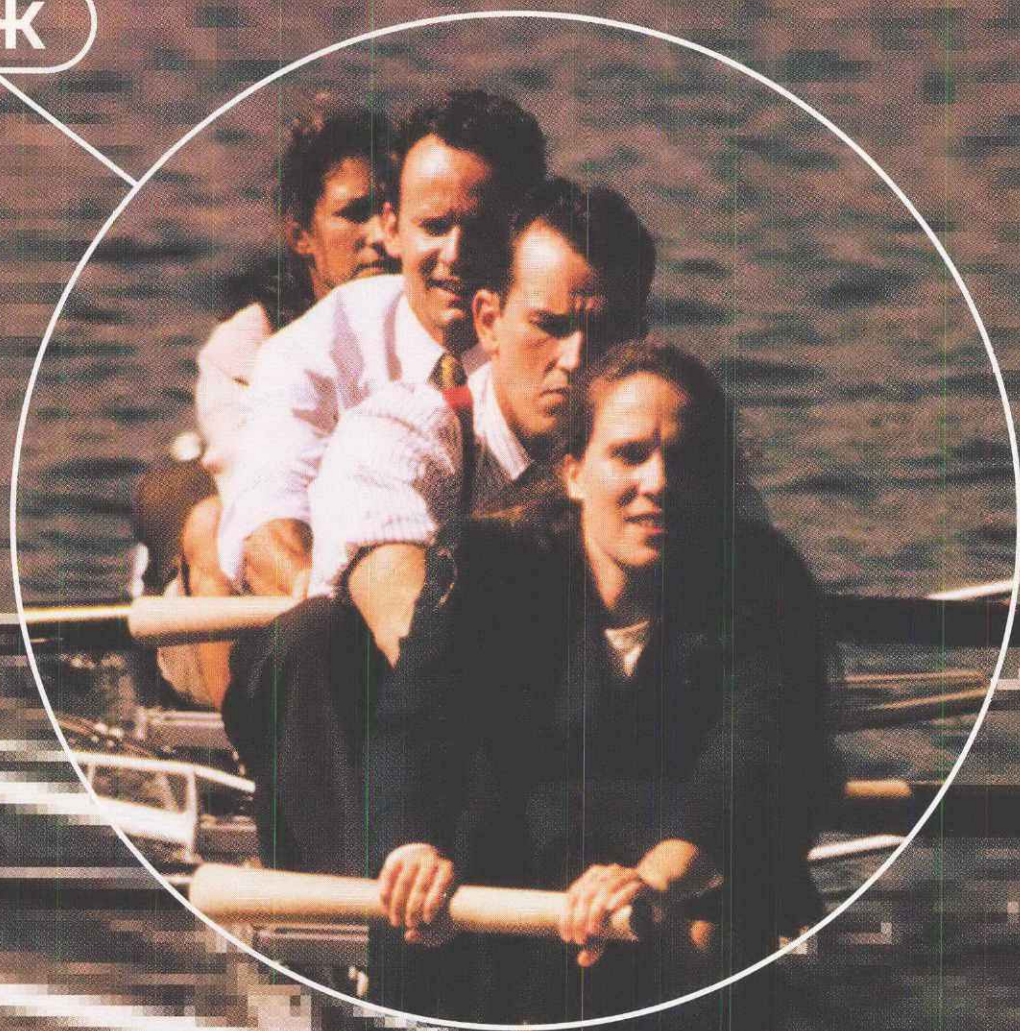
But the appellate court said that, under the clear terms of the plan, the benefits expired upon Linville's reaching age 65. The court rejected the trial court's conclusion that, once benefits vest, they continue so long as the beneficiary remains a retiree. The appellate court said that the trial court could not contradict the express text of the agreement or the plan documents.

Linville vs. Teamsters Misc., & Ind. WKRS, LOC. 284; U.S. Court of Appeals for the Sixth Circuit; March 13, 2000 (BI/02/s.-\$10)

This abstract was prepared by Mayo H. Stiegler. Copies of the decisions are available by sending a \$10 check payable to Mayo H. Stiegler, to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Provide the listed number for the opinion.

LEGAL BRIEF

teamwork



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GLOBAL BRIEFS

Moody's Investors Service Inc. is maintaining its negative short-term outlook on the **U.K. property/casualty industry**, the rating agency announced last week. But Moody's also said that, in the medium term, its outlook is stable. The report pointed out that although the industry is in a relatively strong financial position, with high reported solvency, profitability is still poor and is supported by unsustainable investment gains. . . . **India's insurance sector** was declared open to private investment last week. India's regulator, the Insurance Regulatory and Development Authority, is expected to grant its first license by the fall. . . . Meanwhile, India's TVS Sundaram Group has announced it will take a 74% stake in an insurance **joint venture in India** with Royal & SunAlliance Canada. RSA will take the full 26% stake permitted by foreign investors under IRDA rules. . . . **U.K. credit insurers** covered trade worth £178 billion (\$267.0 billion) last year, generating insurance premiums of £319 million (\$478.5 million), according to figures released by the Assn. of British Insurers. The amount of U.K. business covered by credit insurance grew by 15% last year to £53 billion (\$79.5 billion). . . . The U.K. financial services regulator, the Financial Services Authority, has published **proposed requirements for businesses operating at Lloyd's of London**. Proposals include introducing asset and liability rules modeled upon those that apply to companies operating outside Lloyd's. The FSA is seeking comments on the consultation document by Sept. 30. . . . London-based multiline insurer **CGNU P.L.C.** plans to sell its South African non-life insurance business to Johannesburg, South Africa-based insurer Mutual & Federal Insurance Co. Ltd. for rand 1.2 billion (\$172.7 million). . . . London-based multiline insurer **Independent Insurance Co. Ltd.** recorded gross written premiums of £427.5 million (\$641.2 million) for the first half of the year, up 58% over the comparable period in 1999. In addition, the company achieved a 39% increase in underwriting profits to £24 million (\$36 million). . . . First-half revenues for Paris-based insurance giant **AXA S.A.** grew 28.8% to 41.00 billion euros (\$37.23 billion). Revenues from property/casualty insurance for the first half of 2000 were 8.38 billion euros (\$7.61 billion), a 3.6% increase over the first six months of 1999. In the North American market, AXA's property/casualty revenues grew 18.4% to 335 million euros (\$322.3 million), while AXA's property/casualty premium volume from its home market dipped slightly—0.1%—to 2.14 billion euros (\$1.94 billion). . . . The United Kingdom's Maritime & Coastguard Agency is testing a **satellite monitoring system to identify potential polluters**. The system, designed by U.K. research organizations Earth Observation Sciences and the Defence Evaluation & Research Agency, is intended to complement airborne surveillance. . . . The Japanese prime minister has endorsed a plan to sell the failed **Nippon Credit Bank** to a consortium of investors that includes Tokio Marine & Fire Insurance Co. Ltd. Foreign firms in the consortium include investment bank Lehman Brothers. . . . The American Insurance Assn. has welcomed **Vietnam's proposed insurance regulatory law**, which would liberalize the country's insurance sector. The AIA will be part of a U.S. delegation, made up of government and industry representatives, that will visit Vietnam in September to participate in talks on the matter. David Snyder, assistant general counsel for the AIA in Washington, described the Vietnamese proposals as a significant step.

U.K. mulls pension reform

By SARAH VEYSEY

LONDON—The U.K. government is considering possible reform of occupational pension plan regulations, including the development of an insurance fund similar to the United States' Pension Benefit Guaranty Corp. to protect the pension obligations of companies that go bankrupt.

The fund, which would be known as a central discontinuance fund, is one of the proposed reforms to the current minimum funding requirements for pension funds being put forward to the Department of the Treasury. Under the existing system, the only recourse for people whose pension

plans are in financial jeopardy is to take their employer to court, and the issue of reforming minimum funding regulations is fast becoming a political hot potato.

The Department of the Treasury has commissioned Paul Myners, executive chairman of the investment fund Gartmore Investment Management P.L.C. in London, to undertake a review of institutional investment, including the issue of reforming the minimum funding regulations. And the Department of Social Security asked the Faculty & Institute of Actuaries to prepare a report on the regulations last year. The institute, a London-based industry body for actuaries, delivered its report two months

ago, but no findings have yet been published.

Introduced as part of the United Kingdom's 1995 Pensions Act, the minimum funding requirement was designed to protect pensioners against disasters similar to the Maxwell affair of the early 1990s, when the late media tycoon Robert Maxwell plundered the assets in his companies' pension funds (*BI*, Oct. 11, 1993). But the minimum funding regulations have come under attack recently from pension fund managers who want more freedom in how they invest plan assets. The regulations impose various restrictions on fund management.

See Pensions on next page

S&P issues Europe outlook

By SARAH VEYSEY

A recent report by Standard & Poor's Insurance Ratings highlights the differing conditions in non-life insurance markets across Europe.

The "Market Profile Report for Europe," produced by the rating agency's London office, profiles the insurance markets of 16 European countries: Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom. The Czech Republic is included in the report for the first time.

Germany's property/casualty market has been struggling of late, and this is reflected in S&P's negative near-term outlook for the sector.

"The outlook reflects a significant deterioration in underlying operating performance, sluggish premium growth and continued pricing pressures, further exacerbated by the industry's overcapitalization," said the report.

"Far-reaching structural changes driven by new technology, a less stable regulatory and

legal framework, globalization and continued consolidation have significantly heightened the general industry risk and will call into question companies' long-term competitive muscle."

The report notes that, while the financial profile of the German property/casualty industry has remained fairly stable over the past two years—thanks mainly to overcapitalization—the underlying operating performance of the industry has the potential to lead to downgrades.

Though the sector has reached the bottom of the cycle in terms of pricing, S&P predicts that it will be another two years before earnings begin to increase.

Underlying growth in the U.K. non-life market is expected to broadly follow the rate of increase for the country's gross domestic product, according to S&P. The rate increases that began to be noticed in 1998, particularly in auto insurance, are continuing, the rating agency said. But the rate increases showing up in other lines of business are more modest than the 20% increases being seen in auto accounts and are not

S&P on next page

Pasminco settles coverage dispute

By DAMIEN TOMLINSON and KATE TILLEY

MELBOURNE, Australia—Pasminco Ltd. recently reached an out of court settlement of a coverage dispute over its claim for losses incurred in the 1996 partial collapse of a mine for \$25.0 million Australian (\$14.6 million).

The company still may find itself in court on an unrelated issue, however, as it battles a class-action lawsuit filed by individuals who say they suffered lead poisoning from the mining company's smelters.

The coverage dispute arose from the Elura zinc, lead and silver mine, located near Cobar, New South Wales, which is owned by Melbourne-based Pasminco and insured through its Singapore-based captive, Pasminco Insurances Pte. Ltd.

David Lambert, general counsel for Pasminco, said that the company, its captive and the

Lloyd's of London syndicates that reinsured the risk reached an out-of-court settlement just before the claim was scheduled for trial in the Victoria Supreme Court.

Mr. Lambert said all parties were happy to avoid litigation, even though the settlement was "substantially lower" than the original claim.

"Our claim was significantly more than the settlement, but it was agreed that the time, effort, financial losses and possible further delays were too much," Mr. Lambert said. "Both parties were satisfied with the final arrangement."

Mr. Lambert would not name the Lloyd's syndicate that led the reinsurance coverage, but he confirmed that the reinsurance brokerage arm of Marsh Inc. had placed the coverage and that "at least 25" reinsurers were on risk.

Mr. Lambert also refused to state both the original amount of

See Mine on page 18



PHOTO: AFP

British Airways grounded its Concorde after U.K. aviation authorities revoked the aircraft's airworthiness certificate.

Safety questions ground fleet of Concorde

LONDON—Ongoing questions about the cause of last month's Concorde crash have led British Airways P.L.C. to ground its fleet of the supersonic aircraft.

Aviation authorities in Britain and France last week reported that a burst tire is believed to have been the cause of the July 25 fatal crash near Gonesse, France, which killed all passengers and crew (*BI*, July 31).

This development prompted British regulators to suspend the Concorde's certificate of airworthiness.

"The significant new development is the evidence now emerging that the tire burst which occurred was, of itself, the primary cause of this accident," Sir Malcolm Field, the chairman of the U.K. Civil Aviation Authority, said last week.

The tire, pieces of which are thought to have flown up into one of the plane's engines, causing a fire, was burst by a piece of metal on the runway, investigators said.

Hounslow, England-based British Airways grounded all of its Concorde last Tuesday, one day before the formal announcement by the CAA that it was suspending the Concorde's certificate of airworthiness.

"The certificates of airworthiness of Concorde should be suspended until appropriate measures have been taken to ensure a satisfactory level of

safety, insofar as tire safety is concerned," the London-based CAA said in a statement.

Mike Bell, head of design and product standards at the CAA, confirmed that it could be "months rather than weeks" before Concorde take to the air again, fueling intense speculation in the British media that the Concorde may never fly again.

"We were notified this morning by the Air Accident Investigation Branch that, in the light of the latest information available to it, it and its French counterpart, the BEA, would tomorrow recommend that the certificate of airworthiness should be suspended," Rod Eddington, chief executive officer of Hounslow-based British Airways, said in a statement last week.

BA had grounded its Concorde fleet for one day following the crash, but resumed flights the following day. In contrast, all of the remaining Concorde owned and operated by Paris-based Air France have been grounded since the crash.

Mr. Eddington said that BA passengers are being transferred to alternative flights.

According to BA, while Concorde operations generate £20 million (\$30 million) per year in revenue for the airline, they cost £50 million (\$75 million) per year to maintain.

—By Sarah Veysey

Pensions

Continued from previous page
including requiring that pension funds be invested in safer, lower-performing assets, such as government bonds. This restriction, particularly at a time when long-dated government bonds are rising in price, has been blamed for a growing move away from defined benefit pension plans to defined contribution plans. That trend is becoming a concern for government officials, as well as the government-run Occupational Pensions Regulatory Authority. "I think there is a general consensus that the MFR needs to be revisited. It is going to be very politically sensitive," said an OPRA spokesman for the government-run Occupational Pensions Regulatory Authority.

"The MFR actually sets out rules which define how pension funds should invest, and the argument has

been that it forces funds to invest in assets that are not necessarily the best performing ones under the current circumstances—that there is not enough flexibility in there. There is quite a lot of industry pressure to reform it," he said.

The National Assn of Pension Funds is one of the groups lobbying for reform. In a written submission to the Myners review panel, the association said, "The minimum funding requirement also discourages investment classes other than U.K. equities and bonds, and the NAPF recommends that it should be either significantly restructured, including an extension of the recognized asset classes beyond the FTSE All-Share Index and U.K. (bonds), or replaced by a more-practical test."

Ciaran Barr, chief U.K. economist at Deutsche Bank in London, is among those in favor of replacing the minimum funding requirement with a central discontinuance fund. "By re-

moving the onerous rules of the minimum funding requirement, it may slow or even reverse the movement from defined benefit to defined contribution pension schemes, something the government is likely to welcome," Mr. Barr said.

Placing onerous restrictions on employers may indeed encourage them to abandon defined benefit plans, the OPRA spokesman said. "A fact that dogs all occupational pensions issues is the fact that defined benefit schemes place the burden on the employer," he said. "So if you turn around and you up the ante in terms of how much asset there must be to back up the liability, it is the poor old employer" that must come up with the funding.

In the worst cases, the funding requirements for the company pension plan can actually bankrupt the business, the spokesman said. "The employer takes on a commitment in good times and says, 'I want to offer this

benefit to my staff,' and it becomes a contractual commitment. And if somebody then comes along and tells them they are not adequately funded, the next thing you know is that the business is under threat," he said. "Defined benefits schemes are much better for the individual, so the last thing you want to do is frighten employers away from giving that."

Market observers have criticized the funding regulation because, in their view, it forces companies to run their pension plans as though they are going to be shut down tomorrow. Relaxing the rules on pension fund investment would create the possibility of higher returns, critics contend.

Opinions vary on what form changes to the minimum funding requirement should take.

In July 1999, the Faculty & Institute of Actuaries set up seven working groups to examine possible reforms. One of these groups discussed the possibility of introducing a central dis-

continuance fund.

The group's role was to "develop proposals for a central discontinuance fund, seeking to identify and design aspects of a CDF which are not available elsewhere (e.g., via insurance companies)," an institute statement said.

The group was also charged with exploring the value of introducing a guarantor of last resort. Another of the working parties looked into the feasibility of introducing solvency insurance and using insurance to guarantee certain benefit levels in the event of an insolvent employer's plan being wound up.

A recent report by Deutsche Bank outlined the benefits of introducing a central discontinuance fund and recommended that such a plan be funded initially by a substantial government bond issuance and then maintained by a small levy on pension funds of, for example, 10 basis points per year for 10 years. **BI**

S&P

Continued from previous page
yet being applied across the board. This trend will continue for 2000, S&P said.

Most new capacity coming into London is heading for Lloyd's of London, rather than the company market, according to the report. But the London market is fragmented.

According to S&P, "There are no dominant players, with the largest (CNA Reinsurance Co.) accounting for about 12% of premiums. The predominance of foreign-capital backing (notably from the U.S. and Bermuda) for companies and, increasingly, for Lloyd's syndicates is a feature of the market and is a trend that is likely to continue."

S&P said it remained "guardedly optimistic" for the future of the French market.

"Despite local claims that may ultimately exceed 50 billion French francs (\$6.96 billion) in respect of the windstorms that swept across the country in December 1999, the long-term trend is towards one of more-rational policy pricing at a time of

buoyant economic activity and appreciating investment values," the report said. "Even the windstorm losses may have brought some benefit if they help policyholders, their insurers and reinsurers to understand better the true levels of their exposure to risk."

But the report warned that the French market may still be too competitive, with "too much capital chasing too little premium."

Italy remains an underinsured marketplace with great potential for insurers and reinsurers, the report said. In Italy, the population of 57 million pays an average premium per capita of just 389 euros (\$812), compared with an average of 1,910 euros (\$1,744) in the United Kingdom, France and Germany.

S&P predicts that Italy's property/casualty insurers will further develop their long-term savings activities to boost growth. S&P has a stable outlook on the Italian market.

S&P has a positive outlook for the Czech market, reflecting the "significant growth potential, improving legislation and strengthening capitalization of the major insurers."

Although S&P predicts that the

life insurance sector is the one with the most growth potential, it notes that there is room for growth in non-life personal lines insurance as well.

The insurance market in Austria is dominated by a small number of large players, and some 30% of Austrian insurance companies are controlled by international insurers, primarily from Germany and Italy.

S&P said it would review its sovereign ratings on Austria shortly, but it noted that the inclusion of the far-right Freedom Party in the Austrian government and the subsequent political and diplomatic sanctions imposed on Austria could force the country's ratings downward.

While development in the Belgian insurance market continues to lag behind that of its European neighbors, the market grew some 12.6% in 1999, compared with gross domestic product growth of just 1.6%. But most of this growth came from the life sector, and S&P describes the 2.3% real-term growth of the non-life sector as "mediocre."

"Having two official languages and being a small market, there is limited penetration from other insurance markets," the report said of Belgium.

The Danish insurance market is mature and stable, according to the report. The market has seen significant consolidation over the past year, and Danish insurers have been involved in consolidation overseas.

Windstorm Anatol in December 1999 was a major underwriting event for the Danish industry, causing estimated insured losses of 10.20 billion Danish kroner (\$1.25 billion).

The Finnish market has seen significant consolidation of late, most notably the merger of the country's largest insurance group, Sampo, with state-owned bank Leonia. The new entity will be known as Sampo-Leo-

nia. Sampo shareholders will control 57% of the new venture, which is still awaiting regulatory approval.

Though small, the Irish insurance market has a sound platform on which to grow, according to the S&P report.

"Despite a possible contraction in the number of insurance companies operating in the Irish market and continued volatility in the non-life sector, the buoyancy of the Irish economy and the transition towards (European monetary union) should have a positive impact on the insurance community, as increased personal wealth and commercial activity raise the demand for insurance."

The Dutch insurance market is the fifth-largest in the European Union, with non-life premiums of 31.93 billion guilders (\$17.13 billion) in 1998, according to the report. Of 809 registered non-life insurance companies, 265 have local parentage, 418 are foreign companies providing services, and the remaining 126 are foreign companies with local branches.

According to the report, a dominant theme in the Norwegian insurance industry is bancassurance. The formation of alliances between insurers and banks. This trend is particularly relevant to the life insurance industry. The major Norwegian insurers are currently positioning themselves to better compete with banks, S&P said.

The Portuguese market has undergone an intense period of privatization, according to the report, and the market is dominated by a relatively small number of old, predominantly bank-owned companies.

In 1998, the 15 largest companies controlled 85% of the market. The strong position of local insurers means that foreign-owned groups pose only a limited threat, the report said. But an increased foreign pres-

ence in Portugal may yet occur, it added.

Premiums in the Spanish insurance market grew by more than 20% in 1999, but this growth was driven primarily by an increase in the sales of unit-linked life insurance products. Still, underlying growth in the non-life sector for 1999 is expected to be well ahead of the 6% reported in 1998, said the report.

"There are, therefore, indications that the non-life sector is emerging from a period of stagnation," the report said.

The Swedish non-life market is mature and competitive, according to the report.

"The current trend is one of intense price competition, with insurers attempting to sustain lower rates through a strong focus on expense reductions," the report said. "However, despite this measure, stagnant rates and reduced investment returns, in the wake of turbulence in the world stock markets, has led to pressure on the bottom line." As a result, the report said, insurers have been forced to look to new distribution channels, such as banks and telemarketing.

The Swiss are the most heavily insured people in the world, according to the report, with the average Swiss citizen spending more than \$4,000 on insurance every year. Yet 60% of the market's insurance business now comes from overseas players, and Swiss insurers too are very active on the world stage.

Copies of the Market Profile Report for Europe are available from Claire Quinlan, by calling 44-207-826-3654, or by sending a check for 575 euros, \$600 or £345, made payable to Standard & Poor's Insurance Ratings, Sixth Floor, Garden House, 18 Finsbury Circus, London, EC2M 7NR.

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Chubb licensed in China

BEIJING—U.S. insurer Chubb Corp. has been granted a license by Chinese regulators to begin writing non-life insurance policies in Shanghai for certain risks.

Chubb will create a new branch operation in Shanghai, separate from an existing representative office that the Warren, N.J.-based insurer already maintains in Beijing.

The new license permits the insurer only to cover international ventures between Chinese and foreign companies in Shanghai, explained Chubb Senior Vp Brant Free in Washington.

"We've chosen to maintain our existing headquarters in Beijing, which will work with the Chinese government on further liberaliza-

tion of the market and implementation of its World Trade Organization obligations, once it actually joins," Mr. Free said.

Mr. Free said he expects the scope of Chubb's Chinese operations to expand once China becomes a member of the WTO. Once that happens, Mr. Free explained, Chubb will be able to issue "master policies" for Shanghai-based, foreign-invested companies that would cover the companies' other Chinese operations.

Mr. Free noted that Chubb is in the process of obtaining other required business permits from state authorities and hopes to begin writing insurance in late September.

—By Lee Fletcher

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INTERNATIONAL

Mine

Continued from page 15

the claim and the sum insured under the company's material damage/business interruption policy. He said Pasmenco received \$23.0 million Australian (\$13.4 million) from reinsurers, after adjustments for a deductible of \$1 million Australian (\$582,000) and amounts already paid.

The insurance claim arose from the March 1996 failure of a crown pillar, a major support for a mining tunnel located 1,300 feet underground. The failure caused a "domino effect" that brought down thousands of tons of rubble, Mr. Lambert said.

A section of the mine, located about 625 miles west of Sydney, was rendered unworkable, infrastructure was lost and production was disrupted for "several months," Mr. Lambert said.

There were no casualties in the collapse. "It was just a lucky circumstance that nobody was in that area of

the mine when it collapsed," Mr. Lambert said. "There was a bit of luck involved there, I think."

The claim—which was for lost underground tunnels and equipment, mining infrastructure and business interruption—was submitted six months after the incident.

Mr. Lambert said that mining procedures and safety precautions have been revisited since the accident, even though the precautions in place at the time of the collapse were, he said, "believed sufficient" for the available technology.

Pasmenco is the largest producer of zinc and lead in the world, and the third-largest producer of silver; it has mines throughout Australia and overseas. The company also has five smelters, located at Cockle Creek, New South Wales; Port Pirie, South Australia; Hobart, Tasmania; Badel, Netherlands; and Clarksville, Tenn.

The Elura mine generates 1.2 million tons of ore annually.

Meanwhile, Pasmenco still faces the

prospect of litigation in the Victorian Supreme Court in a class action lawsuit filed by about 1,000 residents and former residents of Cockle Creek and Port Pirie, who claim that lead emis-

'It was just a lucky circumstance that no one was in the area of the mine when it collapsed,' says David Lambert.

sions from the smelters have made them ill.

Their case, pleaded by plaintiff attorneys Coleman & Greig of Sydney, was first filed in the federal court in Sydney. Prior to this year, the federal court was the only court with the jurisdiction to hear class action suits.

But the federal court rejected hearing the class action on the basis that

lead emissions were not "defective goods" under the Federal Trade Practices Act.

The suit was then refiled in the Victorian Supreme Court, where judges in January passed an order allowing class actions (BI, April 10; Feb. 21).

Coleman & Greig attorney Paul Gambin said in a statement that his firm was accusing Pasmenco of negligence, because the mining company had failed to "exercise reasonable care to avoid a foreseeable risk of injury."

But Pasmenco has filed a request for dismissal on the grounds that the class action members from Cockle Creek and Port Pirie have not experienced sufficiently similar circumstances to be part of the same class, said Peter Griffin, Pasmenco's group manager of public affairs.

Pasmenco's request will be heard Nov. 2.

David Stewart, Pasmenco's managing director and chief executive officer, said that the company took full

responsibility for its environmental performance and accepted its obligation to "address legacies of the past." The smelters had been owned by CRA Ltd. and North Broken Hill Peko Ltd., which merged in 1988 to form Pasmenco.

Mr. Griffin said Pasmenco "accepts it has responsibilities in relation to the environment and community health wherever it operates." But a class action is not the appropriate way to deal with the claimants' issues, he said. Residents should "approach the company individually," Mr. Griffin said.

Pasmenco also has filed a request with the federal court seeking an order to have the costs of the failed federal class action paid by Coleman & Greig. That request will be heard Oct. 16.

Mr. Griffin said the court had "wide discretion in relation to costs, including the ability to order solicitors to personally pay costs wasted by their unreasonable conduct of a case." **BI**

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THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION IN THE MATTER OF THE LIQUIDATION OF AMERICAN HEALTH CARE PROVIDERS, INC. NOTICE OF CLAIM FILING DEADLINE AND PROCEDURES

PLEASE TAKE NOTICE, that on May 11, 2000, the Circuit Court of Cook County, Illinois, entered an Agreed Order of Liquidation With a Finding of Insolvency and Injunctive Relief against American Health Care Providers, Inc. ("AHCPC"). Nathaniel S. Shapo, Director of Insurance of the State of Illinois, is the statutory and court affirmed Liquidator of AHCPC ("Liquidator").

TAKE FURTHER NOTICE, that on July 12, 2000, the Circuit Court of Cook County, Illinois, entered an Order Fixing Rights and Liabilities and Providing for the Filing of Claims and the Setting of Claim Filing Deadlines (Fixing Order). Pursuant to the Fixing Order, all rights and liabilities of AHCPC and its policyholders/enrollees, creditors and stockholders, and all other persons interested in its property or assets, are fixed as of May 11, 2000, unless otherwise provided in prior or subsequent orders of the Court.

TAKE FURTHER NOTICE, that all persons, companies or entities who have, or may have claims against AHCPC, its property or assets, or against an enrollee or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before May 11, 2001 at 4:30 p.m.

TAKE FURTHER NOTICE, that the form and required contents of all proofs of claim are described in 215 ILCS 5/209. Proofs of claim, along with supporting documents, if any, are to be filed with, and may be obtained from, the Liquidator of AHCPC, c/o the Office of the Special Deputy Receiver, located at 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654. A proof of claim shall be deemed "filed" with the Liquidator upon the Liquidator's receipt thereof. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary. The Liquidator further reserves any and all defenses available to AHCPC upon all filed claims. All proofs of claim must be duly sworn to before an officer authorized to take oaths.

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS, COMPANIES OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIM AGAINST AHCPC, ITS PROPERTY OR ASSETS, OR AGAINST AN AHCPC POLICYHOLDER, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATION ON OR BEFORE MAY 11, 2001 AT 4:30 P.M.

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Web site

Continued from page 2
 director of risk management at E.D. Bullard Co. in Cynthiana, Ky. "And we've never been able to provide that means, outside of the industry sessions at our conference. . . . With this enhanced Web site," he said, groups of members in similar businesses will be able to hold "virtual conferences over the Internet. Industry groups could have chapters of their own, if you will."
 Geographic chapters will continue to serve a purpose, Mr. Andrews noted, "but if you have chapters that are organized along industries or interest groups, that's a totally different creature and one that will be of interest to

risk managers not only in the U.S. and Canada but worldwide."
 The updated site will "enhance our networking capabilities, which is another reason members join RIMS," Mr. Andrews told conference attendees.
 The new site will allow local chapters to develop their own home pages without enlisting programming help, Mr. Andrews said. "You can tie into RIMS and have a home page there."
 Through the local chapter page, members can send messages to one another and register for chapter events. Chapter officers will be able to develop and post calendars of chapter events and send news bulletins to members.
 And there is the potential for the site to be able to host online chapter meetings, Mr. Andrews

said.
 Nationally, the organization will be able to conduct its member surveys online through the new Internet site, Mr. Andrews noted.

'Industry groups could have chapters of their own,' says RIMS President Roger Andrews.

The surveys, which Mr. Andrews said are "much in demand by our membership," include the quality scorecard and the compensation and benefits study. "These can all be done electroni-

cally online, and we'll have the results a lot faster than with the conventional way," he noted.
 In addition, Mr. Andrews said, the site will feature a "top-notch risk management news service" that will allow users to read news of interest to their profession online. A search engine will provide access to "risk management professional and technical data worldwide," he said.
 The society expects to include at the site the capability for attendees to the national conference to register online. RIMS membership applications also will be available online.
 Users who will benefit from the new site also will be asked to help pay for it.
 "This will be a great resource for our membership," Mr. An-

draws remarked, and is coming at "no small bill."
 Therefore, he said, "individual members will soon be getting a letter from me requesting a voluntary contribution to our fundraising effort for the development of this Web site." Chapters will be challenged to hold fund-raisers or contribute surplus funds to the effort.
 Banner advertising at the site will be offered to RIMS' "industry partners" to help with funding, Mr. Andrews noted.
 Summing up the benefits of RIMS' new Internet presence, Mr. Andrews said. "We really believe it is going to help our members and our chapters stay focused and keep RIMS the leading association in risk management in the future." **BI**

Expenses

Continued from page 2
 plan.
 Under the proposal the Kansas City region is examining, employers would be able to split some expenses with their pension and retirement plans, usually down the middle. These would include the annual costs of maintaining and administering the plans, including non-discrimination testing expenses, according to a list circulated by Robert L. Webber, deputy regional director of the Labor Department's Kansas City office, at meetings and at forums with plan sponsors and their advisers.
 The items on Mr. Webber's list typically cost between a few thousand dollars a year for small plans, with 100 or so participants, to around \$20,000 a year for plans with thousands of participants, according to Sherwin S. Kaplan, of counsel at the Washington law firm of Piper Marbury Rudnick & Wolfe.

Alan Lebowitz, deputy assistant labor secretary for program policy, suggested the Kansas City regional office's examination is an outgrowth of an earlier Labor Department initiative from 1997 that focused on whether employees were paying too much in 401(k) plan administrative expenses.
 Mr. Lebowitz also indicated that Mr. Webber's critical examination upholds the regulator's position on plan expenses.
 "This is not new, so there ought not to be any surprises here," he said.
 Mr. Lebowitz was referring to guidance issued in January 1997 in connection with the California insurance commissioner's shutdown of several pension plans sponsored by insurance companies that the state liquidated. The commissioner wanted to know what expenses related to the terminations could be picked by the plans.
 The 1997 California opinion clearly articulated that expenses related to setting up a plan should

be borne by the employer.
 But employer representatives and groups are crying foul.
 The Kansas City office's enforcement project "is catching a lot of people off-guard," said Janice M. Gregory, vp at the ERISA Industry Committee, a Washington trade group representing large corporations. Ms. Gregory confirmed that she knew of a company audited as a result of the initiative, but she declined to identify it.
 "They have taken a stance in audit that is contrary to past practices," said Edward Ferrigno, vp in the Washington office of the Profit Sharing/401(k) Council of America.
 "It's like changing the rules of the game after people have been playing the game for 25 years," said Mr. Kaplan of Piper Marbury, who until recently was deputy associate solicitor in the Labor Department's plan benefits security division.
 Moreover, many new companies that have set up 401(k) plans are still in the red and do not need a

tax deduction to shelter their income, noted Bob Gallagher, a partner at the Groom Law Group, a Washington-based law firm. Some older companies with pension plans also don't need the tax deduction, because their previous losses are more than sufficient to shelter current income.
 Mr. Kaplan also decried the Labor Department's position in recent audits that employers must pick up part of the tab for amending plans to comply with changes in the law. "It doesn't makes sense, especially since the only reason you are doing it is to maintain the tax (-favored) status of the plan," he said.
 Mr. Kaplan was among those who met with Mr. Lebowitz and other Labor Department officials in July to discuss their concerns over the Kansas City regional office's audits. Present at the meeting were representatives of the ERISA Industry Committee, the Assn. of Private Pension & Welfare Plans, the Profit Sharing/401(k) Council and Valerie Grace, a consultant with William

M. Mercer Inc.
 Attendees wanted to know what expenses the regulator might be scrutinizing. They also wanted reassurances that the Kansas City regional office's enforcement project would not be extended nationwide, something Labor Department officials could provide, because they have not yet made a decision on that matter.
 Mr. Kaplan, whose government office at the time approved the Labor Department's position in the 1997 opinion, faults the regulator for failing to publicize that guidance, since doing so would have kept employers from being caught off-guard.
 "It never was given any publicity, and most people assumed it did not affect the way they were operating their plans. Obviously, if people had started paying attention to it in 1997, they would not have been as surprised," he said.
 •
 Vineeta Anand is a reporter for Pensions & Investments, a sister publication of Business Insurance.

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Preliminary Schedule Summary

<p>MONDAY, NOVEMBER 13 <i>Golf Tournament and Golfers' Luncheon on Masters Lawn</i> Captives 101: The Benchmark Course or Basics of E-Commerce and E-Business <i>Registration and Welcome Reception with Exhibitors</i></p>	<p>TUESDAY, NOVEMBER 14 <i>Continental Breakfast</i> Keynote Address: "Into the 21st Century" <i>Beverage Break</i> Group Captives or Capital Markets and Risk Management <i>Buffet Luncheon</i> New Ways to Use Your Captive/ Decontrolling Captives or New Risks: A Healthcare Perspective <i>Beverage Break</i> Rent-a-Captives or Employee Benefits/Pensions and Captives <i>Cocktail Reception</i> Dinner and Entertainment</p>	<p>WEDNESDAY, NOVEMBER 15 <i>Continental Breakfast</i> Captive Case Studies <i>Beverage Break</i> Reinsurance or Enterprise Risk <i>Buffet Luncheon</i> New Tax Developments <i>Conference Roundup</i></p> <p><i>For further information, including exhibit and sponsorship opportunities, contact:</i> Tina Gassman, Conference Director 4248 Park Glen Road, Minneapolis, MN 55416 Telephone: 952.928.4659 Fax: 952.929.1318 or visit www.captive.com/CaptiveForum</p>
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P/C

Continued from page 2

than it was at the beginning of the year," said Michael Paisan, vp at Keefe, Bruyette & Woods in New York. Not only are rates going up but companies also are staying with their insurers, rather than seeking lower rates elsewhere, Mr. Paisan said.

In addition to price hikes, "we're starting to see a little bit more in terms of tightening the risk selection criteria," which means insurers are not renewing business that lacks a good risk profile, said John L. Ward of the Cincinnati-based Ward Financial Group Inc.

"I think the commercial lines pricing turn is here for several years, conceivably through 2002," said Brian Meredith, senior property/casualty insurance analyst with Banc of America Securities in New York.

"We're guardedly optimistic," said Stephen Lilienthal, executive vp-U.S. insurance operations for The St. Paul Cos. Inc. in St. Paul, Minn. Results, he said, will be positive for insurers, including St. Paul, "that have aggressively dealt with the issues that were in the various troubled segments, particularly the middle market." But, Mr. Lilienthal noted, those insurers that either have just started to address these issues or have not been aggressive "will continue to underperform the industry."

Rick Quagliaroli, president of commercial lines for Hartford Financial Services Group Inc., said that more rounds of price hikes are needed "for most people to make acceptable returns on their business."

Findings from *Business Insurance's* survey of the first-half results of 19 major commercial property/casualty insurers include:

- Net income increased 2.5%, to \$5.59 billion, over the comparable period last year.

- Net premiums written increased 8% to \$43.27 billion.

- The combined ratio for the insurers surveyed increased to 106.2% from 104.1%.

- Policyholder surplus decreased 6% to \$53.1 billion.

No longer included in *BI's* survey is Reliance Group Holdings Inc., which is essentially running off its business (see story, page 1). The company reported a \$359.0 million net loss for this year's first half, compared with a \$172.4 million loss for last year's first half.

"The quarterly results were nothing to write home about," said

"The results actually surprised me as to how strong they were at certain companies," he said.

Meanwhile, insurer stocks are expected to continue to enjoy a resurgence of success. According to a Wasserstein Perella survey of major property/casualty insurers, reinsurers, and brokers, industry stocks have advanced 28% year-to-date as of Aug. 17, compared with a 2% improvement for the Standard & Poor's 500 for the same period.

"The group has certainly been on fire since it bottomed in March of 2000," said Mr. Zuckerman.

'I think the outlook is very attractive for property/casualty insurance stocks, especially those in the commercial lines,' says Michael Smith.

Mr. Lewis. "Basically, they were pretty much in line with expectations" for most companies. There were some weather-related losses, and a number of companies "were struggling with old issues, having a hard time addressing mispriced books of business." Still, he said, the better players showed distinctly better results compared with a year ago.

"The second quarter was very much like the first," though lowered expectations meant that results were more in line with predictions, said Michael Smith, an analyst with Bear Stearns & Co. in New York.

"The world hasn't really expected much from the group, and they've gotten it," he said.

But, Mr. Meredith said, there is "no question that the second-quarter results clearly demonstrate that there is a turn in the standard-lines commercial marketplace."

Mr. Lilienthal of St. Paul said, "I believe that Wall Street has lined up behind the sector a bit more, because there is a belief the industry is capable of generating appropriate shareholder returns, and that's the name of the game."

"I think the outlook is very attractive for property/casualty insurance stocks, especially those in the commercial lines," said Mr. Smith. He pointed to the last turn in the cycle, when "the stocks ran almost free for a year in 1985," even though the hikes were not initially reflected in financial results.

Mr. Paisan agreed that the outlook for the stocks is positive. With continued good news on the pricing front, the stocks will react accordingly, he said. "You should see some significant valuation expansion within the group of commercial line companies."

If the stock performance continues to improve, it could spark additional merger and acquisition

activity, which has been relatively quiescent so far this year.

As insurers' stock currency strengthens, "we would expect to see M&A activity begin again," said Matthew Coyle, director at rating agency Standard & Poor's Corp. in New York.

Increased M&A activity is a "distinct possibility," agreed Mr. Paisan. In particular, he said, consolidation will likely take the form of large companies seeking to acquire regional companies with relatively low multiples.

The smaller, regional commercial insurers will not necessarily participate in a stock market rally to the same extent as the larger, national players, Mr. Paisan said. And the national insurers may then seek to diversify either geographically or by product line, he said.

But Mr. Meredith said that, although the likelihood of more M&As has increased, "I believe that a lot of the stronger companies will grow through gains in market share, rather than acquiring other commercial lines insurers at some of the weaker companies."

Mr. Lilienthal said that he expects the industry to see M&A activity, though companies will exercise some caution in that area.

"I think everybody is being very cautious right now, because, as results improve, the last thing you would want to do is acquire a property that would not contribute to your overall improving results," he said.

Furthermore, "our results have improved so measurably and so dramatically... we would not want to distract ourselves with a lot of operating issues" associated with integrating an acquisition, Mr. Lilienthal said.

"I think anybody that has gone through a significant integration effort understands the amount of distraction that takes place, and... we just don't want to distract ourselves when things are going well."

We don't want to start putting our resources trying to merge another entity into the operation and lose the opportunity that presents itself right now," he said.

Hartford's Mr. Quagliaroli said, "Why would a strong company want to make investments in what could be a very problematic business? That's been our view all along. We'd much rather invest in ourselves than an unknown-quality book of business."

Mr. Smith also said that he does not expect an increase in M&A activity. "Nobody wanted to buy these companies at \$20, but they're willing to look when they're \$45?"

"I still think that the predominant M&A activity that we're going to see over the coming year is going to be something Wall Street doesn't normally think about, and that's where the insurance commissioners acquire insurance companies," said Mr. Smith, referring to insolvencies. **BI**

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Major property/casualty insurers' first-half 2000 results

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

Rank 2000	Corporate					Property/casualty operations				
	Net income 2000	Percent increase (decline) 1999-2000	Consolidated revenues 2000	Combined ratio 2000	Combined ratio 1999	Net premiums written 2000	Percent increase (decrease) 1999-2000	Policyholders' surplus 2000	Percent increase (decrease) 1999-2000	
1	CNA Financial Corp.	\$471,000	216.1%	\$7,360,000	114.7%	113.9%	\$4,080,000	(26.9)%	\$7,940,000	(9.4)%
2	The St. Paul Cos.	569,000	54.3	4,357,300	106.6	108.0	2,890,400	6.0	6,016,300	19.8
3	ACE Ltd.	288,441	45.6	2,663,302	95.7	98.0	2,670,907	264.4	4,589,051	16.5%
4	Travelers P/C Corp.	696,000	25.4	5,275,000	101.6 ²	100.3 ²	4,253,000 ²	2.7	N/A	N/A
5	Cincinnati Financial Corp.	95,427	17.2	1,012,138	98.8 ²	100.7 ²	891,748 ²	10.2	5,222,772	(3.3)
6	American International Group	2,753,134	11.2	22,315,767	98.6	94.9	8,729,714	5.9	N/A	N/A
7	Hartford Financial Services Group	451,000	(0.4)	7,013,000	103.1	102.5	3,624,000	8.1	5,331,000	(34.5)
8	Old Republic Int'l	124,783	(9.4)	995,395	108.2	106.2	424,501 ²	0.5	1,336,380	(5.6)
9	Hartford Steam Boiler	39,500	(9.8)	321,900	92.2	88.5	221,100	26.9	404,900	(22.9)
10	Chubb Corp.	338,300	(11.0)	3,541,000	100.2	99.7	3,119,900	9.9	3,332,200	15.9
11	RLI Corp.	13,502	(13.4)	124,765	94.2	90.8	132,736	10.5	280,265	(11.6)
12	American Financial Group	61,100	(36.4)	1,835,000	105.5	100.4	1,331,100	23.6	1,583,700	(15.5)
13	Royal & SunAlliance USA ²	49,000	(60.2)	N/A	107.8	107.9	1,550,000	91.1	3,076,000	(1.3)
14	SAFECO Corp.	58,900	(69.3)	3,636,500	111.3	105.3	2,340,700	4.4	2,541,900	(18.7)
15	Ohio Casualty Corp.	(83,211)	(177.0)	849,436	122.3 ²	111.2 ²	776,854 ²	(3.0)	751,990	(21.2)
16	Argonaut Insurance Co.	(61,004)	(407.4)	91,420	328.0 ²	124.1 ²	49,922 ²	19.0	449,753	(32.7)
17	Fremont General Corp.	(274,336)	(566.8)	619,985	189.4	96.0	530,309	31.7	497,853	(24.3)
	—Kemper Insurance Cos.	N/A	N/A	1,646,554	109.8 ²	110.7 ²	1,330,642 ²	10.2	2,537,891	(2.6)
	—Liberty Mutual Ins. Co. ²	N/A	N/A	N/A	113.3	114.3	4,327,000	1.6	7,211,000	1.5
	Cumulative	\$5,590,536	2.5%	\$63,658,462	106.2%	104.1%	\$43,274,533	8.0%	\$53,102,955	(6.0)%

¹After dividends ²Statutory N/A-Company did not provide data Source: *BI* survey

Future of lawsuits arrives early

A Georgia appeals court last month upheld the certification of a class for purposes of suing advertisers that send unsolicited faxes to people. The suit was filed by an Atlanta attorney who had received a fax at his office from Hooters of Augusta Inc. that offered a coupon for its uniquely saucy lunch specials.

Naturally, this person suffered tremendous emotional damage requiring the filing of a lawsuit. You can readily imagine the enormous damages he incurred by the wasting of so many inches of fax paper, as well as the lost productivity from the time spent to remove this offensive document to a nearby circular file (had that course been taken) and the pollution of his normal thoughts of what to eat for lunch with the unwelcome image of scantily clad waitpersons. Can punitive damages be far behind?

The class is expected to include up to 3,000 people who received similar unsolicited faxes, the plaintiff's attorney told the Associated Press.

On the surface, this lawsuit seems frivolous, but I think there's a new force behind this sort of legal action that will generate other, similarly absurd and frivolous actions in greater numbers.

That force is a new inclination among plaintiffs attorneys to turn their sights on any target that may be guilty of committing a relatively minor slight but also has relatively major deep pockets. It's like a bad John Grisham novel (is that a redundancy?) or a gambling addiction that needs to be treated.

The origin of this proclivity is the huge success that a handful of litigators recently had in suing the tobacco industry. I suppose receiving a large chunk of the \$260 billion settlement between the states and tobacco makers would be enough to make anyone greedy for more, but I seem to recall hearing somewhere that greed is not a virtue.

The tobacco-enriched attorneys are using their newfound financial reserves not only to buy fancy cars, boats, and garish pinkie rings, but also are spending some of these funds on finding the next deep pocket to

feed a craving for more cash.

These kind of big-ticket suits used to be a huge gamble for most attorneys, because they were speculative legal forays based on the contingency fee system. The attorney bore a financial risk in bringing a case. If the plaintiff won, the hired gun received a handsome percentage of any award in return; if the case was lost, the lawyer was out considerable time and expenses.

The tobacco money has changed that, giving some litigators a war chest with which to take on more targets and to lessen the financial hit if some don't succeed. This has also changed the nature of the cases they are bringing. Whereas attorneys might once have regarded the financial risks of class-action lawsuits worth taking for only the most solid and worthwhile cases, they now perhaps can afford to lower those standards (e.g., *Hooters of Augusta Inc. vs. Nicholson*).

The recipients of this unwelcome legal attention have included gun manufacturers and sellers, the auto industry, paint manufacturers, the media and entertainment industries, manufacturers of latex products and, lately, the managed care industry.

There's a problem for attorneys, however, in that not everyone can get in on the action. Courts are inclined to consolidate these cases and limit the number of attorneys involved in steering a class action through the system. And because the big-money attorneys typically don't like to share, there's a limited opportunity for just any attorney to get involved.

That means most lawyers will have to find their own cases to mine in the attempt to strike gold. With litigious hands already reaching into the most-obvious deep pockets, you can expect to see creative thinking in the targeting of class action lawsuits. That's why I believe the Hooter's case is symptomatic of a trend.

Think about anything the average person might find annoying, such as unsolicited faxes, and you'll find a lawyer somewhere who would be interested in seeking billions of dollars in punitive damages on your and others' behalf.

What's the next target in the future?

If guns, HMOs and junk faxes are already spoken for, can dinnertime telemarketers be far behind? What about Internet providers with slow connection speeds? Manufacturers of pens that leak or run dry too soon? Weather forecasters who get it wrong? Casinos and lotteries that don't let people win as often as they feel they should? Contestants who get kicked off game shows like "Survivor"? Athletes who fail to win spots on Olympic teams?

Sadly, the future is already here.

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Captive

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fit risks, at least 50% of the captive's business must be third-party risks. That condition was put in by federal regulators who believed that taking on a significant amount of third-party business would enhance the financial soundness of the captive and safeguard the employee benefit plan against less than arm's-length transactions.

But the 50% test has stood as a near-impermeable barrier to fund benefits through captives since few employers want their captives to take on so much unrelated business.

While not abandoning the 50% test, the Labor Department, through its proposed approval—known as a proposed exemption—of Columbia Energy's application is offering employers an alternative way of winning department approval to fund employee benefit risks through their captives.

The department says if the proposed exemption is granted, Columbia Energy will annually use an independent fiduciary to see that all conditions of the exemption are met.

Those conditions include making sure that the LTD plan purchase coverage from top-rated insurers, that premiums charged by the insurer be reasonable and comparable to what the insurer and competitors charge for the same coverage under other comparable employer programs, and that participants' benefits in the first year of the LTD contract be sweetened. Herndon, Va.-based Columbia Energy already has met these and other conditions set by the Labor Department (see related story).

These conditions, say benefit and captive experts, are ones other employers should—if they want to use their captives to fund benefits—be able to meet.

"With some degree of effort, these conditions can be met. I'm sure this will be an attractive option," said Karin Landry, a consultant with Watson Wyatt Worldwide in Wellesley Hills, Mass.

"This will facilitate many more transactions," added Tom Jones, a partner with McDermott, Will & Emery in Chicago.

While the Labor Department did not issue its ruling until a year after Columbia Energy filed its application, the possibility that a change in policy might be in the offing came last year when Ivan Strasfeld, director of the department's office of exemption determinations, said meeting the 50% test no longer would be an absolute

prerequisite.

Among other things, Mr. Strasfeld, who was not available for comment last week, said the department would consider the quality of the primary insurers used by the captive and whether the plan participants would benefit from the arrangement.

Indeed, benefit and captive experts said the department came to recognize that other conditions—especially the use of an independent fiduciary, top-rated fronting insurers and the enhancement of benefits—would just as well, if not better than the 50% test, ensure that participants be protected if a company's captive was used to fund benefits.

'With some effort, these conditions can be met. I'm sure this will be an attractive option,' says Karin Landry.

"The department has taken a very common-sense approach," Mr. Jones said.

Regulators "bent over backwards to be flexible in their interpretation" of the law, said Columbia Energy Vp of Risk Management Nicholas Parillo.

While Columbia Energy is the first employer to benefit from this new regulatory flexibility, it certainly will not be the last. Captive managers and regulators report a surge of interest from other employers, who also are interested in using their domestic captives to fund benefits.

"Inquiries have been off the wall since the news broke," said Kathryn Westover, chief operating officer of Strategic Risk Solutions in Colchester, Vt., which manages the Columbia Energy captive.

"The interest in this is amazing," added Len Crouse, director of captive insurance for the Vermont Department of Banking, Insurance, Securities and Health Care Administration in Montpelier.

In fact, for years funding benefit programs through captives has been a much discussed subject in risk management circles. Risk managers and their advisers viewed such an expansion as a way of broadening captives' premium base with more predictable risks and spreading fixed costs over a larger premium base.

Columbia Energy's Mr. Parillo, for example, notes that funding LTD benefits through the captive, which

the company now uses for general liability and property risks, will ensure a better spread of risk for the insurance subsidiary.

Others say that funding benefits through captives will result in improved loss control and ultimately lower claims costs.

"With a formalized insurance program, you can better analyze losses as to where they come from and how to prevent them," Ms. Westover said.

But beyond better risk management, increasing the likelihood of tax deductions of property/casualty premiums employers pay their captives is the latest factor driving employer interest in funding benefits through captives.

Discussion of potential tax advantages has been triggered by court decisions and an Internal Revenue Service ruling. Several appellate courts have ruled that a parent can deduct premiums paid to its captive so long as the captive writes a significant amount of unrelated business.

Those court rulings preceded an IRS ruling that said employers can deduct group term-life insurance premiums paid to the captive because the premiums represent unrelated business.

So, according to that reasoning, if the parent funds enough benefit business through the captive, the captive could be considered as writing a significant amount of outside business. That would also increase the likelihood that the parent would be able to deduct property/casualty premiums paid to the captive.

Mr. Parillo said tax considerations were a minor consideration in funding benefits through the captive. But for other employers, the tax considerations would be a significant reason to fund benefits through their captives.

"As a practical matter, enhancing the tax deductibility would be a prime motivating force," Mr. Saveth said.

P. Bruce Wright, a partner with LeBoeuf, Lamb, Greene & MacRae in New York, which represents Columbia Energy and has long been involved in the funding benefits through captives issue said: "I'm gratified that after all this time the DOL has proposed this exemption. We have waited a long time for this."

Other employers may not have to wait so long. Once the Labor Department approves two exemptions in an area, it must act within 45 days on other applications if the facts presented in those applications are substantially similar as the exemptions it previously approved. **BI**

Columbia plan sets the stage

Conditions set by Labor provide guidance for other companies

WASHINGTON—The U.S. Department of Labor's proposed approval of Columbia Energy Group's plan to use its captive to reinsure its long-term disability benefits program could pave the way for other employers eager to do the same thing.

Conditions set by the Labor Department in its proposed approval of Columbia Energy's filing include:

- Providing an immediate and objectively determined benefit to LTD plan participants in the form of increased benefits.

Last year, in anticipation of utilizing the captive to fund LTD risks, Columbia Energy sweetened benefits so that disabled employees receive 60% of their salary. Previously, the plan offered a LTD benefit of

30% of salary up to the Social Security wage base and 60% of salary over the wage base. This year, the wage base is \$76,200. Other changes include a more liberal definition of liability.

- Using top-rated insurers—those with a rating of A or better from A.M. Best Co.—to issue policies. Columbia Energy is using Employers Insurance Co. of Wausau to issue policies. Wausau, in turn, is being reinsured by the Columbia Energy Gas captive. Liberty Mutual Insurance Group, Wausau's parent, has an A+ rating from Best.

- Requiring the formula used to calculate premiums paid by the LTD plan to Wausau or a subsequent insurer be similar to "formulae used by other insurers providing comparable long-term disability coverage under similar programs," according to

the proposed exemption.

Actuarial consultants Milliman & Robertson already has concluded that the rate charged by Wausau is consistent with actuarial projections and is below the midpoint of the range of premiums charged by other insurers providing similar coverage under comparable programs.

- Having an independent fiduciary, in this case Milliman & Robertson, be retained to determine annually that all conditions of the exemption be met. The fiduciary could take whatever action necessary to protect the interests of the LTD plan.

- Requiring the captive be licensed domestically.

Columbia is using the Vermont branch of its Bermuda captive.

—By Jerry Geisel

Reliance

Continued from page 1

A.M. Best Co. last week downgraded Reliance Insurance to C from B, citing the possibility of a Reliance bankruptcy filing and regulatory takeover of the insurance units.

Reliance is negotiating possible reinsurance coverage with Berkshire Hathaway Inc. The terms of the potential deal, which would require regulatory approval, were still under discussion last week.

Reliance officials also are scheduled to meet in Chicago this week with a multistate regulatory team to discuss the holding company's problems and plans for the operating subsidiaries.

A spokeswoman for the Pennsylvania Insurance Department, domiciliary regulator for Reliance Insurance, declined to comment on the meeting or on regulators' talks with the insurer.

Only weeks after Leucadia National Corp. pulled out of a deal to acquire Reliance Group, Reliance reported a \$444.2 million pretax charge to boost its loss reserves, contributing to a \$504.5 million second-quarter net loss and a \$359 million loss for the first half.

According to the insurer's 10-Q report filed with the Securities and Exchange Commission, the reserve addition consisted of:

- \$117.5 million for higher-than-expected construction defect claims.
 - \$83.6 million for property, marine and aviation lines, most written as assumed reinsurance.
 - \$67.4 million for adverse development of commercial auto business.
 - \$62.1 million for workers compensation business.
 - \$50.0 million resulting from an alternative dispute resolution trial with an asbestos producer.
 - \$127.6 million for accident and health, commercial multiple peril and other lines of business.
- While Reliance's first-half revenues jumped 46.6% to \$2.18 billion compared with the same period in 1999, the increase came en-

tirely from the sale of its surety and fidelity operations and from sales of investments. Net written premiums dropped 25% to \$1.02 billion compared with 1999's first half.

As it suffered a series of rating downgrades that damaged its ability to do business, Reliance earlier this year began to dismantle itself, selling off pieces of its business to raise cash.

Reliance now says it plans to manage its property/casualty units as a runoff operation, paying claims while seeking buyers for virtually all of its business lines.

'You don't want to be the last guy at the window' in a runoff, says one industry observer.

The holding company, meanwhile, is carrying \$735.1 million of outstanding debt, including \$237.5 million in bank debt maturing Aug. 31 and \$291.7 million of senior notes maturing in November.

Because of the weakened state of its insurance units, Reliance says that it does not expect insurance regulators to allow it to collect large enough dividends from the units to cover the debts.

Reliance said it is negotiating with creditors and regulators to restructure the debt, but "there can be no assurance that its efforts will be successful." As an alternative, Reliance may be forced to file for bankruptcy protection, which could include a negotiated settlement with creditors in advance of the filing, the insurer reported.

After the second quarter announcement, Best dropped Reliance Insurance's rating to C over doubts about its prospects.

While the group—which reported \$1.14 billion in surplus as of June 30—still has an "adequate" margin to meet current claims, its second large reserve increase in two years creates uncertainty about its reserve adequacy, Best concluded. In

addition, the drop in premiums has worsened Reliance's negative cash flow, straining the liquidity it would need to manage a runoff, Best suggested.

For the first half, Reliance reported a negative cash flow of \$750.4 million, offset mainly by sales of investments and the surety operation.

Best also predicted that Reliance will not be able to refinance its debt, increasing the odds of a bankruptcy filing. Because most of the group's assets and liabilities are in its insurance units, a bankruptcy—with Reliance's banks and bondholders as major creditors—would also increase the odds of state regulatory action to protect the insurance subsidiaries, according to Best.

Other industry analysts agreed with this assessment.

"A runoff is something that a lot of industry people would like to see because it keeps it out of the guaranty pools," one analyst observed.

Among other problems with the plan, though, Reliance may simply be unable to keep up with the claims, analysts said.

For one thing, a runoff would likely create an influx of claims from policyholders looking to recover as much as possible: "You don't want to be the last guy at the window," said one industry observer who requested anonymity.

Reliance would also be settling claims in a runoff for a fraction of their full amount. While this sounds good for the insurer, quick settlements would worsen Reliance's negative cash flow, already running at "\$4 million a day, Saturdays and Sundays included," and strain its liquidity, another analyst observed. "There's too much uncertainty in the reserves," he added.

A Reliance spokeswoman declined to comment beyond the insurer's second-quarter announcement.

As it pursues talks with creditors and regulators, Reliance continues its asset selloff. Last week, it announced an agreement to sell its accident and health business to Combined Insurance Co. of America, a unit of Chicago-based Aon Corp.

On the property/casualty side of Reliance, meanwhile, Aon may be costing the insurer money: Reliance's 10-Q discloses that it "may incur future costs" under an agreement requiring it to pay Aon \$18 million a year in brokerage commissions until 2007. The filing does not provide details on the arrangement. Aon referred calls to Reliance; however, Reliance officials were not available to comment. **BI**

B/I to list work comp materials

Business Insurance will publish its annual Workers Compensation Information Resource in the Oct. 16 issue, which will also contain a Spotlight Report on workers comp. If your company has educational materials related to workers comp that are available to the public at no charge, please contact Michel Schwartz at 312-649-5313 to receive an application to be listed. Materials that are promotional in nature will not be considered. The Information Resource is provided as an editorial service; there is no charge to be included. The deadline for submitting materials is Sept. 22.

—By Douglas McLeod

UPDATES

Court clarifies disclosure duty

Continued from page 2

sion. In addition, the full court ruled in *Ernest S. Bins vs. Exxon Co. U.S.A.* that, unless the employer had agreed to do so, it is not required to follow up with an employee if, subsequent to the employee's inquiry, the proposed changes "reach the serious consideration stage."

"We decline... to impose on employers a duty to follow up an employee's inquiry in the absence of an assurance from the employer that it will provide an update," said the court in its 8-3 decision.

The decision involves Ernest S. Bins, who worked for Exxon Co. U.S.A. as a senior mechanical technician on an offshore oil drilling rig. Prior to his retirement in 1996, he had asked various Exxon personnel about rumors the company was planning to offer a lump-sum retirement incentive. They answered him truthfully that they did not know of any such plan. But less than two weeks after he retired, Exxon announced an incentive plan—too late for Mr. Bins to take advantage of it.

Thomas G. Moukawsher, of Groton, Conn.-based Moukawsher & Walsh L.L.C., who represented Mr. Bins, said the en banc ruling replaces a 2-1 ruling in October by an appellate panel that held employers are obliged to voluntarily inform employees of plan changes that are under serious consideration even before an employee asks about the move.

The significance of the decision is huge, said Exxon attorney James Severson with McCutchen, Doyle, Brown & Enersen in Los Angeles. Announcing plans that would not necessarily be adopted would have been like "crying wolf," he said.

Airline uses e-auction for HMOs

COSTA MESA, Calif.—American Airlines Inc. recently used the Internet to help arrange its health insurance coverage in two states.

In conjunction with iBenefits Inc., Dallas-based American used an Internet auction to determine premiums for its health maintenance organization plans in California and Texas, which together cover nearly 35,000 employees and dependents. The auction was the first of its kind by iBenefits, a Costa Mesa, Calif.-based Internet benefits administrator.

During the bidding, which took place over a week in June, six HMOs submitted premium prices for the business based on parameters set by American. American already had contracts with all six HMOs to provide plans in the two states, and the auction was used to determine the premiums each HMO would charge.

Although the HMOs did not know the bids offered by their competitors, each was able to see how it ranked in terms of price and could alter its bid to change its ranking.

The final premium submitted by each HMO is what American will pay for that plan in 2001.

Michael Rivera, iBenefits vp of focus performance, said the Internet bidding process reduced the time needed for the entire process by five or six months. In addition, iBenefits said the auction helped lower premiums by an average of 2.2% compared with the normal buying process.

iBenefits, which recently completed a merger with UltraLink, a health care management and administrator based in Costa Mesa, has four more auctions scheduled for early next year, Mr. Rivera said.

Briefly noted

The 2nd U.S. Circuit Court of Appeals has sent a **suit brought against gun manufacturers** to the New York Court of Appeals to resolve two issues under New York law. The court ruled last week that the state's highest court should rule on whether the negligent marketing allegation in the case and the issue of liability being apportioned based on market share are permissible under New York law. Last year, a federal jury awarded the plaintiffs \$500,000 in damages in the case, in which the plaintiffs argued that the gun manufacturers were negligent in their distribution of handguns, which encouraged a market in illegal guns in states with tight gun controls. . . ACE Ltd. has bought a 51% stake in **Egyptian American Insurance Co.** for an undisclosed sum. ACE is not taking on the liabilities or the portfolio of Cairo-based Egypt American but will have licenses in Egypt through the acquisition. . . **GE Frankona Re** is the new name of ERC Frankona Ruckversicherungs-A.G., the Munich-based subsidiary of General Electric Corp. and its Employers Reinsurance Corp. division. The name change and several management changes are effective Sept. 1, in time for renewal season. Bernhard Fink, chief executive officer of ERC Frankona, will become chairman of the supervisory board of GE Frankona Re and CEO of Employers Reinsurance Corp.'s European holding company. He will also expand his role as CEO of General Electric Germany. Robert J. Dellinger, currently executive vp and chief financial officer of ERC, will become CEO of GE Frankona Re. Marc Meiches will become ERC's new CFO. He previously was executive vp, chief operating and financial officer at GE Capital Aviation Services in Stamford, Conn. All three report to Ron Pressman, chairman, president and CEO of ERC in Overland Park, Kan. . . Legislation allowing **captive insurers to form in South Carolina** was signed into law by Gov. Jim Hodges. The law is modeled after Vermont's captive statute, a South Carolina Insurance Department spokesman said. Under Act A331, which amends the state's 1976 insurance code, the minimum capital requirements are: pure captives, \$100,000; association captives, \$400,000; group captives, \$200,000; and segregated-cell captives, \$500,000. . . A unanimous three-judge panel of the 3rd U.S. Circuit Court of Appeals in Philadelphia ruled that workers who ask their employers to accommodate their religious beliefs must **cooperate in finding an acceptable accommodation**. If they do not, the panel ruled in *Shelton vs. University of Medicine & Dentistry of New Jersey*, they will forfeit any later claim alleging discrimination under Title VII of the Civil Rights Act.

Frontier announces loss, reinsurance agreement

ROCK HILL, N.Y.—Frontier Insurance Group Inc. reported a large net loss for the first half of 2000, as it announced a reinsurance deal with a Berkshire Hathaway Inc. unit to cover adverse loss development on prior years' business.

Frontier recorded a net loss of \$67.6 million for the first half of this year, compared with net income of \$26.5 million for the first half of 1999. The results exclude the operations of Lyndon Insurance Group, which Frontier sold in January.

The Rock Hill, N.Y.-based company blamed worsening underwriting results mainly on discontinued programs and on a series of unusual losses. These included a \$2.3 million loss on Frontier's sale of its Regency Insurance Co. unit; \$7.6 million in losses related to Frontier's OneStop.com Internet business, which was also sold; and a \$10.1 million write-off of intangible assets related to environmental and surety operations that Frontier has not sold. Although Frontier's net

earned premiums for the first half rose, its gross and net written premium volume plunged in the wake of its lower financial ratings, the insurer reported.

Earned premiums were \$281.5 million for the first half of 2000, a 1.2% increase over the prior-year period. Gross premium volume dropped 34.6% to \$310.1 million, though, while net premiums written fell 25.8% to \$238.0 million.

As Frontier pursues a reorganization plan that has included the sale of various operations, it also announced a reinsurance agreement with Berkshire Hathaway's National Indemnity Co. Under the deal, Frontier will have the option of buying reinsurance covering about \$500 million in reserves held as of June 30 for accident years 1999 and prior. The agreement would also provide up to \$300 million in coverage for adverse development on the business. Frontier's option expires Sept. 27.

FOR THE RECORD

Excerpts from BI's Daily Online Updates, Aug. 14 - Aug. 18, 2000

Market study Rates for commercial lines policies renewing on July 1 saw average increases of about 10%, according to broker Marsh Inc. In its "2000 Insurance Market Review and Forecast," released this week, New York-based Marsh said that, for those policyholders with growing losses or exposures, rate increases are "running markedly higher" than the 10% average, Marsh said. In addition, multiyear deals are becoming more difficult to obtain, Marsh said, noting that when such deals are offered, they often come with tighter requirements than before. In general, the largest rate increases are being

seen in the health care industry and in workers compensation for midsize companies, Marsh said. Employers in this sector are experiencing rate hikes of up to 50% for good risks and as

much as 300% for those with poor loss experience, Marsh reported. On the property side, rates are increasing an average of 10% to 15% and are inching upward, with the most pronounced firming being seen on risks in catastrophe-prone areas, Marsh said. Although several insurers have general guidelines that call for property rate increases of 20%, underwriting remains on an individual-account basis. Casualty rate increases vary by line of business. Risks with good loss experience are seeing general liability rate increases of between 7% and 12%, auto liability rate increases of between 10% and 25%, and excess/umbrella rate increases of between 7% and 15%, according to the broker.

Wildfire losses The wildfires that have burned more than 4.3 million acres in the United States so far this year have caused nearly \$170 million in insured property damage, according to industry estimates. Most of those losses are attributable to the wildfires that ravaged Los Alamos, N.M., in May. The New York-based Insurance Information Institute this week estimated insured property damage from those fires at \$70 million. But the Insurance Service Office Inc.'s Property Claims Services division recently raised its estimate of insured damages from the Los Alamos fires to \$140 million from \$70 mil-



PHOTO: FEMA

The Cave Gulch Fire in Montana is one of hundreds of wildfires burning through the Western United States this summer.

lion. The III estimates, which are derived from PCS figures, do not yet reflect the higher PCS estimates, a spokesman said of the discrepancy. The III said the 82 wildfires now ravaging nearly 1 million acres in 13 Western states could cause an additional \$25 million in insured property damage. According to the III, the costliest wildfire on record occurred in 1991, in the Oakland Hills area of California, resulting in insured property damage, in today's dollars, of \$2.1 billion.

ADA suit A federal class-action lawsuit filed last week in Denver is charging the state of Colorado with violating the American with Disabilities Act by refusing to provide retarded and developmentally disabled children and adults with residential placement and services within a reasonable period of time. Many of these individuals have had to wait years for such placements, according to the suit, filed on behalf of the parents of three disabled children. Such delays to provide "reasonable accommodation" by the Department of Human Services, the Department of Health Care Policy and Financing and other state agencies discriminates against disabled people, violating the ADA, the suit charges. The delays also violate the people's 14th Amendment rights to due process, which would require that individuals be provided with written notice and the opportunity to respond when denied Medicaid services "with reasonable promptness," the suit states. State officials have declined to comment on the suit. In a related action, the 3rd

U.S. Circuit Court of Appeals ruled earlier this month that states and their agencies cannot be sued under Title I of the ADA because the law does not remove the state's 11th Amendment immunity from suit. The 3rd Circuit ruled, though, that the plaintiffs had not shown evidence that the state had violated their due process rights, which would have enabled the ADA suit to proceed (see related Update).

OPL reserve boost drives first-half loss

Overseas Partners Ltd. experienced a \$477.2 million loss for the first half of 2000, due largely to an increase in loss reserves. In comparison, Hamilton, Bermuda-based OPL posted a \$278.5 million profit in the first half of 1999. The reinsurer's gross written premiums were \$464.5 million in the first half, down 26.9% from the prior-year period. The loss was largely due to a \$460 million increase in loss reserves, Mary Hennessy, OPL's president and chief executive officer, said in a statement. "It relates primarily to business written from 1997 to 1999 across each of our lines of business and reflects significant additional claims reported to OPL in the second quarter and our assessment of prevailing conditions in the reinsurance market," Ms. Hennessy said. The cancellation of shippers risk business for United Parcel Service of America Inc. also hit OPL's results, the OPL statement said. The UPS business had generated \$116.4 million in underwriting income in the first half of 1999, the statement noted. For years, the reinsurance for UPS' risks had been the principal business of OPL. But in 1999, a U.S. tax court ruled that the two companies had substantially the same ownership and that the reinsurance transaction was simply a means for UPS to avoid taxes.

California court rejects gun liability suit A California appellate court has rejected an untested "ultrahazardous products liability" theory in a lawsuit brought by an injured police officer against a gun manufacturer. The

suit, *Martin Whitfield vs. Heckler & Koch*, was filed by an officer who was shot in 1997 with a semiautomatic rifle made by Sterling, Va.-based Heckler & Koch. According to the Aug. 9 decision, while the weapon was not defective "in the usual sense," the plaintiff asked the court to adopt a new theory of liability to cover products that are "so potentially dangerous that they should not be offered for sale to the general public unless the manufacturer is willing to internalize the cost of all injuries which result from the product's misuse." But there is a significant drawback to this theory, said the three-judge panel of California's 2nd Appellate District Court, which upheld a lower court's decision. That shortcoming, the court said, is that consumers frequently become enamored of potentially dangerous products. "We can easily imagine products from sport utility vehicles to bacon double cheeseburgers being weighed and found wanting" under such a theory of liability, the panel said in its decision. As a result, the court ruled, the issue needs to be addressed through legislation, rather than litigation. The Heckler & Koch rifle involved in the suit had been legally purchased in Maryland and, at that time, was not banned in California. The weapon was subsequently modified to make it fully automatic, court records show. Matthew S. McNicholas, an attorney for Mr. Whitfield with McNicholas & McNicholas in Los Angeles, said he plans to appeal the decision to the California Supreme Court. He noted that the gun manufacturer was also charged in the lawsuit with "garden-variety negligence," which the appellate panel also rejected. Mr. McNicholas said he is hopeful the case may ultimately be won on those grounds. **BI**

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BI Industry Stock Report AUG. 14, 2000, THROUGH AUG. 18, 2000

BROKERS			Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	INSURERS/REINSURERS			Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	HEALTH MAINTENANCE ORGANIZATIONS			Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)			
Aon Corp.	NYS	36.88	-2.32	-7.81	42.75	20.69	2681	Harleysville Group	NDO	19.31	4.04	35.53	20.25	11.63	159	XL Capital Ltd.	NYS	66.94	-0.56	29.04	72.38	39.00	2029						
Brown & Brown	NYS	52.44	-1.87	36.87	54.00	30.75	64	HSB Group Inc.	NYS	39.94	0.47	18.11	40.63	21.50	1368	Zenith National Ins.	NYS	23.19	-1.59	12.42	24.94	18.75	17						
Clark Bards Holdings	NDO	10.13	0.00	-29.57	21.00	8.50	93	HCC Insurance Holdings	NYS	21.50	-2.55	63.03	22.94	8.00	522	INSURERS/REINSURERS	AVERAGE		0.27	4.19									
E.W. Blanch Holdings Inc.	NYS	21.44	-10.88	-65.00	70.75	16.56	913	ING Groep N.V.	NYS	68.44	1.48	12.19	69.00	46.81	425	Foundation Health Systems Inc.	NYS	16.56	3.11	66.67	17.56	6.25	2648						
Gallagher Arthur J. & Co.	NYS	46.63	-4.60	44.02	50.00	23.06	387	IPC Holdings Ltd.	NDO	16.25	0.00	9.24	22.50	9.75	143	Humana Inc.	NYS	8.00	7.56	-2.29	11.06	4.75	4871						
Hill, Rogal & Hamilton	NYS	40.00	-0.31	41.59	42.13	22.38	154	Hartford Financial Services	NYS	65.50	-0.19	38.26	69.50	29.38	4060	Oxford Health Plans	NDO	30.25	1.47	138.42	33.25	9.75	16820						
Kaye Group Inc.	NDO	8.44	-15.63	0.75	11.89	5.00	49	John Hancock Financial Service	NYS	22.63	-2.43	33.09	24.75	13.44	3682	Pacificare Health Sys.	NDO	54.13	-3.88	2.12	72.31	31.13	899						
Marsh & McLennan	NYS	117.62	-4.76	22.93	127.38	61.75	3194	LaSalle Re Holdings Ltd.	NYS	19.13	4.79	15.91	19.13	10.88	115	Sierra Health Services	NYS	2.69	-10.42	-59.81	13.25	2.44	1090						
BROKERS	AVERAGE		-6.31	13.52				Market Corp.	NYS	48.63	1.43	21.56	52.00	22.63	3114	United HealthGroup	NYS	91.38	-0.95	72.00	94.63	39.38	3760						
ACE Ltd.	NYS	35.44	3.85	112.36	37.25	14.06	4364	MAIC Holdings Inc.	NYS	12.13	8.99	-42.77	29.05	10.00	306	Wellpoint Health Networks	NYS	84.63	-6.04	29.34	92.31	48.25	2212						
Accel International Corp.	NDO	0.62	0.00	-37.50	1.50	0.50	1	MBA Insurance Group	NYS	63.56	-2.77	20.36	66.88	36.31	1411	HMOs	AVERAGE		-1.31	35.06									
Acceptance Insurance Cos.	NYS	4.44	1.43	-22.83	15.31	2.75	30	Meadowbrook Insur. Group	NYS	4.50	0.00	-31.43	13.00	4.50	21	ALL COMPANIES	AVERAGE		-2.45	17.59									
AEGON N.V.	NYS	39.44	0.64	-17.41	49.13	31.50	852	MetLife	NYS	23.81	-0.78	67.11	24.38	14.25	5673														
Aetna Life & Casualty	NYS	56.94	-2.36	2.02	84.31	38.50	1880	Mutual Risk Mgmt. Ltd.	NDO	22.06	11.31	31.23	30.75	9.81	1692														
AFLAC Inc.	NYS	54.65	-2.89	15.89	58.94	33.56	4116	Navigators Group	NYS	11.56	14.20	18.59	16.00	8.63	48														
Allmerica Financial Corp.	NYS	58.65	-4.18	5.51	62.75	35.06	847	NYMagic Inc.	NYS	14.00	-2.61	6.16	15.75	12.25	245														
Allstate Corp.	NYS	28.75	-0.65	19.48	36.69	17.19	7562	Ohio Casualty Corp.	NDO	7.69	-12.14	-52.14	18.50	7.69	1089														
Ambac Financial Group	NYS	63.81	-4.93	22.28	68.69	38.88	1370	Old Republic Int'l	NYS	23.94	0.00	75.69	24.63	10.63	2115														
American Financial Group	NYS	24.06	-3.99	-8.77	33.63	18.38	183	Partner Re Ltd.	NYS	41.56	1.37	28.13	42.31	29.38	811														
American General	NYS	71.00	-3.15	-6.43	82.19	45.63	2919	Penn-America Group Inc.	NYS	7.38	-2.48	-4.84	10.38	6.63	10														
American Intl Group	NYS	86.94	0.36	20.61	89.94	52.38	10704	PMA Capital Corporation	NDO	18.38	5.76	-7.55	21.00	15.50	108														
American Safety Insurance	NYS	4.06	-4.41	-37.50	8.19	3.75	26	Philadelphia Cons. Holding	NDO	16.50	-2.94	13.79	21.63	10.81	589														
Argonaut Group	NDO	15.75	-3.82	-20.75	26.83	14.44	107	Phoenix Corp.	NYS	13.69	-4.78	5.29	17.75	9.94	42														
AXA-UAP Group	NYS	76.50	2.26	7.75	81.50	53.75	354	Reliance Group Holdings	NYS	0.25	33.33	-96.23	7.75	0.13	9358														
Baldwin & Lyons Inc.	NDO	18.50	8.03	-16.38	23.94	15.25	9	ReliaStar Financial Corp.	NYS	53.50	-0.23	38.52	53.69	23.75	2283														
Berkley W.R. Corp.	NDO	23.44	-3.60	12.28	26.25	14.00	436	RenaissanceRe Holdings Ltd.	NYS	49.75	-0.62	21.71	51.13	33.19	98														
Berkshire Hathaway Inc.	NYS	61600.00	-1.28	9.80	66900.00	40800.00	2	RLI Corp.	NYS	37.31	1.53	9.74	38.13	26.25	25														
Capitol Transamerica Corp.	NAS	11.75	-3.09	16.77	14.75	9.38	13	St. Paul Cos.	NYS	47.13	-1.31	39.89	49.56	21.31	3730														
Chubb Corp.	NYS	74.81	-4.62	32.85	79.56	43.25	2517	SCOR	NDO	41.00	0.15	-7.34	53.63	38.38	12														
CIGNA Corp.	NYS	101.19	-3.80	25.60	105.94	60.75	3344	SAFECO Corp.	NYS	25.19	-2.66	1.26	38.50	18.00	3531														
Cincinnati Financial Corp.	NYS	39.69	-0.78	24.51	43.31	26.19	1363	SCPIE Holdings Inc.	NDO	21.50	0.00	-33.07	36.94	19.00	NA														
Citigroup	NYS	74.75	3.19	34.23	75.25	41.19	28666	Seibels Bruce Group	NDO	0.69	22.22	-60.71	4.94	0.53	131														
CNA Financial Corp.	NYS	39.75	-2.15	2.09	42.13	24.56	312	Selective Ins. Group	NDO	17.69	-0.70	2.91	20.38	14.63	372														
CNA Surety	NYS	11.06	0.00	-14.90	15.25	9.75	316	Tokio Marine & Fire	NDO	51.38	-3.07	-13.11	67.00	45.00	128														
EMC Insurance Group Inc.	NDO	9.00	2.86	-1.37	13.00	6.81	13	Torchmark Corp.	NYS	27.00	-0.46	-7.10	36.00	18.75	1988														
ESG Re Limited	NDO	3.38	12.50	-51.35	16.75	2.50	231	Transatlantic Holdings	NYS	86.44	0.29	10.73	91.56	68.75	56														
Enhance Financial Services	NYS	15.94	-4.14	-1.92	22.63	8.63	546	Trenwick Group Inc.	NYS	19.88	6.00	17.34	24.28	12.00	251														
Everest Reinsurance	NYS	40.75	-4.54	82.63	44.00	20.50	910	Unico American Corp.	NDO	6.88	1.85	-1.79	10.25	4.50	124														
Fremont General Corp.	NYS	4.06	4.84	-44.92	17.50	3.88	3174	United Fire & Casualty	NDO	19.25	1.32	-14.92	25.25	15.50	19														
Frontier Insurance Group	NYS	0.44	-12.50	-87.27	14.75	0.31	2831	Unitrin	NDO	29.75	-0.83	-20.93	39.75	27.19	463														
Gainsco Inc.	NYS	4.44	-5.58	-17.44	6.94	4.13	94	UNUM Corp.																					

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