

Business Insurance

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Head of governors' group says it may withdraw NAIC support

BURLINGTON, Vt.—Vermont Gov. Howard Dean, new chairman of the National Governors' Assn., said that the group will withdraw its support for the National Assn. of Insurance Commissioners if problems with the NAIC's accreditation process aren't resolved before the NGA's January meeting.

Each year, the NGA formally adopts a policy indicating its support of and willingness to work with the NAIC.

Vermont was not accredited in 1993 because of the NAIC's accreditation process. *Continued on next page*

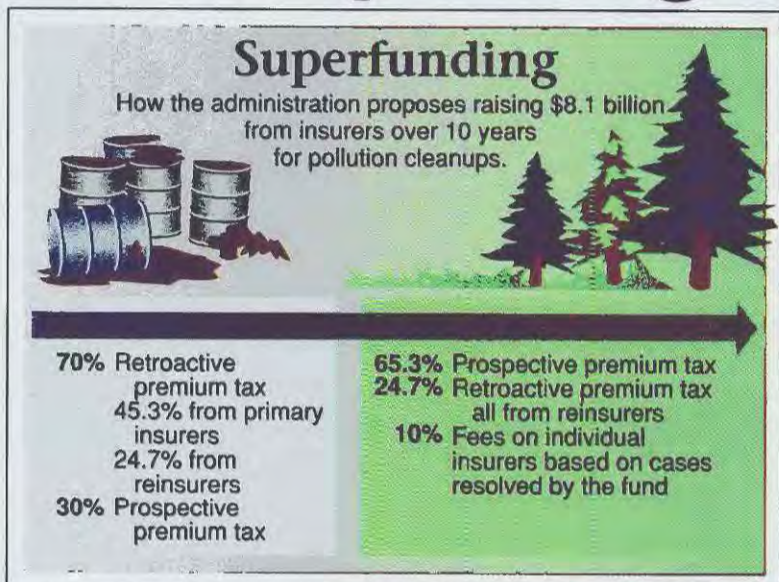
House panel approves Superfund tax package

By MARK A. HOFMANN

WASHINGTON—The House Ways and Means Committee late Friday approved an \$8.1 billion Superfund tax package despite some members' lingering doubts about the proposal.

The vote came only two days after the legislative package had been crafted at an invitation-only White House meeting and only 24 hours after dissension on the panel threatened to delay approval of the measure.

The package, which is part of H.R. 3800, the Clinton administration's Superfund reauthorization bill, would hold reinsurers liable for nearly a quarter of the tax bill. In addition, the owners of captive insurers could be hit with taxes. *Continued on page 30*



GRAPHIC BY KIM ROME

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WARD'S RESULTS
Ward's 50 P/C
and L/H insurers
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GRAPHIC BY KIM ROME

Bipartisan group trying to keep Senate bill alive

By JERRY GEISEL

WASHINGTON—A determined bipartisan group is feverishly working to prevent slow strangulation of health care reform in the Senate, while progress in the House is stalled until at least next month.

Barring a last-minute breakthrough, Democratic leaders last week said the House would not begin consideration of a sweeping reform package until Sept. 8.

But in the Senate, a group of moderate Republicans and Democrats—known as the "mainstream" coalition—was nearing an agreement last week on a compromise package that could break the Senate deadlock.

While details of the group's proposal still were being worked out, they included: a much lower level of health insurance subsidies for the uninsured than those proposed by Senate Majority Leader George Mitchell, D-Maine; a revamping of a proposed 25% tax on health insurance plans with costs that exceed certain targets; and a reduction in a proposed prescription drug benefit for the elderly.

The mainstream coalition, whose membership has fluctuated between 15 and 20 Republicans and Democrats, also had tentatively agreed to revamp the em- *Continued on page 29*



Confed paying claims

Seized Canadian insurer's operations already being sold off piece by piece; long-term outlook in U.S. still unclear

By MICHAEL SCHACHNER

TORONTO—Confederation Life Insurance Co. and its sizable U.S. operations, which write life, health and stop-loss coverages, are paying all claims but are not accepting new business or policy surrenders under government supervision in Canada and the United States.

In Canada, benefits are being paid out under a schedule set by the national life and health insurance guaranty fund and the oper-

ations of the nation's fifth-largest insurer are being sold off piece by piece.

In Michigan, Confed's entry-point into the U.S. market, an Insurance Department spokeswoman said, "For now the company is paying all death, medical, disability and health benefits, as well as making all scheduled annuity payments. We are not accepting any new business and no cash surrenders are being honored."

Confed's U.S. assets totaled \$9.4

billion at year-end 1993.

Michigan has hired Victor Palmieri to oversee the rehabilitation of Confed's U.S. operations. Mr. Palmieri directed the three-year rehabilitation of Mutual Benefit Life Insurance Co.

Confederation Life & Annuity Co., based in Georgia, which had more than \$380 million in assets last year and liabilities of \$370 million, is operating under Insurance Department supervision. A spokesman for the Georgia department said the state would not have intervened had Canada not taken over the parent.

Regulators in all three jurisdictions were eager to avoid the runs on the bank that had character-

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Burning questions

Fire at subleased site sparks confusion over liability

By SALLY ROBERTS and CHRISTINE WOOLSEY

EAST CHICAGO, Ind.—Some 50,000 tons of shredded tires have been burning here for more than a month, though questions about who is responsible for damages and cleanup could take even longer to extinguish.

The property on which the fire occurred is subleased, opening the possibility that two other parties could have a contractual obligation to provide compensation for third-party damage.

Area residents forced from their

homes by the smoke and toxic fumes are suing Rubber Material Handling Inc., the tire-shredding business where the fire occurred, and the site's leasing agent, The Prime Group Real Estate Investment Trust.

The owner of the site is a limited partnership that has not been named in the lawsuit. Prime Group manages the partnership.

Also named in the complaint, which seeks unspecified damages, were Dan McArdle, who owns Rubber Material and Clark Material Handling Inc., a landfill management firm. Clark leased the

property from Prime Group and sublet it to Rubber Material, according to David Ranich, Rubber Material's attorney.

There is insurance to cover third-party losses from the fire, which started July 16 at a warehouse, he said.

At issue is whether liability insurance policies covering Clark Material can be tapped to pay for damage resulting from the fire at Rubber Material and if Prime Group could be liable.

Attorneys say subleasing arrangements often require the sub-

Continued on page 4



AP/Wide World photo

Firefighters have been kept busy for more than a month by a smoldering pile of tires in East Chicago, Ind., that caught fire July 16.

Updates

Governor blasts the NAIC

Continued from previous page
cause its laws did not conform to the NAIC model law on risk retention groups (BI, Sept. 27, 1993). Recent changes in the state's law may help assuage difficulties with the regulators (BI, July 1).

Speaking to the Vermont Captive Insurance Assn. annual meeting, Gov. Dean said, "The NAIC doesn't know much about the captive industry and thinks they should be regulated the same way as insurance companies," he said. "We've done our best to educate them."

Right now, the regulators are responsible to nobody, and "that's going to change very quickly," he said. "And the reason it's going to change very quickly is that when the governors withdraw their support for the NAIC, John Dingell is waiting in the wings."

Continental looks for capital

NEW YORK—Continental Corp. is eliminating its quarterly dividend, searching for outside investors and further reducing its workforce to strengthen its capital.

Those moves squelched rumors, which had driven Continental's stock price up about 20% in recent weeks, that it is up for sale.

Analysts estimate that eliminating the 25-cent quarterly dividend will save \$55 million a year.

To attract investors, Continental will have to define its liabilities for pollution and similar problems, said David Seifer, vp with Donaldson, Lufkin & Jenrette Securities Corp. in New York.

Continental's search for capital comes less than two months after the company increased the capital of its domestic insurance operations by \$40 million (BI, July 4).

Continental also will reduce its workforce of 12,255 by 2,000, or 16%, instead of the 1,580 cuts announced earlier.

Losses forecast in The Big One

PALO ALTO, Calif.—Total economic losses from a major earthquake in Los Angeles, San Francisco or Tokyo could be double previous estimates, Stanford University researchers recently concluded in a study that took into account business interruption.

For example, a quake measuring 7.0 on the Richter scale along the Newport-Inglewood fault, which runs through downtown Los Angeles, would cause up to \$145 billion in damage, the study says. Much would be uninsured.

Including business interruption losses, damage from the Jan. 17 Los Angeles quake were about \$20 billion, the researchers found. An estimated \$7.2 billion of the damage was insured.

Proponents of a state-run earthquake pool say the study shows such a program is needed. Opponents counter that the study is irrelevant because a pool would not cover business interruption losses in any case.

The study also factored in costs such as workers compensation, medical liability and employees' inability to get to work.

Separately, the Personal Insurance Federation of California said that insured losses from the Los Angeles earthquake are double all the earthquake insurance premiums collected in California for the past 25 years. From 1968 through 1993, insurers collected \$3.4 billion in premiums and paid out \$8 billion, the insurer group said.

Fraud award in insurer failure

BATON ROUGE, La.—Directors and officers of failed North American Indemnity Co. have to pay state regulators \$24.7 million for fraud and gross negligence related to lavish corporate spending and self-dealing, a state court judge ruled last week.

Judge Paul B. Landry found that prior to the insurer's 1992 insolvency, its president, Robert Holberg, converted "millions of dollars" in company assets for his own use and spent large sums of its funds.

In its lawsuit, the Louisiana Department of Insurance alleged that Mr. Holberg's spending—of which other company officials were aware—included buying a small plane for himself with company money and then leasing it back to the company. He also allegedly had the company pay personal loans and other obligations that weren't its responsibility, said Allan Pursnell, assistant insurance commissioner.

More than \$14 million was funneled out, leading to the failure, Mr. Pursnell said. North American, which wrote primarily personal auto and workers comp insurance, remains in liquidation. The state guaranty fund has paid all outstanding claims.

Attorneys for the defendants did not return calls.

Employees bid for comp fund

LANSING, Mich.—Employees of the Accident Fund of Michigan are hoping to trump a \$291 million bid by Blue Cross & Blue Shield of Michigan to buy out the state-owned workers compensation fund.

BC/BS of Michigan on June 16 topped two other bidders to win a conditional right to purchase the competitive fund, which is the state's largest provider of workers comp insurance (BI, June 20). The state's acceptance of the BC/BS offer was conditioned on the fund's employees' failure to match it within 60 days.

The civil service employees submitted their bid on Aug. 15, and an advisory committee of the State Administrative Board, which previously had awarded the bid to the Blues, will determine whether it matches or exceeds the Blues' offer.

An employee buyout was encouraged by the Legislature and Gov. John Engler. A 1993 law set up a bidding process to privatize the fund and gave the employees the chance to match any bid.

The financing arrangement and other details of the Blues plan's buyout proposal won't be released until the final decision is made next month.

Updates continued on page 30

Proposition 103 upheld

High court's decision clears way for premium refunds

By JOANNE WOJCIK

LOS ANGELES—Policyholders may soon get premium refunds of more than \$1 billion under Proposition 103 following a California Supreme Court ruling last Thursday.

In a unanimous decision, the court upheld the right of the Cali-

fornia Insurance Department to enforce the rollback on insurers that earned more than a 10% rate of return on equity in 1988.

"The rate regulations are valid on their face and necessary and proper for the implementation of Proposition 103," Justice Stanley Mosk wrote for the court in *20th Century Insurance Co. vs. Gara-*

mendi. The 10% average was based on the actual returns insurers achieved between 1980 and 1989, he pointed out.

The court also said a uniform set of future rate-setting regulations that prevent all property/casualty insurance companies from earning more than a 10%

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Reforms pay dividends

Managing comp benefits produces big savings in Florida

By CHRISTINE WOOLSEY

Applying managed care techniques to workers compensation is creating increasingly bigger savings for participants in the second year of a pilot program in Florida.

An analysis of the second and final year of the pilot program shows it has cut workers comp medical costs by more than 50% in the second year, compared with nearly 40% savings in the first year of the program.

Also, managed care has lowered utilization of hospital services, resulted in lower and less costly usage of physicians' services and reduced indemnity claims.

"The project analysis clearly demonstrates that managed care can provide an effective medical deliv-

Continued on page 21

Work comp claims, premiums dropping in California

By ROBERTO CENICEROS

Workers compensation claims and related employer premiums have dropped in California thanks to three years of reforms, according to a recent progress report issued by the governor's office.

The number of indemnity claims per \$1 million of payroll plummeted by more than 24% between 1991 and 1993, according to preliminary data cited in the report. The report, prepared by the Department of Industrial Relations, said the downward trend is continuing for 1994.

The minimum workers comp premium paid by California employers has dropped by more than 19%, the report shows. For example, in the iron and steel industry,

Continued on page 22

Worker stress often leads to litigation

Employers navigate liability maze

By JOANNE WOJCIK

NEW ORLEANS—Consider this scenario: Your computer systems manager has just been admitted into a mental hospital after running out of the office in a panic.

She had been put on probation for poor performance and was about to be fired, and her co-workers recently began to notice she was muttering to herself and exhibiting bizarre behavior while working overtime trying to debug

a new software program.

What you, as her employer, didn't know was that she had been taking tranquilizers pre-



scribed by a psychiatrist who was treating her for depression and anxiety related to a bitter divorce proceeding. She is fighting for custody of her children, but her husband is alleging that she is an unfit mother because she under-

went treatment for depression several years ago, long before she came to work for you.

And she has just been notified by your third-party administrator that your self-insured health plan will not cover her hospitalization because she failed to obtain pre-certification.

Now which of the following workplace laws apply:

- The Americans with Disabilities Act?

Continued on page 10

Physician-hospital organization a hybrid of provider and insurer

By JOANNE WOJCIK and LOUISE KERTESZ

Health care providers that have been complaining about the constraints imposed on them by insurers under managed care may have found a solution: If you can't beat 'em, join 'em.

As they assume more financial risk in the form of capitation agreements for delivering managed care, providers are getting into the insurance business,



whether they realize it or not.

In fact, some provider-led delivery systems—particularly provider-hospital organizations, or PHOs—are bearing a significant

amount of risk and keeping more of the premium dollar than the health insurers and health maintenance organizations with which they contract.

That has some state insurance regulators and health care industry experts worried about the exposure of these largely unregulated provider networks.

For example, under "global capitation," in which PHOs accept capitated fees for both physi-

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Inside

- A Florida pilot program shows managed care lowers employers' workers comp costs while keeping employees satisfied, one of this week's editorials says. **PAGE 8**
- A new European broker network has been established to offer brokerage and risk management services to mid-sized multinational European companies. **PAGE 23**
- Economic recovery is helping Hungary's insurance industry position itself for growth. **PAGE 23**
- The NAIC has made its draft on insurer investment guidelines simpler and more flexible. **PAGE 31**

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Ward's 50 property/casualty insurers

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

Ward's Top 50 offers versatile benchmark

By DAVE LENCKUS

Uncomfortable with the little-known surplus lines insurer your broker found to write a hard-to-place risk, especially because insurer rating agencies have not evaluated the company?

Wondering about the risk-based capital ratio of your pension annuity underwriter?

To help insurance buyers analyze their markets more thoroughly, management consulting firm Ward Financial Group since 1991 has offered a number-cruncher's candy store of financial performance information on all licensed U.S. insurers and reinsurers. More importantly, the firm offers a benchmarking system to determine how palatable those numbers are.

In separate annual reports on property/casualty and life/health insurers, Ward Financial has exhaustively benchmarked how each company performs against the 50 property/casualty and 50 life/health insurers that it says have been both the safest and most profitable in the country over the past five years.

The firm identifies its so-called Ward's 50 based on numerous solvency and income

assets compares with the Ward's 50 property/casualty insurers' 31.7% over the past five years. Benefit managers can compare an underwriter's ratio of mortgage loans and real estate investments to total invested assets with the Ward's 50 life/health insurers' 14.2% mark.

Various ratios and other financial measurements, though, should be analyzed together rather than on their own to better understand an insurer's overall strength, performance and stability, Mr. Ward emphasized.

In addition to benchmarking against the Ward's 50 insurers, insurance buyers also can use Ward's Results to measure their insurers' solvency and performance against peer group and industry averages.

The reports also are designed to help brokers identify safe markets and to assist insurers in mapping out their long-term business strategies.

Mr. Ward and various members of his firm's property/casualty and life/health advisory councils concur that the reports complement—not replace—rating services.

But, the reports fill a big information chasm that rating agencies don't fill, said the 38-year-old Mr. Ward, who detected this need while he was a partner and the national practice director of insurance and bank consulting for Deloitte & Touche.

For example, A.M. Best Co. of Oldwick, N.J., the agency that rates the greatest number of insurers, issues letter ratings for 1,814 property/casualty and 881 life/health insurers. It also assigns numerical financial performance ratings to 475 insurers that are ineligible for a letter rating.

In contrast, via computer tape, Ward Financial obtains from the National Assn. of Insurance Commissioners the financial reports that all 2,921 licensed property/casualty insurers and 1,722 licensed life/health insurers must file annually with regulators.

Ward Financial cross checks the numbers for sample insurers against their annual reports, and it compares its various industry totals with insurer trade groups' figures.

Then, for the 1,499 property/casualty insurers with more than \$10 million in net earned premiums and the 1,195 life/health insurers with more than \$5 million in assets, the reports crank out numerous ratios and other financial measurements.

The reports highlight, among other things, the insurers' premiums, surplus, net income, combined ratio, risk-based capital, asset quality and mix, liabilities mix, capital adequacy, expense management, loss reserves and performance in various product lines.

Summaries of insurers' income state-
Continued on page 20

Property/casualty benchmarks

(1989-1993)

| | Ward's 50 | Total Industry |
|--|--------------|-------------------|
| Combined ratio | 100.4% | 108.4% |
| Return on average equity | 18.2 | 10.6 |
| Risk-based capital ratio | 301.2 | 233.7 |
| Surplus/assets | 31.7 | 24.9 |
| Loss ratio | 64.2 | 69.8 |
| LAE ratio | 12.7 | 12.9 |
| Underwriting expense ratio | 24.3 | 25.8 |
| Commercial multiple peril loss and LAE ratio | 67.3 | 72.9 |

Source: Ward's Results, 1994 Property Casualty edition

GRAPHIC BY MIKE GARVEY

criteria (see story, page 20).

"A lot of people say you can't have your cake and eat it too—that you can't have profitability and be safe at the same time. This analysis proves that's just not true," said John L. Ward, chief executive officer of the Cincinnati-based firm.

But, the names on the lists in the just-released 1994 Ward's Results reports, which slice and dice insurers' financial results from 1989 through 1993, aren't as important as why the companies are on the lists, Mr. Ward points out.

Insurance buyers can use the numerous Ward's 50 benchmarks to etch a clearer picture of the financial wherewithal of the companies they plan to entrust with their insurance programs.

Indeed, Ward Financial does not rank the 50 insurers. Mr. Ward at one time even considered not revealing which insurers comprise the lists.

"We wanted the industry to focus on the benchmarking of the 50, not the ranking of the top 50," Mr. Ward said. "The whole intent is that the averages of that group of companies is a benchmark."

So insurance buyers concerned about a company's risk-based capital ratio can compare it against the 286.9% ratio for the Ward's 50 life/health insurers and the 301.2% ratio for the Ward's 50 property/casualty insurers over the past five years.

Or, risk managers can quickly find how a liability insurer's surplus as a percentage of

Life/health benchmarks

(1989-1993)

| | Ward's 50 | Total Industry |
|--|--------------|-------------------|
| Return on average equity | 16.9% | 13.6% |
| Return on average assets | 2.0 | 1.3 |
| Risk-based capital ratio | 286.9 | 198.2 |
| Mortgage loans and real estate as a % of invested assets | 14.2 | 22.0 |
| Non-investment grade bonds as a % of invested assets | 3.1 | 4.7 |
| Total high-risk assets as a % of invested assets | 5.0 | 7.8 |
| Net interest spread on life interest | 5.5 | 5.1 |
| Group annuity premiums as a % of total premium income | 15.2 | 25.2 |

Source: Ward's Results, 1994 Life/Health edition

GRAPHIC BY JERRY PARKS

Ward's 50 life/health resurers

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

Source: Ward's Results, 1994 Life/Health edition

GRAPHIC BY JERRY PARKS

Tire fire

Continued from page 1
lessor to indemnify the sublessee.

Rubber Material has not had liability insurance since August 1993 when a \$1 million general liability policy issued to both Rubber Material and Clark Material by Classic Syndicate Inc. of the Illinois Insurance Exchange was renewed only for Clark Material.

Prime Group is the managing agent for a limited partnership that leased the East Chicago property to Clark Material, which then sublet the property to Rubber Material with Prime Group's acknowledgement, Mr. Ranich said.

Prime Group does have a lease with Clark Material, but not with Rubber Material, said Wayne Boberg, an attorney with Winston & Strawn in Chicago, which rep-

resents Prime Group. He added that he had no knowledge of any sublease between Clark Material and Rubber Material.

Theodore Stacy, the lawyer for the residents, also said he knew of no relationship between the two firms, but said that if Clark Material did sublet the property to Rubber Material, "we will plead Clark in (the suit) later."

Mr. Ranich, an attorney with Burke, Murphy, Costanza & Cuppy in East Chicago, acknowledged Clark Material will "probably" get involved due to its leasing arrangement.

Residents driven from their homes by thick smoke and toxic fumes are now busy cleaning up.

During the month-long fire, the Environmental Protection Agency was called in to monitor dust, fiber and soot emissions to determine whether they posed a health hazard. At its worst, the fire pro-

duced emissions greater than the safety standards set by the Federal Agency for Toxic Substances & Disease Registry in Atlanta.

A spokesman for East Chicago said that only one remaining "hot spot" is occupying firefighters' attention now, and that the emissions are down to about zero.

According to their complaint, which was filed Aug. 9 in the Lake County Circuit Court in Crown Point, Ind., the residents suffered a host of ailments and were deprived of the use of their homes.

One area business also had to be evacuated. General American Transportation Corp. of Chicago, which operates a facility next door to Rubber Material, was forced to shut down for two weeks, a spokeswoman said. The company did not incur any direct property damage, but did have to clean up the dust and debris from

the fire-fighting efforts next door.

General American has not filed any claims with its insurer to recoup the costs of its cleanup, the spokeswoman said. "We are investigating all our options, and we are talking to our insurers."

The city itself may seek compensation for its firefighting expenses, said Jim Fife, special counsel. "We hope to have the fire officially out by Saturday. Once that's completed, we'll focus on what our costs were over and above normal firefighting efforts."

The fire did "take its toll on some of the city's equipment," Mr. Fife said. But, the city plans first to collect whatever funds are available from the EPA and the Federal Emergency Management Agency, both of which compensate efforts to put out hazardous materials fires.

Indiana fire officials and the

federal Bureau of Alcohol, Tobacco & Firearms are trying to determine the cause of the fire, which could determine what coverage would be triggered to pay for damages and evacuation costs, as well as cleanup costs.

Clark Material has a \$1 million commercial general liability policy with United National Group in Bala Cynwyd, Pa., which replaced Classic Syndicate in April 1994 as the primary liability insurer.

Ken Garcia, vp of claims for United National, said that the CGL policy does not cover Rubber Material. "The location of the (fire) does not appear on our declaration page," he said.

The policy has an absolute pollution exclusion attached, he said. But Mr. Garcia could not say whether any liability from the fire could fall under that exclusion.

United National sent a reservation of rights letter to Clark Material explaining that the location of the fire did not appear as covered under the policy, and also alerting it to the pollution exclusion.

To date, the insurer has not received enough information to deny or provide coverage. "No third-party claims have been filed yet, and we don't have enough facts to ascertain any exposure," Mr. Garcia said.

Because Clark Material is not named in the complaint, "we have no exposure in the true sense of the word," he added. However, he noted, "If contractual issues arise, it would become part of our concern."

Clark Material and Rubber Material are named insureds under a \$1 million first-layer excess policy with Homestead Insurance Co., said Frank Peri, director of underwriting for the Secaucus, N.J., insurer.

The leasing agent, Prime Group, has premises liability coverage with Aetna Life & Casualty Co.

Until authorities determine the cause of the fire, it remains unclear what entity is responsible for the third-party claims arising from the blaze.

"That's the \$64,000 question," said Mr. Ranich.

Not only is general liability insurance at issue, but also property insurance.

Rubber Material and Clark Material insured three pieces of tire shredding equipment valued at \$100,000, \$125,000 and \$250,000 with Classic Fire & Marine Insurance Co. of Crown Point, Ind.

In April, Rubber Material asked its agent to eliminate coverage for two of the least expensive pieces of equipment because "it was no longer subject to any financial obligations," Mr. Ranich said. Despite follow-up calls by the agent to the insurer, it wasn't until three days after the company notified Classic Fire & Marine of the tire fire that it proceeded with the endorsement, he alleges.

A spokesman at Classic Fire & Marine, a unit of Concord General Group, verified coverage on one piece of equipment and said coverage for the remaining pieces had been discontinued effective April 27 at the policyholder's request.

That "will be a subject of litigation," Mr. Ranich said.

Two other small construction vehicles owned by Clark Material also were destroyed by the fire. Hartford Insurance Co. of the Midwest, a unit of ITT Hartford Insurance Group in Hartford, Conn., insured the vehicles and most likely will pay the claim. Prime Group owns the damaged 100,000 square foot warehouse. Details of any property insurance were not available. **BI**

Experience
+ Assets
Strength in Numbers

Since 1900, Skandia America Re has been doing business in the U.S. In fact, with 93 years of experience, we are the country's oldest continuing domestic reinsurer. Our core values are straightforward—to provide our customers with underwriting excellence and superior customer service, supported by state-of-the-art technology. And with total assets of more than \$1.4 billion, it's no wonder so many insurance professionals count on Skandia America Re for financial protection in the twentieth century and in the decades to come.



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A 2½ hour
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designed
to help
prevent
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Ameritech calls on HMO network manager

CHICAGO—Ameritech Inc. is enlisting the help of a national health care network manager to simplify the administration of its contracts with approximately 40 health maintenance organizations.

UltraLink Inc., a subsidiary of Fountain Valley, Calif.-based FHP International, is acting as an intermediary between Ameritech and its HMOs, explained Alan Peres, Ameritech's manager of benefit planning. UltraLink will conduct premium and benefit renewal negotiations and work with the HMOs on resolving problems. The firm will serve as a point of contact for all of the HMOs.

"It takes a lot of work to take care of 40 HMOs," Mr. Peres commented. Since Ameritech has been centralizing its benefit functions, it does not have the resources to adequately manage the networks, he said.

"UltraLink can help organizations such as Ameritech identify and administer the best local health care," said Armando Baez, president of Costa Mesa, Calif.-based UltraLink.

Ameritech has 66,500 active employees and nearly 54,000 retirees. Approximately 10% of the employees are enrolled in HMOs; a smaller percentage of retirees are HMO enrollees. Ameritech's employees are spread over five states.

Xerox Corp. has been successful in using network managers to alleviate the administrative burden of contracts with 204 HMOs around the country (*BI*, June 20).

—By Deborah Shalowitz Cowans

Benefit communications

COLUMBUS, Ind.—A year-long communications effort has helped Cummins Engine Co. introduce changes to its retiree medical benefit program and move more employees into a managed care plan.

The plan changes went into effect early this year at the Columbus, Ind.-based company and involved about 5,000 retirees and 3,000 current employees.

For about 3,000 Cummins retirees still living in southern Indiana, it meant changes in their health care benefits as well as the introduction of managed care. The 2,000 retirees in other parts of the country will face the same medical plan changes, but no managed care. The plan changes include raising deductibles to \$150 for single coverage and \$300 for families, up from \$50 and \$150 respectively, and the introduction of a 20% copayment, said Deborah Jones, health care communications director at Cummins.

About 72 meetings were held for retirees at various sites in the country, Ms. Jones said.

This was preceded by a letter from the company president explaining that spiraling medical costs had forced the company to make the changes. At the meetings, a videotaped message from the president was presented and senior managers explained the new changes in a business case context—how medical costs and inflation had added to Cummins' business costs.

A plan highlights booklet and a toll-free number that served as a benefits hotline were also made available.

Another communications strategy was used by the company to switch about 3,000 union workers to a managed care plan from a traditional indemnity plan. The workers, who were affiliated with the Diesel Workers Union, received an information-packed "pizza" box that included a videotaped message from the company president and union leadership endorsing the new plan.

Benefit Beat

In addition, special training was provided to union shop stewards to better disperse the message.

As a result, by the time the 10-week telephone enrollment program of people into the managed care plan was closed, 98% of union employees and 96% of retirees had signed on.

The greatest challenge was putting the "change into a context that would be meaningful to people on a personal level," Ms. Jones said.

—By Sameera Khan

Washington state reform

OLYMPIA, Wash.—The Washington Health Service Commission has

selected on a uniform package of benefits that employers in the state will be required to offer full-time employees.

The proposed package is the latest step in implementing the state's 1993 health care reform law, which will require employers to provide a "certified health plan" offering a uniform package of benefits to full-time employees and their dependents (*BI*, April 12, 1993). Employers are required to pay at least half the cost of the plan.

The benefits package is expected to cost an average of \$148 per employee per month, said a spokeswoman for the commission. The

package includes specialty and primary care, inpatient and outpatient hospital care and prescription drugs.

It calls for copayments ranging from \$15 per office visit to \$150 per day for a maximum of five days of inpatient hospital services. There is no copayment for preventive care.

The mandatory package will be phased in for employers with more than 500 employees beginning in July 1995.

"It's too expensive," said Julia Porter, governmental affairs manager for the Assn. of Washington Business, which represents 3,200 mostly small and medium-sized employers. "Many employers are looking at it and saying, 'I already provide that for much less.'"

However, the commission maintains that the basic package's price

would be consistent with what employers currently pay for similar employee health plans.

The six-member commission was created by the Health Service Act of 1993. The panel will hold several public hearings over the next few months on the health reform plan before making final recommendations to the Legislature in December.

Separately, several health care organizations in the state have formed the Washington Health Care EDI Group to link their information systems to operate more efficiently once reforms take effect. Among participants in the project are Blue Cross of Washington & Alaska and Group Health Cooperative of Puget Sound, a health maintenance organization in Seattle.

—By Roberto Cenicerros



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Confed

Continued from page 1

ized the 1991 failures of Mutual Benefit and Executive Life Insurance Co.

What prompted the U.S. actions was the Canadian government's Aug. 12 takeover of Confed Life. Regulators said that the Toronto-based company's real estate losses and slumping mortgage portfolio were compromising its liquidity (*BI*, Aug. 15). Confederation Trust Co., a banking unit, was also seized.

Action in all three jurisdictions includes suspending policy surrenders until further notice.

Immediately after takeover, the state of Washington independently issued a cease and desist order against Confed on Aug. 12.

In the United States, Confed wrote group and individual life and health insurance, and stop-loss in-

surance for self-insurers. Total U.S. net premiums written last year were \$1.05 billion Canadian (\$793 million).

Confed's 1993 group life and health net premiums written worldwide totaled \$194 million Canadian (\$146.5 million). Group pension and annuity business amounted to \$924.9 million Canadian (\$698.7 million) last year. Individual insurance and annuities amounted to \$1.08 billion Canadian (\$815.8 million).

The regulatory measures insulate Confed from a policyholder run and preserve its \$19.2 billion Canadian (\$14.5 billion) in worldwide assets. The company also has \$33 billion Canadian (\$24.93 billion) in assets under management.

Confed's Canadian liquidator, Peat Marwick Thorne Inc., said regulators in Canada have three goals:

- To ensure that Canadian group members are paid in full.

- To see that individual Canadian policyholders get paid the full value of current benefits from Canada's life and health guaranty fund.

A Peat Marwick Thorne spokesman said Canada's guaranty fund payment limits for individual investors are: \$200,000 Canadian (\$145,120) for death benefits, \$60,000 Canadian (\$43,536) for health benefits and \$2,000 Canadian (\$1,451) per month on annuities.

- To preserve the company's assets so that Canadian operations are more attractive to sell in pieces, as is required under Canadian law once an insurer is seized, or to make it possible to rehabilitate, as will likely happen in the United States.

"This could go on for a number of months. With surrenders suspended, we can move forward selling pieces of the company to the appropriate buyers for appropriate prices," said the Peat Marwick spokesman.

In the cases of Mutual Benefit

Life and Executive Life, policyholders had depleted millions of dollars of assets by the time regulators stepped in. Following the takeovers, payments to policyholders and creditors were delayed or cut under complicated rehabilitation plans.

Canadian law leaves regulators no choice but to liquidate a seized insurance company.

Sun Life Assurance Co. of Canada last week acquired Confederation U.K. Holdings P.L.C. in its entirety. Terms of the deal were not disclosed. Confed's U.K. operations had assets valued at \$1.9 billion as of year-end 1993 and profits of \$54.2 million Canadian (\$40.9 million).

Next on the block is Confed's group life and health unit—which covers more than 2,000 groups encompassing more than 1 million people—and then the company's individual life and health business.

Great-West Life Assurance Co., a unit of Montreal-based Power Corp., is likely to be among many bidders for the commercial business in Canada. Great-West had all but agreed to inject \$225 million into Confederation Life earlier this year, a move that probably would have stayed off regulatory intervention.

That deal ultimately fell through, as did a later planned investment of \$600 million from a consortium of U.S. and Canadian insurers. That's when the government intervened.

Great-West is also likely to assume control over much of Confed's U.S. group life and health operations, and already has in some cases, said a source familiar with Confed's U.S. business. Officials at Confed's U.S. office in Atlanta declined to comment.

In the aftermath of the takeovers, analysts insist that Confederation Life technically was not insolvent. Instead, Confederation Life was facing a liquidity problem and was very susceptible to a run by policyholders.

"Confederation Life's assets are not sufficient to give adequate protection to policyholders and creditors," said Doug Peters, secretary of state for international financial institutions, in issuing the takeover order.

Confederation Life reported 1993 assets of \$9.4 billion Canadian (\$7.10 billion) in the United States, \$7.9 billion Canadian (\$5.97 billion) in Canada and \$1.9 billion Canadian (\$1.43 billion) in the United Kingdom. The insurer reported liabilities of \$8.6 billion Canadian (\$6.49 billion) in the United States, \$7.8 billion Canadian (\$5.89 billion) in Canada and \$1.8 billion (\$1.36 billion) in the United Kingdom.

Confed's year-end statutory capital was \$1.2 billion Canadian (\$906.5 million).

Generally, life and health insurers try to have capital equal to 7% to 10% of liabilities. In Confederation Life's case, capital was roughly 6.6% of liabilities.

The insurer posted a consolidated net operating loss of \$29 million Canadian (\$21.9 million) for 1993.

"We see this action as forward planning," said Larry Mayewski, a senior vp with A.M. Best & Co. In the weeks before the takeover, Best cut Confed's rating to B++ from A-. Standard & Poor's Corp. also downgraded Confed to BBB+ from A+.

"The rating downgrades, the pull-outs by Great-West and the consortiums, and growing policyholder concern created a very tenuous situation. The feeling was that the company's position was weakening. Regulators knew there was interest for pieces of Confed, and they believed they could ultimately sell it in pieces if it was stable in structure," Mr. Mayewski said.

He said Confed was fast approaching a level of assets relative to liabilities where "even a small run would cause the selling off of its liquid assets, leaving it only with holdings in real estate. And, a full run would have seriously disadvantaged any policyholders left over."

"The vibes we were getting were that with industry intervention, they could make it through. However, it seems that Monday morning quarterbacking by potential investors showed them that they could do better by taking a piece of Confed during a wind down rather than putting money into the company," added Mr. Mayewski.

Shelly Harris, an analyst with Standard & Poor's Corp., said that when industry financing for Confed evaporated, the company was "clearly damaged and susceptible to a run by policyholders." Furthermore, she noted, that much of Confed's bank financing commitments are close to expiring.

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Opinions

No longer an experiment

Florida continues to report tremendous success with its two-year "experiment" to introduce managed care to workers compensation.

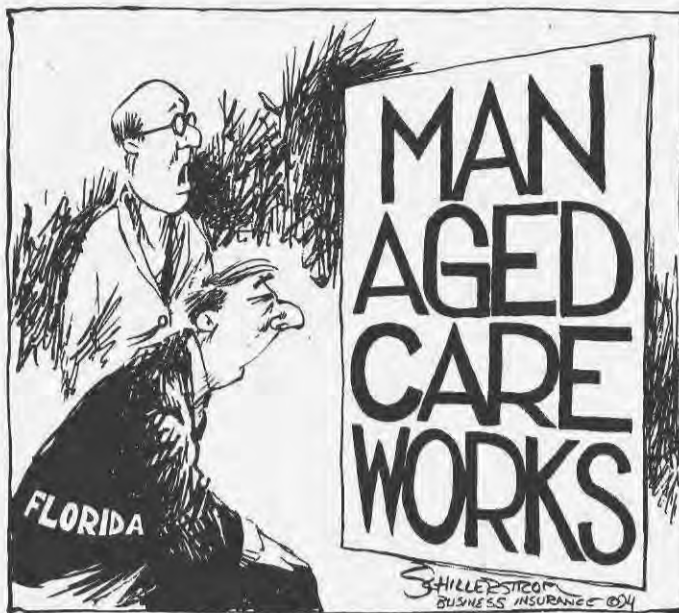
However, rather than declare victory and widen the program for potentially greater savings, the state continues to move slowly and cautions that those savings might not be replicated with other programs.

Why not? While it's true that the same degree of savings might not be realized in another plan, this program and countless others illustrate that managed care can lower employers' workers comp costs while maintaining employee satisfaction.

As we report on page 2, Florida's pilot managed care program has saved the state 50% in workers comp costs in its second year, compared with a control group in a traditional fee-for-service arrangement. That's on top of 38.5% savings in the program's first year. Not only has the cost containment trend been sustained, it's grown!

When this experiment was launched in 1991, it was among the pioneering efforts to introduce managed care to workers comp. Since then, the trend has snowballed, spreading to other states and proliferating among private workers compensation insurers and payers.

Research from the Workers Compensation Research Institute shows what managed care can do. A report released earlier this year shows that preferred provider networks can cut employers' workers comp medical costs by 14% to 50%, health maintenance organizations and capitation can cut costs 10% to 60% and utilization management can trim 5% to 15% off



costs (BI, March 14).

Although some aspects of managed care are not readily applicable to the complex workers comp environment because of political and legal considerations, the results indicate that savings can be achieved with measures available to employers—measures already in place in many areas of the country.

It is time Florida and others that have been slow to embrace managed care for workers compensation recognize that it is no longer an experiment—it works.

Close pension loopholes

We're glad to see that after months of ignoring the issue, congressional leaders are making a new push to pass legislation that would improve pension funding and shore up the financial base of the Pension Benefit Guaranty Corp.

Two House committees with jurisdiction over the PBGC have recently approved reform legislation, while Senate Finance Committee Chairman Daniel Patrick Moynihan, D-N.Y., also has pledged action.

Congress last passed legislation that was supposed to cure the PBGC's financial ills in 1987. Nearly seven years later, the shortcomings of the last legislative effort—and the need for greater reforms—are apparent.

The 1987 law had so many loopholes that some companies don't even have to come close to funding promised benefits. When those companies fail, the PBGC has to take over enormously underfunded pension plans. Over the long run, that increases the premiums employers pay to support the agency.

The new pension reform legislation would close many

of those loopholes.

One loophole, for example, now allows employers too much latitude in estimating the ages at which pension plan participants will die. To address this problem—really a gaming of the system—the new legislation would require greater uniformity in mortality assumptions.

The new legislation also would require more employers with underfunded plans to speed up contributions. Employers with plans that are less than 60% funded would have to fund any benefit increases within five years. That special funding standard now only applies to plans that are less than 35% funded.

Accelerating funding is common sense. If companies had to fund benefits more quickly, they would be more realistic in what they promise.

With the 20th anniversary of the Employee Retirement Income Security Act just around the corner, a fitting recognition would be enactment of legislation to ensure the financial viability of the federal insurance program that is one of ERISA's bedrocks.

Letters

Thinking 'outside the box' on outsourcing

To the editor: I read with interest your Aug. 1 article on outsourcing, "Outsourcing Regarded as a Necessary Evil by Some Risk Managers."

It is interesting to note that most of

the comments indicated that outsourcing all of the risk management functions to a broker doesn't make sense. I would agree.

I disagree, however, with the thought that "outsourcing risk management is a short-term, ineffective solution..." Why? Because since 1986 my firm has successfully served as a full-service risk management and claims department to several well-known Fortune 250 companies—and we are not a broker. Just recently we added another Fortune 250 firm to our fold.

The concept works, but it is highly dependent upon the commitment and competence of the service provider. Our cli-

ents would attest that we are far more involved and informed about them than their former risk management groups.

Thinking outside the typical box about outsourcing presents interesting opportunities for companies and their risk managers.

Both parties can win when risk managers are willing to outsource themselves, and then provide full services to their former employers and to others. To do so, however, does take someone who is willing to risk.

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Stress

Continued from page 2

- The Family and Medical Leave Act?
- Workers compensation?
- The Employee Retirement Income Security Act of 1974?
- The health care reform legislation now being debated in Washington?
- All of the above?

If you chose "all of the above," then you came to the same conclusion as a panel of employment lawyers who spoke on "Stress and other Workplace Illness" at the recent American Bar Assn. annual meeting in New Orleans.

"With the advent of the passage of the Americans with Disabilities Act in 1990, and more recently with the Family and Medical Leave Act, and of course with the new health care legislation by the Clinton administration on the way, we have found that there are a number of laws that interrelate on the issue of workplace stress," observed Marc L. Zaken, an attorney with Cummings & Lockwood in Stamford, Conn., who moderated the session.

Employers are caught between a rock and a hard place when it comes to defending lawsuits alleg-

ing discrimination related to stress and other workplace illness, said John B. Lashbrook, a partner with Conklin & Roadhouse in Chicago, during an interview that followed the panel discussion.

Employers are barred by law from making inquiries about an employee's medical history if they suspect a disability that would come under the ADA, he explained.

And the employer could face medical malpractice liability if a disabled employee receives inadequate treatment for stress-related condition from the employer's in-house employee assistance program, he added.

It's like walking a tightrope, acknowledged Kerry E. Notestine, a partner with Bracewell & Patterson in Houston, who also participated on the panel.

Fortunately, he said, employers win about 90% of such cases, though that doesn't stop employees who believe they have been discriminated against because of stress-related illnesses from filing suit.

In fact, plaintiff's attorney Marilyn D. Barringer of Oklahoma City recommended that lawyers seek every possible avenue for obtaining coverage on a disabled employee's behalf, whether through the work-

ers comp system or under the ADA.

"There is potential in any state for liability on the part of the employer for this lady's medical care," she said of the aforementioned hypothetical situation.

Ms. Barringer said that if she were this woman's lawyer, she would also sue the employer and the TPA for working together to develop a benefit structure that discriminates against individuals with mental problems that require emergency hospitalization.

"Would the precertification requirement be the same if the employee were in an auto accident?" she queried.

While the employer could not inquire about the employee's medical treatment in connection with her deteriorating job performance, the employer could ask if the overtime was a problem and offer to give her some time off without revealing any of her personal or medical problems, Ms. Barringer suggested.

"If she's exhibiting irrational behavior, the work management team should make an inquiry," she said.

While "most of us think of people in wheelchairs when we think of the ADA," mental disabilities like the hypothetical case described above "represent the second-highest number of claims under the ADA," Mr. Notestine said.

The most frequent type of disability claim filed under the ADA is for back impairment, he noted.

But mental disabilities are complicated, requiring employers to consider numerous factors before determining an employee's eligibility for accommodation under the 1992 federal law.

"You need to look at the nature, the severity and the duration of the disability," he said. As in the above example, the person may have a history of mental disability that could continue, "but a doctor may or may not say this is of long duration."

A broken leg is not a disability under the ADA. Similarly, this mental problem may not be a disability if it can be treated and cured, Mr. Notestine said.

"To determine if someone is covered (by the ADA) they have to have a mental impairment that substantially limits one or more major life activities," he said, adding, "Interestingly enough, the ADA has defined 'ability to work' as a major life activity. If it's bad enough that she leaves work, then that would be the basis for finding coverage" under the act.

But "it's not sufficient that she be unable to work at a particular job. If her stress level is too high for her to do that job (debugging the software), and she can do another job, she wouldn't have limitation of a major life activity," he explained.

Even though the employer is prohibited from calling the employee's physician to inquire about her medical state, the employer can send a letter to her doctor asking if she can continue to perform the functions of her job with reasonable accommodation, according to Mr. Notestine.

And if the employee says she needs some accommodation, the employer can ask her doctor what accommodations are necessary, he said.

Fortunately, employers have more rights under the Family and Medical Leave Act, which permits employers to ask for a diagnosis before granting leave.

And, most state workers compensation laws have been tightened in recent years to make it more difficult for employees to seek benefits if their job is not the predominant cause of a stress-induced illness, said Conklin & Roadhouse's Mr. Lashbrook.

Self-insured employers that restrict health benefits for certain illnesses still are protected for such actions under ERISA, but only if they do so indiscriminately, according to Roxella T. Cavazos, an attorney with Chamberlain, Hrdlicka, White, Williams & Martin in Houston.

But changes proposed under both the Clinton and Mitchell health reform plans would require self-insured employers to state specific reasons for denial of coverage and provide information on how to appeal the denial, reported Robert Fitzpatrick, a senior partner with Fitzpatrick & Verstegen in Washington.

Failure to do either would result in approval of the claim for coverage, he said.

While it's tricky to determine which law will apply in situations like the hypothetical example, there's one thing employers can always count on, said Vickie Vreeland, a lawyer with Gordon Thomas Honeywell in Seattle: The state or federal law that gives employees the greatest benefits will certainly be invoked. **BI**

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Advance planning for disasters crucial

L.A. officials review disaster response

By JOANNE WOJCIK

NEW ORLEANS—Los Angeles County's civil authorities have had a lot of experience preparing for disasters, whether natural or man-made.

"We've handled just about everything but the killer bee, and it's at our border," quipped Patrick O. Devaney, commander of the Los Angeles County Sheriff's Department.

But nearly 30 years of continuous debacles—from the 1965 Watts riots to this year's earthquake, brushfires and floods—haven't made authorities complacent in volatile Southern California.

"The importance of having a plan in effect at all levels of government cannot be overemphasized," stressed Los Angeles Municipal Judge Francis A. Gately Jr.

While few parts of the country experience disasters with the same frequency and magnitude as Southern California, "I'm not aware of any place on Planet Earth where you can say for sure that you'll never have to face an emergency situation," he said.

"I think it behooves everyone in government to prepare for and to anticipate the type of emergency that might arise" in their community, Judge Gately said.

Both city officials spoke during a panel discussion at the recent American Bar Assn. annual meet-

ing.

Mr. Devaney credited the 20-year-old Countywide Civil Justice Coordinating Council with enabling the region to survive the recent spate of disasters.

The council is composed of the L.A. County Sheriff's Department; the county Board of Supervisors; the county's chief administrative officer; the district attorney and public defender; the presiding judges of the county and municipal courts; the chairmen of the judges' associations; and the head of the county probation department.

Meeting monthly, the has developed a 30-page plan that must be updated continuously "because one of the things in it is everybody's name and phone number," said Judge Gately. "Think about that. In an emergency, how are you going to get hold of everybody?"

So far one of the most significant lessons the various disasters have taught county authorities is that information must be coordinated whether it is going to county personnel or to the general public, according to Mr. Devaney.

Governmental authorities also must have immediate access to additional resources and personnel from other communities to effectively mobilize against a threat, he added.

"Communication is extremely important," agreed Judge Gately. "You almost have to look at it as a military operation. It is really important to establish lines of com-

Continued on page 14



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- DISABILITY MANAGEMENT
- LUNCHEON SPEAKER - ALLEN IAMPAGLIA, RISK MANAGER, CITY OF GLENDALE, ARIZONA
- EMPLOYER CASE STUDIES
 - ▶ IN-HOUSE CASE MANAGEMENT WORKS
 - ▶ CARPAL TUNNEL SYNDROME CASES DON'T HAVE TO COST AN ARM
 - ▶ THE TRUTH AND CONSEQUENCES OF COMBATTING FRAUD
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- Reception

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AIDS in the workplace

By JOANNE WOJCIK

Employers advised to have flexible policy

NEW ORLEANS—A one-size-fits-all policy won't adequately protect employers from liabilities associated with employees who have tested positive for the virus that causes AIDS, employment lawyers say.

"It's a disease that's unique to each patient," explained Daniel Emerson of Bose, McKinney & Evans in Indianapolis.

Rather than implementing a uniform policy for employees who test positive for the human immunodeficiency virus or suffer from AIDS, Mr. Emerson advises employers to meet with the employee as soon as they learn of the infection and ask that employee what he or she wants to do.

"Fashion an individually modeled AIDS plan for this person," Mr. Emerson told a group of lawyers at the recent American Bar Assn. annual meeting.

ABA

"It takes some time, it takes some compassion and it takes some good will on both sides," he said. But an individualized approach will minimize exposure to liability under the Americans with Disabilities Act, which requires employers to make reasonable accommodations for employees with AIDS.

The ADA guidelines require employers to give employees with AIDS extra time for treatment,

such as prophylactic infusion therapy, according to Bless Stritar Young, a partner with Fulbright & Jaworski in Los Angeles, who moderated the session. Those guidelines also prohibit employers from discriminating against employees with HIV or AIDS in employee benefits, such as health insurance.

The session opened with the screening of a segment of "Philadelphia," the 1993 film in which a lawyer with AIDS successfully sues his firm for wrongful termination.

The law firm in the film did everything wrong, Ms. Young said.

But even employers that do everything right can be sued for the

way they handle AIDS exposure in the workplace.

Even though workers compensation applies to most employees' exposure to AIDS in the workplace, employees will sue if they think their employers were negligent, said Mr. Emerson.

As the rate of HIV infection increases among the general population, so does a company's

chances of having an employee who is HIV-positive or has AIDS.

According to the U.S. Centers for Disease Control in Atlanta, about one in 250 Americans is infected with HIV, and the overwhelming majority are people of working age who may be unaware of their infection.

Continued on page 16

Disaster

Continued from page 10
munication to maintain decision-making."

Coordinating how information is provided to the public will prevent the spread of rumors and might quell fears, Mr. Devaney said.

"There are too many people with some information willing to

talk to the media," he said. During the 1992 riots, early television reports estimated as many as 12,500 arrests, double the actual total of 6,000.

"What we found through our analysis was that the media would call the West Covina Police Department and ask, 'How many arrests?' And the clerk who got the phone call would answer, '500,'" he recounted.

But "what the clerk was actually giving to the media was the number of booking numbers drawn from the automated system we use in accounting," and not the actual number of arrests, he explained.

"So some reporter with a sharp pencil added up all these booking numbers, and that's how that 12,500 figure came up."

Inadequate damage assessments

'The riots were a media frenzy,' as were the brushfires and the earthquake, says Patrick Devaney.

that followed January's earthquake also led to the spread of rumors, according to Judge Gately.

To stop the spread of potentially dangerous rumors, Mr. Devaney recommends that organizations designate a single spokesman to disseminate information to all media, regardless of whether that person is communicating with the print or electronic media, or the domestic or international press.

"The riots were a media frenzy," as were the brushfires and the earthquake, he said.

And "the situation we're dealing with in a domestic violence case involving a very notable figure," he said, referring to O.J. Simpson, "is the most graphic example of media frenzy that I've ever witnessed."

Civil authorities faced with disasters also must be able to gear up for transporting large numbers of people, whether they are going to jail or being evacuated from a disaster site, said Mr. Devaney.

"Going back to our 1992 riots, in nine days, our transportation bureau transported 67,000 bodies from a jail cell someplace to a courtroom," he said. "The county's normal daily passenger load is around 3,000. Our transportation bureau has 75 56-passenger buses."

"Within the first three hours of the riot, we had an estimated 7,000 police officers on the street. Ultimately, we deployed 10,000, as well as 9,000 military and another 1,000 federal agents."

The riots, which were dispersed in pockets throughout the county, "certainly were beyond the capacity of the LAPD and the sheriff's and fire departments," said Judge Gately. "The legal system, of course, was greatly stressed."

But with the massive number of arrests, it was necessary for civil authorities in Los Angeles County to restore order "because people still have rights." **BI**

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AIDS

Continued from page 14

In addition, the CDC estimates that more than two-thirds of large workplaces—defined as those with 2,500 or more employees—and nearly one in 10 small employers—those with fewer than 500 employees—already have an employee who has AIDS or is HIV-positive.

And despite overwhelming medical evidence that AIDS cannot be spread by casual contact, the public remains fearful. In some cases, this fear has developed into hostility and discrimination toward suspected HIV carriers.

What happens if an employee suspects he or she has been exposed to the AIDS virus at work by another employee who has made his or her infection known?

"Everybody is going to blame everyone else," responded James Melancon, a plaintiff's attorney in New Orleans.

And the employer could be cited under the general duty clause of the Occupational Safety and Health Act, which requires employers to provide a safe working environment, added Mr. Emerson.

State workers comp laws will probably protect employers in such cases, though an employee who fears he or she has been infected

with the AIDS virus may still sue outside of workers comp, alleging intentional infliction of emotional distress, he said.

Workers comp laws may protect employers in some AIDS cases, says Bless Young.

Ms. Young cited as an example a 1993 Montana case in which health care workers were splashed with

AIDS-infected blood while using a medical device that a hospital had purchased secondhand to save money.

"The employer claimed work comp pre-emption and won," she said.

In another case, a hospital was sued by the wife of a hospital security guard who had engaged in unprotected sex with his spouse after he had been splashed with the blood of an AIDS patient.

The guard never became HIV-positive, yet he and his wife sued for emotional distress and loss of consortium, Ms. Young recounted.

Fortunately for the employer, the court found that workers comp

pre-empted the tort suit, she said.

"But people have recovered on fear of AIDS," she said.

Recently, for instance, a federal appeals court allowed a suit under the Federal Employers Liability Act for stress related to the fear of AIDS if workers came within a "zone of danger" of contracting the disease at work (BI, Aug. 8).

But such cases are rare. For the most part, employers today are more concerned with accommodating employees with AIDS under the ADA.

Plaintiff's attorney Mr. Melancon advises employees with AIDS to take legal action early because they don't know when they could develop a debilitating infection from the disease.

In addition to seeking time off for treatment, he said, most employees with AIDS are concerned about continued insurance coverage, usually beyond the 36 months prescribed under the Consolidated Omnibus Budget Reconciliation Act of 1985.

While self-funded employers are permitted to cut off coverage for AIDS patients under the Employee Retiree Income Security Act of 1974, most employers settle discrimination suits by continuing coverage, Mr. Melancon said.

"Go to any insurance company and they'll tell you they'd rather treat HIV than neonates because it's less costly," he said.

While the subject of discriminatory insurance policies hasn't been tested in court since implementation of the ADA, employers may be protected from liability if they have general limitations on certain categories of life-threatening illness, Mr. Emerson said. **BI**

Insurers derailing reform: Jackson

NEW ORLEANS—Any health care reform measure that Congress passes will be but a "shell" of President Clinton's original proposal to provide universal coverage, thanks to the successful lobbying efforts of the insurance industry, contends Rev. Jesse Jackson.

"The captains of the insurance industry show a greater interest in profits first and people second," Rev. Jackson said during a news conference that followed a speech at the American Bar Assn.'s annual meeting here.

"With each passing day, lawmakers are taking health care farther away from the people who really need it," he said. "I think President Clinton is determined to get something, but that something may be a shell."

Rev. Jackson also said the emphasis of U.S. health care delivery must shift from treating illness to prevention for the system to be cost-effective.

"Preventive care is a much cheaper care than desperation care when a patient is gasping for breath," he said, pointing out that most poor Americans only seek emergency medical treatment. "I am convinced that our very attitude about health care has to change."

Rev. Jackson's Rainbow Coalition supports a Canadian-style single-payer health care system.

—By Joanne Wojcik

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Clergy sex abuse suits

Churches taking risk management steps

By JOANNE WOJCIC

NEW ORLEANS—Churches of all denominations are developing strategies for handling allegations of sexual abuse by clergy members and to prevent future incidents of misconduct.

Defense experts say that churches that take an active approach to resolving claims not only are acting consistently with the values they espouse but also are taking the most cost-effective approach possible.

In most cases of allegations of sexual abuse by clergy, the plaintiffs' motivation is not financial compensation but rather the acknowledgment that the abuse occurred and the church's willingness to accept responsibility for it, said Michael P. Flammia, a plaintiffs attorney with the firm of Eckert, Seamans, Cherin & Mellott in Boston.

Unfortunately, responses to such cases so far have been inconsistent, as various churches—even those in the same denomination—act differently toward allegations of sexual misconduct.

"Even within the same church, you get widely different reactions," Mr. Flammia told a group attending a session on clergy sexual abuse at the recent American Bar Assn. annual meeting.

For example, some churches offer to provide immediate relief in the form of counseling, while others deny such misconduct could ever have occurred on their watch, he explained.

Indeed, such was the response by the Catholic Diocese of Columbus, Ohio, when it was approached by the family of a retarded boy who had contracted AIDS, allegedly from repeated sexual abuse while attending a facility for developmentally disabled boys formerly sponsored by Brothers of Good Shepherd, a church-affiliated organization. The facility has since been taken over by the state.

The case, which was filed last year, is still pending in Ohio.

Religious organizations are not like most institutional defendants, which accept the possibility of being sued as a cost of doing business and usually conduct a cost/benefit analysis to determine whether to settle or to go to trial, Mr. Flammia said.

"I'm not saying that churches, as soon as they get a claim, should write a check and fire the cleric—obviously, that's not realistic," he said. "But when you have a case where there's six, seven, eight, 50 people—all abused by the same cleric in the same church—in those cases it's clear that the plaintiffs will be able to prove what happened. The church failed to properly supervise that cleric. This is not a case of false memory.

"In those cases, there has to be a better response from the church, because if there is no resolution, there is going to be a lawsuit." Although these cases are difficult to handle, all of the attorneys on the panel agreed that parties involved should attempt to mediate their dispute rather than litigate.

"If there is a lawsuit, then the plaintiff and his church are going to be on opposite sides of a civil action," Mr. Flammia said. Such situations, regardless of the outcome, could result in the plaintiffs

losing their religion.

When sexual misconduct occurs, "the victim, the family, the religious organization and the community all are forced to reflect on a highly emotional problem," observed Robert M. Weber, an attorney with Wilson, Elser, Moskowitz, Edelman & Dicker in New York who defends religious institutions.

"Certainly no one wants the victims or the community to lose faith in their religious beliefs or their church because of one person who has acted improperly, wrongfully and in some instances criminally," he said.

Realizing that an ounce of pre-

vention is worth a pound of cure, churches increasingly are taking seriously the need for greater preventive health and wellness among employees, reported Rev. David M. Rider, director of clergy wellness for the Episcopal Church

Pension Fund in New York.

He said a group of legal, clinical and insurance experts sponsored by the Church Insurance Co., a captive that underwrites 85% of the liability coverage for the Episcopal Church, has identified five target areas for reducing the incidence of sexual misconduct:

- Prevention. Measures could include administrative safeguards

like screening and supervision of individuals working with youths and creative mental health benefits to steer troubled clergy into counseling and treatment.

- Early pre-claim management. The group suggested that churches work toward settling complaints early, before a suit is filed.

- Careful handling of adult counseling relationships.

- Understanding the dynamics of extrafamilial sexual abuse of children. Churches must consider the possibility that the abuse occurred in other, secular settings.

- Accountability of clergy redeployment.

"Once an evaluation of evidence indicates that sexual misconduct has occurred, institutions must follow careful quality control measures before even considering the possibility that an offender might return to work among vulnerable people," Mr. Rider said. **B**

How one insurer lays down the law

Every institution insured by Church Insurance Co. must take steps to prevent clergy sexual misconduct, including:

- Policy and procedure manual that proscribes abuse, harassment and exploitation.
- Background checks of clergy and volunteers who work with kids.
- Child abuse and harassment/exploitation prevention training.
- Churchwide guidelines for pastoral counseling.
- Accountability guidelines for redeployment of clergy who have been accused of abuse.

—By Joanne Wojcik

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PHOs

Continued from page 2

cian and hospital services, provider-hospital organizations' share of the risk and the premium can be as high as 85%. The HMOs with which they contract take only 15% for plan administration and marketing.

The percentage of premium that flows to PHOs can be even higher if they accept more risk, such as out-of-area care. A recent study of seven major HMOs by Healthcare DataBank, a managed care research firm in Santa Rosa, Calif., showed that provider organizations are assuming up to 92% of the HMOs' premium dollar.

"The issue is when do you cross the line from being a health care provider to being an insurer?" asked Dr. Peter Kongstvedt, a partner and health care consult-

ant in the Washington office of Ernst & Young.

"They don't call it risk for nothing. There will be some failures," he predicted.

While little data is available on

also publish a regulatory outlook for PHOs this fall, based on interviews with officials in all 50 states.

Meanwhile, since only a few states have established solvency

'The issue (of PHOs assuming risk) is when do you cross the line from being a health care provider to being an insurer?' asks Dr. Peter Kongstvedt, a partner and health care consultant in the Washington office of Ernst & Young.

the number of PHOs currently in operation, Ernst & Young has identified more than 250 integrated delivery systems and is beginning a study of their financial status, said Fred Abbey, national director for legislative and regulatory affairs. Ernst & Young will

requirements for PHOs, the National Assn. of Insurance Commissioners is beginning to develop a model law for regulating these entities, which some regulators have characterized as "stealth HMOs."

PHOs combine physicians, hospitals and other medical services into a single organization that contracts with insurers and/or HMOs to provide a full spectrum of health care services for a capitated fee.

While most PHOs assume a portion of the risk for providing the services, some PHOs have reached the nirvana of "global capitation," in which they are at risk for both physician and hospital services.

However, for now, most PHOs depend on insurers and HMOs for access to enrollees and for administration services.

A PHO is nothing more than "an umbrella company" for a hospital and an independent practice association of physicians, explained Dr. Thomas Mayer, president and chief executive officer of Strategic Healthcare Management Inc. in Brea, Calif., which helps organizations develop integration strategies.

Strategic is a unit of Friendly Hills HealthCare Network, a provider organization that has 27 contracts with insurance companies and HMOs covering 100,000 lives, takes all hospital and physician risk but does not conduct marketing or administration activities.

Other examples of fully integrated systems abound.

Sharp HealthCare in San Diego contracts with more than 45 HMOs or insurers on a capitated basis, covering about 280,000 lives.

"We're taking all the risk," said Marc Sandstrom, senior vp of legal and administrative systems. "The only thing the carriers do is the administration and the marketing."

A new PHO formed by Lutheran General Health System of Park Ridge, Ill., also will bear virtually all physician and hospital risk while contracting with HMOs, including Humana Health Plan of Illinois in Chicago.

"They take responsibility for paying all claims and for any emergencies in the metropolitan Chicago area. We continue to provide coverage for emergencies out of Chicago and for transplant and infertility claims," said Barry Averill, a vp at Humana of Illinois.

Lutheran General also purchases its own reinsurance and does its own quality reviews and utilization management, he said.

The ancestor of fully integrated provider systems is Oakland, Calif.-based Kaiser Permanente, which is viewed as a cost-effective, competitive model for provider systems of the future. Kaiser is a staff-model HMO that owns the hospitals and employs the physicians in its network. It has

Continued on next page

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PHOs

Continued from previous page
6.6 million enrollees in 12 regions nationwide.

Countless PHOs "are trying to become Kaiser," said David Langness, vp at the Hospital Council of Southern California.

Despite Kaiser's 50-year head start, PHOs eventually "could become competitors to Kaiser" as health care reform "plays right into their hands," Mr. Langness said.

"The dynamic that is changing to (PHOs) benefit is the growth of intermediaries like (health insurance purchasing cooperatives) and purchasing alliances," agreed analyst Doug Sherlock, owner of Philadelphia-based Sherlock Co., an analyst and HMO consultant.

With group health care purchasing alliances becoming a direct market for PHOs, the logical conclusion of providers taking on more risk is elimination of the middleman—the insurer or the HMO—that currently provides access to markets.

That would also eliminate significant administrative costs.

"Eventually, some mechanism has to be found to take the exorbitant administrative costs (borne by HMOs and insurers) and do away with them," said Mr. Langness. "Administrative costs represent 23% of health care costs in the U.S. vs. 8% in Canada—almost all of this in the administration and marketing of insurance plans," he said.

A single-payer system like Canada's would eliminate those costs, "but there is another way," namely to rely on fully integrated PHOs, he said.

Are HMOs frightened by this scenario?

The Group Health Assn. of America has no position on PHOs, but the HMO trade association believes all health plans should comply with uniform standards regarding solvency and quality issues, a spokesman said.

When a GHAA committee deliberated whether to allow PHOs into the organization, members were stumped by the endless permutations of integrated systems. "When you've seen one PHO, you've seen one PHO. They're all a little different," said Humana's Mr. Averill, who was on the committee.

The GHAA now permits integrated delivery systems like PHOs, "operating in a significantly similar fashion to an HMO," to obtain affiliate memberships.

While so far no provider groups are saying they intend to take on the administration and marketing as well, thereby eliminating HMOs and insurers, Mr. Averill said, "in the same breath they say that they're going to contract directly with the state for Medicaid, as though they were an HMO. And what's to prevent them from doing that with Medicare, and what's to prevent them from doing pure commercial business in the future?"

The reason provider groups are keeping their intentions quiet, according to Mr. Averill, is so they don't scare off the health insurers with which they now contract.

"There is certainly a section of the commercial market that the employer is not going to parcel out to individual systems, and (PHOs) want access to that business, and so I don't think they want to bite the hand that feeds them right now," he said.

"But who knows—five or 10 years from now, with health care reform, with various alliances being discussed? Indeed, they have the capability of quickly becoming HMOs, if that became the right strategy at the right time," Mr. Averill said.

It's also possible that PHOs will follow the path trod by HMOs and form marketing alliances with managed care organizations in other states to expand their geographic reach.

"Let's say you have 15 PHOs in Chicago, well-organized and successful. What's to prevent them from organizing together in a network to form an HMO?" Mr. Averill queried.

Indeed, Lutheran General Health System and EHS Health Care of Oak Brook, Ill., recently announced a proposed merger that would create a \$1.2 billion organization "capable of offering a full continuum of health care services to the entire Chicago region, from the Wisconsin to the Indiana borders," according to Richard Risk, EHS president and CEO.

Sharp HealthCare also has the infrastructure in place to become a health insurance company, says Mr. Sandstrom.

"What we don't have right now is the marketing capability to attract membership. But if the government takes on that role through a single-payer system or through alliances and says, 'Here are 70,000 members, can you take care of them?' we don't need an insurance company to do that," said Mr. Sandstrom.

In a move to attract more mem-

bers, Sharp and four other hospital-based managed care delivery systems, or PHOs, in May formed California Health Network "to allow us to jointly contract with other health systems to provide services on a statewide basis," Mr. Sandstrom said (BI, May 23).

"Our goal is not to cut out the insurance companies; we're prepared to take the members on however they come to us," he said.

"As 'super PHOs' move toward the development of regional programs, they have access to greater resources and typically as part of their development consider becoming insurers," noted Michael Anthony, a partner and chairman of the health law department at McDermott, Will & Emery in Chicago.

"All of the super PHOs we've worked with have considered the possibility. Some are definitely moving in that direction, but some have decided it's too capital-intensive," he said.

Strategic Healthcare's Dr. Mayer agreed. "The strategy of replacing insurance companies is a very market-specific strategy. I'm not sure it fits in Southern California, where there are many well-entrenched insurance companies."

"We don't envision being able to get those 100,000 members on our own," he added. "The difficulty in becoming an insurance company is that you enter into competition with those who were once your partners."

However, there is ample opportunity for PHOs to operate more like insurers in the Southeastern United States, and in other areas where HMO penetration is less than 15%.

What will slow the process is "where you have a market that is ripe you rarely have a (provider) system that is as integrated as Friendly Hills" in Southern California, Dr. Mayer said.

In fact, some PHOs are eager to become insurers before they are well-integrated as provider entities, Dr. Mayer said. "What we usually do is say, 'That's an option if it fits your market, but first you must make sure you have your own house in order.'"

"Another consideration is that in many markets insurers are not willing to give more risk away," he said.

Indeed, "when we capitate, we don't walk away from the risk. We have had to support many health care organizations," said Cheryl Pope, vp of Western Group Operations for The Prudential Insurance Co. of America in Los Angeles.

PHOs help lower coalition's costs

As new players in the managed health care market, physician-hospital organizations are putting competitive pressure on prices.

The Bay Area Business Group on Health, a San Francisco coalition of large employers, says that the growth of PHOs helped BBGH negotiate lower premiums with 17 HMOs earlier this summer (BI, June 27).

"Down the road, if (PHOs) have high-quality providers and perform the same functions as an HMO and do it more cheaply, I think definitely employers will look at them" for the possibility of direct contracting, said Patricia Powers, BBGH executive director.

"The proliferation of PHOs has definitely had downward pressure on pricing," agreed Steven T. Plochocki, chief operating officer of Abbey Home Healthcare in Costa Mesa, Calif.

"You'll always find an organization that will do business at a loss. Everybody tests the limits. If everyone comes in at five bucks and one guy comes in at four, that's the new threshold."

—By Joanne Wojcik and Louise Kertesz

For example, Prudential advances some capitation payments to providers should they come up short some months, she explained.

"There is a risk they will blow through the capitated payments," she acknowledged.

Insurance regulators are also wary of the migration of financial risk from insurance companies to PHOs.

"These docs don't have a clue what kind of risk they're taking on," said Dixon Larkin, Utah's deputy insurance commissioner. "They say, 'People self-fund all the time. We're just self-funding.'"

"But when providers take on that kind of risk for a capitation fee, they're selling insurance to third parties," he said.

Realizing this, Utah regulators plan to recast their insurance laws to link licensure and reserve requirements to the type of risk assumed by a health care provider rather than to what an organization is called.

Meanwhile, the NAIC's Health Organization Risk-Based Capital Working Group is developing solvency standards for PHOs.

Some states already have established minimum capitalization requirements for PHOs.

The MinnesotaCare bill signed by Gov. Arne Carlson on May 10 requires Community Integrated Service Networks that provide prepaid health services to 50,000 or fewer enrollees to maintain a minimum net worth of at least \$1 million.

Under Washington state's Health Services Act, PHOs must have at least \$1.5 million in capital.

California's Department of Corporations is considering whether it should permit providers to enter

into full-risk contracts without insurer links. In 1987, the department adopted a policy prohibiting health care service plans from entering into contracts transferring the full financial risk associated with patient care to a contracting provider entity.

Meanwhile, health insurance companies are scrambling to compete with the new entry in the health care marketplace.

Some, like Prudential, are building their own medical groups, while others, like Aetna Healthplans, are hiring providers to create Kaiser-like staff-model HMOs, which have proved to be more cost-effective than independent practice association and network models.

Kevin Hickey, vp at Aetna Healthplans in Chicago, concedes that provider groups that can get the capital and operational systems together could compete with Aetna.

"Then they'll be what we are. They might as well be us, or we might as well work with them and do what each party does best," he said.

In Minnesota, for example, "We provide the backroom services—enrollment, eligibility, billing and claims payment" for the free-standing provider networks created by the reform law, Mr. Hickey said.

Other insurers, like CIGNA Corp., have been buying up provider groups to own the delivery systems and stave off potential competition from them.

Some observers suggest that group health care purchasers will view these insurer-owned systems as more stable because their parent company is already being regulated. BI

RHH combines its fine art operations

CHICAGO—Rollins Hudig Hall Group Inc. has combined the specialized arts expertise and resources of four subsidiaries into an alliance called the Rollins Hudig Hall Global Art Group.

Alliance members Artscope International in Europe and the United Kingdom, Huntington T. Block Insurance Agency Inc. of Washington, and Nicholson Leslie Group of London will jointly provide services to museums, galleries, dealers and collectors around the world.

The fine art brokerage unit will offer services through the offices of its Chicago-based parent Rollins Hudig Hall.

New risk consultant

SHELTER ISLAND, N.Y.—Richard F. Denning, former president and CEO of Risk Sciences

Markets

Group, has launched his own risk management consulting firm, Richard F. Denning & Associates.

The new consulting firm will specialize in bringing new information technologies to risk management, with an emphasis on improving data quality, creative analysis and effective communications.

Clients will include risk management departments, insurers, third-party administrators and brokers.

Richard F. Denning & Associates is located at 14 Tarkettle Road, P.O. Box 568, Shelter Island, N.Y., 11964. The telephone number is 516-749-1535 and the fax number 516-749-1541.

Hospital risk adviser

Gene M. Marsh, former CEO of California Hospitals Affiliated Insurance Services Inc., has founded Pacific Risk Management.

The Roseville, Calif.,-based firm will initially focus on the insurance and risk management needs of hospitals and health-care systems resulting from mergers, integration and health care reform.

The firm's services include consulting, development and management of alternative risk financing structures.

Pacific Risk Management is located at 775 Sunrise Ave., Suite 230, Roseville, Calif., 95661; 916-783-2440.

Adjusters team up

CHICAGO—A joint venture between adjusters Toplis & Harding

Inc. of Chicago and McLarens of London will provide claims handling and related services for international companies.

Privately held McLarens Toplis Inc. will have access to about 1,500 employees at 300 offices in 34 countries. Services will include property, casualty, liability, special risks, claims management, workers compensation and services in the marine, aviation and travel industries.

New offices

Burns & Wilcox Ltd. has opened a branch office in Morehead City, N.C. The new office is located at 225 Professional Circle, Morehead City, N.C. 28557; 919-726-8992, fax: 919-726-9484. The company also now has a Cleveland-area location at 6133 Rockside Road, Suite 201 Independence Ohio

44131; 216-447-0858, fax: 216-447-1017.

Amwest Surety Insurance Co. has moved its Los Angeles-area office to Glendale, Calif.: 330 N. Brand Blvd., Suite 550, Glendale, Calif. 91203; 818-246-5353, fax: 818-246-2535.

Boston-based ITT New England Management Inc. has opened a London branch office at 13 Fenchurch Ave. The telephone number is 071-369-2108 and the fax number 071-369-2199.

Willis Corroon Corp. has relocated its New York offices to 7 Hannover Square, New York, N.Y. 10004-2594; 212-344-8888, fax: 212-344-2770.

Belle Meade Group Inc. has relocated to new offices at 6 W. Hubbard St., Chicago, Ill. 60610-4606; 312-923-9095, fax: 312-923-9099.

Rollins Hudig Hall of Texas has expanded its office and relocated to Texas Commerce Tower, 2200 Ross Ave., Suite 1700, Dallas, Texas 75201; 214-978-6600, fax: 214-978-6650.

Property/casualty leaders

| Top 10: Net premiums written | 1993 total (in billions) |
|--------------------------------|-----------------------------|
| 1. State Farm | \$30.34 |
| 2. Allstate | 16.07 |
| 3. AIG | 9.98 |
| 4. Farmers | 8.33 |
| 5. Nationwide | 7.29 |
| 6. Continental Casualty | 6.06 |
| 7. Liberty Mutual | 5.86 |
| 8. Hartford Fire | 5.36 |
| 9. Aetna | 4.52 |
| 10. United Services Auto Assn. | 4.18 |

| Top 10: Surplus | As of year-end 1993 (in billions) |
|-------------------------------|--------------------------------------|
| 1. State Farm | \$21.29 |
| 2. National Indemnity | 11.53 |
| 3. AIG | 7.16 |
| 4. Allstate | 7.15 |
| 5. Travelers Indemnity | 4.11 |
| 6. Nationwide | 3.99 |
| 7. General Re | 3.84 |
| 8. Continental Casualty | 3.59 |
| 9. United Services Auto Assn. | 3.51 |
| 10. Hartford Fire | 3.31 |

| Top 10: Assets | As of year-end 1993 (in billions) |
|-------------------------|--------------------------------------|
| 1. State Farm | \$57.10 |
| 2. Travelers Indemnity | 47.72 |
| 3. AIG | 30.63 |
| 4. Allstate | 28.40 |
| 5. Continental Casualty | 23.85 |
| 6. Liberty Mutual | 20.57 |
| 7. Nationwide | 17.46 |
| 8. Aetna | 16.73 |
| 9. National Indemnity | 15.56 |
| 10. Hartford Fire | 15.02 |

Source: Ward Financial Group

GRAPHIC BY JERRY PAFKS

Life/health leaders

| Top 10: Group life in force | As of year-end 1993 (in billions) |
|-----------------------------|--------------------------------------|
| 1. Metropolitan Life | \$827.70 |
| 2. Prudential | 513.66 |
| 3. Connecticut General | 455.52 |
| 4. Aetna | 288.94 |
| 5. John Hancock | 170.72 |
| 6. Travelers | 128.56 |
| 7. Principal Mutual | 98.08 |
| 8. New York Life | 97.59 |
| 9. UNUM Life | 95.16 |
| 10. Hartford Life | 90.93 |

| Top 10: Surplus | As of year-end 1993 (in billions) |
|---------------------------------|--------------------------------------|
| 1. Prudential Life | \$8.00 |
| 2. Metropolitan Life | 6.41 |
| 3. New York Life | 3.45 |
| 4. Teachers Insurance & Annuity | 3.17 |
| 5. Connecticut General | 2.03 |
| 6. Northwestern Mutual | 2.03 |
| 7. State Farm Life | 1.87 |
| 8. Equitable | 1.83 |
| 9. Massachusetts Mutual | 1.82 |
| 10. John Hancock | 1.81 |

| Top 10: Assets | As of year-end 1993 (in billions) |
|---------------------------------|--------------------------------------|
| 1. Prudential | \$165.74 |
| 2. Metropolitan Life | 128.23 |
| 3. Teachers Insurance & Annuity | 67.48 |
| 4. New York Life | 53.57 |
| 5. Aetna Life | 51.54 |
| 6. Connecticut General | 48.37 |
| 7. Equitable | 47.31 |
| 8. Northwestern Mutual | 44.06 |
| 9. John Hancock | 43.69 |
| 10. Principal Mutual | 40.07 |

Source: Ward Financial Group

GRAPHIC BY JERRY PAFKS

Ward's 50

Continued from page 3

ments and balance sheets also are included.

In addition to comparing the insurers with the Ward's 50 insurers, the reports rank the companies as an industry and in 40 property/casualty insurer peer groups and 27 life/health insurer peer groups, which are categorized by premium volume or asset size, geography, product mix and type of ownership.

The smaller insurers not included in the numerous rankings throughout the reports are listed in back of each report with several, though fewer, financial measurements.

The reports also include several Top 50 rankings of insurers by, for example, assets, surplus, combined ratio, various investments, net premiums written in various lines and various performance measurements.

Larry Mayewski, senior vp of A.M. Best's life/health division, said the reports do provide users with financial ratio analysis but that those numbers "only get you so far" and could be misleading.

For example, he said, a measure that shows an insurer has a high concentration of mortgage and real estate investments would not reflect if those investments are in relatively safe home mortgages, or if that company had been divesting those investments.

But Mr. Ward says the report's five-year trending of company results would give users a clear picture of whether an insurer's mortgage investment portfolio was shrinking.

Mr. Ward illustrated how the reports can be used in tandem with a rating agency.

For example, Casualty Indemnity Exchange of Jefferson City, Mo., had an A rating from Best when it became insolvent in April 1993 (BI, April 12, 1993). The rating is not Best's highest but is still considered an excellent rating.

At year-end 1992, months before it entered voluntary rehabilitation, the company—which wrote multi-peril coverage for public entities and some small businesses—reported a \$17.3 million surplus deficit. The deficit was caused by a 1992 year-end loss reserve correction of \$26.9 million, particularly for incurred-but-not-reported losses.

"Because of the suddenness and the magnitude of events, that's why there was such a discrepancy in the ratings. Usually you see a pattern developing" that gives the agency

time to respond and adjust the rating, said William Matthews, a senior financial analyst in Best's property/casualty division.

Despite the A rating, a risk manager first should have questioned why CIE did not earn Best's highest rating, Mr. Ward said. Then, a check of the company's risk-based capital and surplus-to-assets ratios in the 1992 Ward's Results report, which is based on financial information from 1987 through 1991, would have revealed that CIE's ratios were somewhat, though not significantly, lower than its peer group and industry averages.

More telling was its net written premiums-to-surplus ratio of 2.1 in 1991 and 2.6 for a five-year period. A 3.0 ratio generally triggers regulatory action.

By contrast, its peer group had 0.9 ratio in 1991 and a 1.1 five-year average, and the property/casualty industry had a 1.2 ratio in 1991 and a 1.5 five-year average.

"It wouldn't be fair to say the 1992 edition made it obvious that this company was heading for trouble," Mr. Ward said. However, "there were a handful of red flags that might have gotten an analyst or someone to look at it" more closely.

Several current and former members of Ward Financial's advisory councils agree that Ward's Results complement the information that rating agencies provide.

The information that insurance buyers can glean from both tools probably should account for 90% of the insurer-selection process, said William D. Warren, chairman and president of National Reinsurance Corp. of Stamford, Conn., a Ward's 50 company. The remaining 10% of the decision should be based on price and service, he said.

He added that if insurance buyers work at understanding insurance accounting and risk and look carefully at the Ward's Results reports, they will see "some interesting things in loss development."

Insurance buyers first may want to evaluate potential markets using rating agencies' reports, suggested Thomas O. Toale, a senior consultant with Alexander Consulting Investment Services Inc. in Lyndhurst, N.J., and a member of the life/health advisory council. Then, buyers can evaluate each insurer on their lists of likely markets with the Ward's Results benchmarks.

Insurance buyers also can use the Ward's Results and rating agency reports in tandem to evaluate the strength of a company's reinsurers, said Peter R. Kensicki, a professor

of insurance and chairholder of insurance studies at Eastern Kentucky University in Richmond.

Buyers can use a rating agency like Best to identify a market's reinsurers, then analyze them based on the benchmarks that the Ward's Results have identified.

"If anyone relies on just one tool, they're not doing their job," said Marge Layne, insurance manager for the San Francisco International Airport.

Ms. Layne is using the Ward's Results report on property/casualty insurers as well as rating agency information as she pulls together both an insurance program to cover a \$2.4 billion construction project at the airport and a report to senior airport management on how she will select the insurers.

The analysis will make her and senior management feel more secure that the insurers they choose will be around for the duration of the five-year project, she said.

Ms. Layne, who assumed the risk management duties at the airport within the past year, also believes that this additional analysis will strengthen management's faith in her. "The more you communicate with management, the better you are. I'm in the financial department, so the more tools I use reflects better on me and the job I'm doing." Ms. Layne took a one-year leave from Ward Financial's property/casualty advisory council this year because of the attention she had to pay to the construction project.

For midsized insurance agents that do not have the financial resources that alphabet brokers can commit to developing their own insurer financial measures, the reports are "excellent, cost-effective" tools, said Thomas E. Vanneman, vp and treasurer with Indianapolis-based Acordia Inc. Mr. Vanneman is a member of Ward's property/casualty advisory council.

Insurers use the reports to get a fix on where they fit in with their competition and to map out their long-term business strategies.

Insurers not only can compare themselves to peer companies, they also can evaluate the companies with the financial results they want to emulate—no matter how different a product mix those companies offer or locations they serve, Professor Kensicki said.

The property/casualty and life/health Ward's Results reports are available for \$495 each by contacting Ward Financial Group at 513-791-0303.

Making the list requires high performance, security

By DAVE LENCKUS

Property/casualty and life/health insurers that land on the Ward's 50 list of the safest and best-performing insurers have to fly a steady financial course over what can be a turbulent five-year period.

Just one navigational error in the several areas by which Cincinnati-based Ward Financial Group measures insurers' solvency and business performance will likely be one too many for an insurer to make the list.

Ward Financial develops the lists annually as benchmarks by which risk and employee benefit managers can measure their insurers against the industry's safest and best-performing companies.

When either the solvency measure or the business performance measures of a Ward's 50 insurer is analyzed independently, a company may not rank at the top of the industry, though it still will compare favorably with most other insurers. It is the combination of the financial safety and business performance of a company over a five-year

period that sets a Ward's 50 insurer above the rest of the industry.

The makeup of the lists has changed significantly in two of the four years that Ward Financial has published them, but that is largely due to changes in the firm's methodology in determining which insurers make the lists.

Ward Financial uses much the same methodology in determining its lists of the 50 strongest property/casualty and life/health insurers, but there are some differences.

The process is purely quantitative. Only insurers' statutory financial results filed with state insurance regulators are considered.

Ward Financial obtains information on 2,921 property/casualty insurers and 1,722 life/health insurers licensed in the United States from the National Assn. of Insurance Commissioners. The data is obtained on a computer tape, which is loaded into Ward Financial's computers.

With the aid of computer programs developed by Ward Financial Chief Executive Officer John

Continued on next page

Rankings

Continued from previous page

L. Ward, a former partner with Big Six accounting firm Deloitte & Touche, the firm analyzes the information and subjects each company's financial results to a battery of safety and consistency tests.

Failing one of the safety and consistency tests eliminates the company from further analysis.

To pass this initial phase, insurers must:

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

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

The surplus requirement was added in 1992, the second year of the reports, based on a recommendation by the firm's property/casualty and life/health advisory councils. While the firm does not want to be biased against smaller companies, "minimum surplus is a part of a safety test," Mr. Ward explained.

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

"This test will eliminate any company that has not been consistently profitable for the past five years," Mr. Ward asserted.

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

"It's definitely a judgment call," Mr. Ward explained. "In our view, some of those items really reflect

the operating performance of the company."

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

In addition, for mutual life/health insurers, Ward Financial figures that up to 1% of surplus reflects that portion of a policyholder dividend that represents a return of capital, much like a stockholder dividend at a stock company.

So, beginning in the 1994 report on mutual life/health insurers, the firm adds up to 1% of a life/health mutual's surplus, not exceeding the actual policyholder dividend, to net income in determining its adjusted net income.

The firm does not add any surplus to net income for mutual property/casualty insurers because those companies rarely pay policyholder dividends. Policyholder dividends over the most recent five-year period totaled 5.5% of net premiums earned for life/health insurers compared with 1.4% for property/casualty insurers, Mr. Ward noted.

In addition, a Ward Financial analysis shows that its policy has not hurt the few property/casualty mutuals that do pay policyholder dividends, he said.

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

Ward Financial established different risk-based capital ratio guidelines for property/casualty insurers and life/health insurers so a comparable number of companies from each group become eligible for

the business performance portion of the analyses.

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

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

The net income test trips up property/casualty insurers more than any other test, according to Mr. Ward. "A lot of companies have been through catastrophes and natural disasters" in the past five years. Often the one loss an insurer suffers one year is enough to eliminate them, he said.

The risk-based capital test most often snares life/health insurers, he said.

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

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

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

There have been some significant changes in the Ward's 50 lists.

The minimum surplus requirement knocked out between 25% and 33% of the insurers on both 1992 lists, which were based on financial information for insurers from 1987 through 1991, he said.

And, the new way that Ward FI-

nancial accounts for policyholder dividends in determining mutual life/health insurers' net adjusted income was largely responsible for a 15-company—or 30%—turnover in the Ward's 50 list of life/health insurers for 1994 compared with 1993, Mr. Ward said.

He also pointed out that the list of property/casualty insurers is churning at a rate of about four or five companies annually because of the catastrophic losses that insurers

have suffered in recent years.

In some cases, losses have amounted to 10% or more of surplus, which automatically knocks a company from consideration.

In other cases, the losses cut the insurers' five-year average of adjusted net income enough to drop them from the list. Those insurers typically already ranked near the bottom of the list, so even a slight drop in net income imperiled their position. **BI**

Florida

Continued from page 2

ery system which results in cost containment," said Robbie J. Simpson, risk services specialist with the Florida Insurance Department and coordinator of the project. "However, it cannot be emphasized enough that the components of the managed care program selected have a great deal to do with the outcome."

A poorly constructed or badly run managed care organization could cause workers comp costs to increase, she noted.

Despite the caveat, Florida regulators are pleased with the pilot program's results and earlier this year expanded the number of state employees covered by the program.

The two-part pilot program was mandated by a 1990 state workers comp reform law that called for an evaluation of whether managed care could contain workers comp costs.

The first part of the project began in June 1991 with 17,000 state employees in Dade and Broward counties. Half of those workers were required to receive treatment for work-related injuries through a managed workers comp network op-

erated by CAC-Ramsay Inc., a Coral Gables, Fla.-based health maintenance organization; the other half served as a control group, receiving care through a traditional fee-for-service arrangement.

The second part of the project began in October 1991 with more than 7,500 private-sector employees in the Tampa Bay area receiving workers comp care through a preferred provider network sponsored by Travelers Corp.

A study of the first year of the program showed a 38.5% decrease in workers comp medical costs as a result of these managed care programs (*BI*, Oct. 18, 1993).

After reviewing the findings, the Legislature in November 1993 mandated that all employers in the state implement a managed care program for injured workers beginning in 1997 (*BI*, Nov. 15, 1993).

The second year of the pilot program produced even greater savings. A comparison of the Ramsay program participants with the control group revealed an average overall savings of 50% to 55%.

Specifically, total direct claims costs for the participants in the Ramsay managed care program av-

Continued on next page

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GLOBAL FOCUS

Global Focus will appear for the first time as a regular section in 1994. Published quarterly, this section will be distributed exclusively to non-U.S. subscribers.

| PUBLISHING DATES | AD CLOSING DATES |
|------------------|------------------|
| February 14..... | February 2 |
| June 13..... | June 1 |
| August 22..... | August 10 |
| November 14..... | November 2 |

Florida

Continued from previous page
eraged almost 60% less than the average costs in the control group. Accounting for the managed care program administrative fees, average costs for the Ramsay group were 54% below the control group.

Most of the difference in direct claims costs is attributable to the effectiveness of the Ramsay program components, which resulted in:

- Less frequent use of hospital services.
- Fewer treatment sessions and fewer physicians treating injured workers.
- Lower incidence and shorter duration of indemnity benefits.

Savings also were produced by "other considerations" in Ramsay's managed care program, including a

15% discount off the Florida fee schedule and the fact that Ramsay participants were treated with a less costly mix of services.

Savings also were reflected in the analysis of the Travelers managed care program's second year. Total direct claims costs for Travelers PPO participants averaged almost 34% less than the average costs in the control group. After adjusting for differences in utilization and medical treatment between the control group in South Florida and the Tampa/St. Petersburg area, direct claims costs averaged 28% less in the PPO.

After factoring in managed care administration fees, average total claims costs for workers using the Travelers PPO were 29% less than the control group.

The analysis of the project also found employee satisfaction with the managed care program was high.

In general, workers who used the HMO or PPO were satisfied with the overall quality of care and satisfied that the treatment was appropriate. They also expressed satisfaction with the explanations given by health care providers and were pleased with the level of control they had over their treatment decisions.

In February, Florida expanded the number of employees in Broward and Dade counties covered by Ramsay to 20,000 from 17,000.

It is significant that the first year's savings were replicated during the second year of the study, said Philip S. Borba, a senior consultant in the New York office of Milliman & Robertson Inc., a consulting firm that

conducted the analysis. Many critics of managed care say that savings, especially those based on discounts, cannot be sustained over time.

"This study showed that a managed care program doesn't have to be in place for a while in order to achieve savings," Mr. Borba said.

Tom Gallagher, Florida's insurance commissioner, called the conclusions "positive proof of the potential that managed care has for providing long-term solutions to rising workers compensation costs."

Workers comp reforms are starting to have an impact on costs in Florida, according to Jim Nau, senior vp of government affairs for the National Council on Compensation In-

urance in Boca Raton, Fla. To battle rising costs, the Legislature in 1990 mandated a 25% rate decrease, but the following year rates increased 24.9%, he said. In 1993, however, workers comp rates rose only 8.9% and a special legislative session in November 1993 mandated a 10% decrease for 1994. "Our analysis for 1995 shows no rate change is needed," Mr. Nau said.

One free copy of the Workers Compensation Managed Care Pilot Project per individual is available by contacting the Florida Department of Insurance, 200 E. Gaines St., Tallahassee, Fla. 32399-0337; 904-922-3121, ext. 4780.

California

Continued from page 2
which pays one of the highest premiums, rates dropped to \$27.20 from \$34.09 per \$100 of payroll. For the computer programming industry, which pays one of the lowest premiums, rates fell this year to 45 cents from 55 cents per \$100 of payroll.

Gov. Pete Wilson deserves much credit for aggressively pursuing reforms, said William P. Molmen, general counsel for the California Workers Compensation Institute, a San Francisco-based industry research organization. It is still too early to separate the reforms' impact from other factors, however.

One factor is the economy. Because the economy appears to have bottomed out, the pool of workers who file claims when facing layoffs has diminished, Mr. Molmen said.

"There have been positive changes, and California as a result is more attractive," Mr. Molmen said.

The report recognizes that it is still too early to quantify the exact impact of reforms. But the 25-page document also states that as a result of 1993 reforms, employers are already realizing savings.

Rates will decline still further this year, projects the Workers Compensation Insurance Rating Bureau.

Workers comp loss ratios fell to

51% in 1993—the lowest level in more than 20 years—from 83% in 1991, the bureau points out.

The 1993 reforms included limits on fees paid for medical-legal evaluations. They now are capped at \$500, compared with \$1,000 to \$1,500 under the old schedule.

The 1993 law also limited psychiatric injury and post termination claims. In the past, claimants only had to show that 10% of their stress was job-related. Now employment must account for more than 50% of stress for a claim to be compensable.

Last year's legislation also made \$25 million a year available to the Department of Insurance's Bureau of Fraudulent Claims and district attorney offices (BI, July 26, 1993).

"These provisions all became effective on or before July 16, 1993, and undoubtedly led to the demise of major workers compensation fraud mills in Southern California," the report says. "These mills spent millions of dollars in the expensive Southern California media market, commonly advertising for disgruntled or laid-off workers to file retaliatory stress claims."

Free copies of "Meaningful Reform of Workers' Compensation in California" are available from the Department of Industrial Relations, 455 Golden Gate Ave., San Francisco, Calif. 94102; 415-703-4590.

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Issue of August 22

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INTERNATIONAL

Brokers link up for new European network

By DON LEWIS KIRK

LUXEMBOURG—A new European brokerage network with German, Austrian and French parents is betting on the whole proving to be greater than its parts.

The new network will concentrate on offering more complete service to midsize multinational European companies.

Earlier this summer, leading German broker Funk Group GmbH merged its foreign brokerage operations with those of Diot S.A. of Paris and GrECo International A.G. of Vienna, Austria. The resulting joint venture, called FDG, is located in Luxembourg, though it draws on the services of the three brokers in their respective countries.

In addition to commercial retail brokerage, FDG provides centralized risk management consulting services to corporate clients, said Leberecht Funk, chief executive officer of Hamburg-based Funk Group.

Diot, Funk and GrECo are combining only their foreign brokerage interests; they are not fully merging, he explained. The move is designed to strengthen the international business of each partner and benefit multinational clients.

Jean-Paul Chapellier, Diot's director, said he would not rule out an eventual complete merger of the three brokers. "But at this stage the important thing is investing in European expansion and maintaining independence in our home markets."

From its parents, FDG can draw on more than 900 brokers and 41 offices in 11 countries. It is managed by a board of directors made up of representatives from each brokerage partner.

"We see ourselves as the first transnational European broking association," said Mr. Funk.

"We are trying to build a network...that is stronger than a standard correspondence brokerage," Mr. Chapellier said. "It consolidates all foreign operations. It gives us more room for investment."

Each firm eventually will divert 25% of its capital into FDG, Mr. Funk said.

"All revenues earned through future companies outside our national markets will go into the FDG," Mr. Chapellier added.

Friedrich Neubrandt, GrECo's director, said the move made sense for several reasons. "Austria is moving toward becoming a member of the European Union. We needed a solution, which gave us a perspective for expansion. Also we may be the smallest, but we believe we have the potential for greatest growth of all three brokers."

Since its formation, FDG has launched a new operation in Warsaw called FDG-Polska Sp.zo.o. and plans to expand its base in Spain and in the Czech Republic, where it hopes to become a leading broker.

Adding to the breadth of international services FDG offers clients are ties its parent companies have with brokers in other countries, particularly in North Amer-

ica and Asia. Combined, the FDG partners have correspondent relationships with brokers in 72 nations.

"The new venture also offers its services to other qualified brokers," said Mr. Funk.

Funk Group entered into the joint venture as the most cost effective means of expanding its European operations, Mr. Funk explained.

"We'd rather have 250 people directly in France and 180 in Austria, Hungary and the Eastern European countries and 450 in Germany," he said. "We wish to become really European."

Among the options Funk Group considered was merging with another German brokerage or trying to sell itself to a global brokerage.

Continued on next page

Insured losses still undetermined after coal mine explosion kills 11

By KATE TILLEY

BRISBANE, Australia—It may take months to determine the insured losses from an Aug. 7 fire in an underground coal mine in Queensland that killed 11 workers.

The men were trapped when a fire followed an explosion in one of four shafts at the Moura mine, 280 miles northwest of Brisbane. Rescue attempts were abandoned

recent Porgera gold mine explosion in Papua New Guinea (BI, Aug. 15).

The Moura mine is 80% owned by Broken Hill and 20% by the Japanese company Mitsui through a joint venture company, BHP Mitsui Pty. Ltd., Mr. Reynolds said. It is managed by Broken Hill's wholly owned, Brisbane-based unit, BHP Australia Coal Pty. Ltd.

It is the second major loss at the Moura mine—in 1986, 12 men died there in an underground fire—and the third loss in 20 years at a mine in that region. In 1975, 13 men were killed in an underground fire at the nearby Kianga mine.

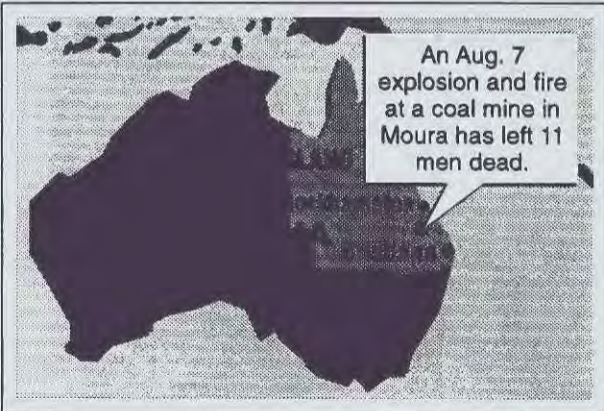
Mr. Reynolds said he had "no idea" how long it would take for the claim to be adjusted. "It will take months for the material damage and potentially longer for the business interruption."

He would not disclose the policy limits but said Broken Hill has substantial retentions and noted that its captive has excess-of-loss reinsurance placed in the international markets, mainly with Lloyd's of London.

"We hold a fair bit ourselves," he said, declining to be more specific about Broken Hill's retention. The captive has operated since 1973 and its excess-of-loss reinsurance, which Mr. Reynolds said was "a fairly large package," is due for renewal next March.

The workers killed in the blaze were insured under the state-run workers compensation system. In

Continued on page 26



GRAPHIC BY JOHN HALL

after a second fire occurred on Aug. 9 and the mine shaft is now being sealed. A buildup of methane gas is believed to have caused the fire.

The mine is majority owned by Australia's largest corporation, the Broken Hill Proprietary Co. Ltd.

Material damage and business interruption coverage was written by Broken Hill's captive, Melbourne-based BHP Marine & General Pty. Ltd., confirmed Alan Reynolds, the captive's managing director. No claim has yet been filed and it is too early to assess the damage, he said.

The captive has retained adjuster Murray L. Rowley, a mining specialist with Robins MBS Ltd., a loss adjusting firm owned by Switzerland-based Societe Generale de Surveillance. Mr. Rowley also is adjusting losses from the

Profits come to Hungary

Fledgling insurance industry is now poised for growth

By DON LEWIS KIRK

BUDAPEST, Hungary—As Hungary pulls up from an economic nose-dive, the nation's insurance industry is positioning itself for new growth.

Until very recently, even the nation's liberal regulatory policies did not foster growth in the industry. Total premium volume fell steadily from 1988 through 1992, falling 4% to 59.7 billion forints (\$723.5 million) in 1992 from 62.2 billion forints (\$828.2 million) in 1991.

Only in 1993, two years after the onset of a harsh recession that dashed hopes for an economic turnaround, did the nation's liberal economic policies begin to translate into growth in the insurance market: Premium volume jumped 25% to 73.3 billion forints (\$674.4 million) over 1992 levels.

That growth, though, comes against a backdrop of instability. As Eastern Europe moved into the post-Soviet era, this small country with a population of 10.4 million gained multiparty democracy and free markets, but also rampant crime, rising unemployment and 20% inflation.

It was 1986 when Hungarian state insurance monopoly Allami Biztosító was split in two and later sold separately to Allianz A.G. Holding of Germany and Dutch insurer Aegon N.V.

In the last five years, the number of insurers has more than doubled—to 13 from six—and between 1991 and 1992 the number of brokers swelled to 135 from 107, according to the Hungarian State Insurance Supervisory Authority.

The largest brokers are GrECo International Kft. of Austria, Sedgwick Group P.L.C., Marsh & McLennan Cos. Inc. and Jauch & Huebener KGaA, according to the state agency.

The largest insurer is the Allianz subsidiary, Hungaria Biztosító Rt, which controls 38.3% of the market. It emphasizes automobile, reinsurance and export credit insurance business, according to Tamas Uzoonyi, director of the Allianz subsidiary.

AB-Aegon Altalanos Biztosító Rt. is the largest underwriter of household and life insurance, and has a 30% share of the overall market.

"Falling prosperity, high inflation, unclear ownership conditions and an end to certain forms of compulsory insurance hurt the market" in the late 1980s and early '90s, said Brigitte Bovermann, director of Allianz's East European division.

During 1991 and 1992, several foreign companies entered the market, including Providencia Biztosító, which is 75% owned by Erste Allgemeine-Generali Vienna; NBB, wholly owned by Nationale-Nederlanden N.V.; and life insurer Budapest-Generali Biztosító, which is 80% owned by EA-Generali Vienna and 20% owned by Assi-



Photo by Hans Wolf/Image Bank

Like other Hungarian businesses, the insurance industry had to overcome the aftermath of communism, including inflation and a long recession.

curazioni Generali S.p.A.

The only purely Hungarian company, OPT-Garancia, a subsidiary of Hungarian savings and loan bank association OTP, has increased its market share to 2.7% from 1.3% since 1991.

Initially an underwriter of foreign trade risk, it plans to soon expand into both life and non-life coverages. Its prospects are good as the entire market is showing signs of revival. In addition to the Hungarian market's 25% premium volume increase, losses fell 17.4% to 42.1 billion forints (\$510.2 million) in 1993.

Hungary's economy is hardly flourishing. GDP is expected to remain flat this year or grow only 1%. Nevertheless, that represents a dramatic turnaround from 1991 when GDP fell 11.9%.

"With the recession tapering off, we expect to be making our first profits next year," said Ms. Bovermann. "Commercial lines will see stronger growth than private lines."

The insurance market is still vastly underdeveloped compared with other European markets. Hungary's gross premium volume is currently 2.07% of GDP, compared to 8.2% in Switzerland, 5.7% in Germany and 5% in Austria.

That disparity is especially pronounced in life insurance. Life sales are 3.5% of GDP in Germany, compared with only 0.27% in Hungary. According to a Hungarian National Bank report, non-life insurance volume is now six times that of life insurance.

Next year, Hungarian insurers expect to profit from an economic upturn as increased net consumer income makes personal lines more attractive. And commercial lines should also improve, said Rolf Aldar, insurance broker for German insurer Gerling Konzern A.G.

"The money problem still exists," Mr. Aldar

Continued on page 25

INTERNATIONAL

FDG

Continued from previous page

But instead of being acquired by one of the leading U.S. or British brokers, the German brokerage decided "we should extend our scope throughout Europe directly," said Mr. Funk. "That meant merging."

Austrian broker GrECo will be the key to FDG's operations in Eastern Europe.

"It's the reason they're a partner," Mr. Funk said. "The GrECo people already had offices in Prague (Czech Republic), Bratislava (Slovakia) and Lubiana (Slovenia). They cover the Eastern Euro-

pean countries fairly well."

GrECo is the leading broker in Austria, Hungary, and the Czech Republic. "The largest brokers have become lax and slow," Mr. Neubrandt said. "We have a dynamic that they lack. Our cooperation allows us to expand and pool resources in property loss control and casualty loss control, in captive administration and reinsurance brokerage business."

Through Diot, the partnership gains operations in Spain. Diot also has locations in Indonesia, Singapore and Saudi Arabia, though Mr. Funk said the primary focus of FDG's operations initially will be Europe.

FDG's brokerage operations will center on the larger middle-sized corporate clients, said Mr. Funk. "It is the most interesting and profitable sector. Ideally we want the client with \$1 million to \$5 million in premium that does not have an in-house brokerage," he said.

"We have been very successful in acquiring new business in the mid-size sector," he said of the Funk Group. "It's tremendous. We had 15% growth last year. It started with German reunification but it's been similar in Austria and France. They all are progressively and dynamically growing."

Having giant global clients can

'The largest brokers have become lax and slow,' says Friedrich Neubrandt. 'We have a dynamic that they lack.'

enhance a brokerage's image, but are difficult to manage from a European base, said Mr. Funk. While Diot, for example, has several large multinational accounts, the main focus of FDG is the mid-size independent client looking to do business in Germany, France and Eastern Europe.

Merging the three brokers' foreign operations will allow the brokerages to better coordinate their foreign strategies, said Mr. Funk. "With Europe integrating, this is essential."

Accounts will be administered by the FDG partner that focuses on the region in which a client is located.

"(Diot) is looking after Spain. We look for Poland, the Netherlands and Scandinavia and GrECo will look for some Eastern European countries. It's one for all," Mr. Funk explained.

Christian Dahms, a Jauch & Huebener partner and prime-force in promoting the UNISON brokerage network, said, "It's very similar to UNISON. We also pool resources in property loss control, casualty loss control and building in the environmental area."

Mr. Dahms sees the move as a safeguard for independence. "It

could become a model for other medium and small brokers that find themselves in the same struggle as to what to do strategically," he said.

Mr. Neubrandt insists FDG is different than UNISON, however. "There is no dominance of players in our effort," he said.

About 95% of FDG's business will be commercial retail brokerage, said Mr. Funk. "Initially we plan little wholesale and reinsurance brokerage business. That could change if we see the London market is not operating at best."

In addition to brokerage services, FDG is interested in providing risk management services and helping clients set up alternative risk funding mechanisms, like captives.

"We are doing it already," said Mr. Funk, referring to Funk Group. "We have risk management services and they are offering alternatives to clients. Much has gone sour with traditional insurance."

In addition to risk management services, Mr. Funk said FDG is also considering expanding its operations to include claims administration.

"We have a liaison with Arthur J. Gallagher & Co. Inc. that could lead to something and gradually build up."

The initial alliance might become a springboard for sharing revenues in the future, he said. "One idea could be that the holding company owns a 25% share in the partners. But initially the plan is to remain independent with people who know their local markets best." **B**

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INTERNATIONAL

Hungary

Continued from page 23
said. "Companies still tell us they'd rather invest in machinery than insurance. But it's happening less often."

"The commercial sector is also more aware of insurance solutions," he said. "Large international brokers and insurers in Hungary have helped raise the level of knowledge about risk," he said.

For instance, since the end of Communist rule, Hungarian com-

panies have become increasingly aware of insurance concepts like business interruption, product liability and environmental liability, as well as alternative risk financing methods.

panies have become increasingly aware of insurance concepts like business interruption, product liability and environmental liability, as well as alternative risk financing methods.

"The situation is much like Austria. Commercial fire insurance is most in demand, but so is liability—including product liability—and marine and technical insurance," he said.

Hungarian companies still balk at buying insurance to cover business interruption losses, Mr. Aldar added. Most of the companies only produce for domestic consumption, and they do not con-

sider interruption of that business a threat.

At least six insurers have developed group accident policies with a wide variety of rates and benefits for companies.

Insurance companies are writing more product liability coverage after new product liability reform laws took effect on Jan. 1, increasing consumer protection, said Mr. Aldar.

The product liability laws are meant to prepare Hungary for European Union integration and are based on E.U. directives. Hungary's reforms impose strict liability on manufacturers, although Hungary allows more defenses than the E.U. recommends, according to Tomislav Boric, an assistant professor at the Graz Law Institute in Graz, Austria.

"Industry has relatively limited coverage compared to agriculture in Hungary," according to market analyst Eva Ebli, a professor at the University of Belgrade and a former member of Hungary's State Insurance Supervisory Authority.

"This is particularly the case when it comes to technical and business interruption. Areas of product liability and workers compensation have also been neglected," he said. "Personal lines and accident insurance were not substantial, and health insurance has existed only within the framework of social security."

As the situation improves, insurers are expected to boost rates, Ms. Ebli said. The market will also profit from factors like the predominance of one-year policies.

"As a result (of one-year policies), insurers can make rapid adjustment to claims," Ms. Ebli said.

However, premium increases of 60% to 70% per year will also diminish insurance volume, predicts Swiss Reinsurance Co. in a recent report on Eastern Europe.

While insurers expect a profit in 1995, nothing is certain.

"The high trade deficit, unemployment and a recent change in government are instability factors," Ms. Bovermann said.

"But we are confident when the restructuring phase ends, that companies will be able to pay for the insurance they need," she added. ■

Willis must pay for wrongful dismissal

LONDON—Willis Corroon P.L.C. will have to pay 18,000 pounds (\$27,774) in damages after an industrial tribunal recently found that the London brokerage had wrongfully dismissed a former aviation broker.

The tribunal found that Samantha Phillips, who was fired in 1992 allegedly for lying to a Lloyd's of London underwriter, would have been treated differently had she been a man in the male-dominated insurance industry.

But the tribunal denied her request for damages for alleged sexual harassment.

Ms. Phillips had claimed that Giles Wilkinson, head of Willis Corroon' aviation brokerage department, persecuted her and engineered her removal after she spurned his amorous advances in a Copenhagen hotel nightclub during a business trip to the Danish capital.

A spokesman for Willis Corroon said the company is pleased that Mr. Wilkinson had been cleared of the harassment charges but described the 18,000 pound award as "unfortunate."

Ms. Phillips is now working as an insurance journalist.

—By Adrian Ladbury

Companies still tell us they'd rather invest in machinery than insurance. But . . . less often,' says Rolf Aldar.

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INTERNATIONAL

Mine

Continued from page 23

Queensland, businesses are required to insure with the government's Workers' Compensation Board. The maximum payout for death on the job is \$94,000 Australian (\$69,607) under the quasi-no-fault system. But the workers' families still have common law rights to sue BHP Australia Coal if they can prove negligence.

It's likely common law claims would be made against the mine op-

erator in relation to the latest deaths, though evidence of fault is difficult to collect once the mine shaft is sealed, said Andrew Vickers, president of the United Mineworkers' Union in Queensland.

Common law claims arising from the 1986 deaths at the Moura mine are still before the Supreme Court of Queensland.

Murray Hohnen, manager-external relations for BHP Australia Coal, said the QWCB made workers comp payments totaling \$600,000 Australian (\$444,300 at current exchange rates) following the 1986

deaths. He said there was concern about the delay in the common law claims going through the court. "There have been delays... some of which have resulted from detailed official inquiries and the need by claimants to bring witnesses from overseas."

The United Mineworkers' Union, which is taking the case on behalf of six women whose husbands died in the 1986 Moura fire, brought experts from overseas to give evidence on mine safety, Mr. Vickers noted.

The original 1986 claim was against Thess Dampier Mitsui Coal

Ltd., which operated the mine at the time but has since been taken over by BHP Australia.

"We have to prove negligence against the company, that the proper steps for safety and protection were not taken," Mr. Vickers said. He said the widows were seeking \$3 million Australian (\$2.2 million) in compensation.

An inquiry blamed the 1986 fire on flame safety lamps, which are now banned underground.

A spokesman for the QWCB said the trial was expected this year or next. He said the union had to prove

BHP Australia knew of the risk and did not take adequate precautions.

"It's a very complicated case. It's not uncommon for things like this to take this amount of time," he said.

Australia has major export contracts with Japan for its coal. Broken Hill's seven central Queensland coal mines, which produced 37.9 million tons, generated earnings in the year ended May 31 of \$2.43 billion Australian (\$1.8 billion).

Broken Hill has just opened a new \$250 million Australian (\$185.1 million) underground mine 155 miles north of Moura. **BI**

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UNITED STATES BANKRUPTCY COURT Southern District of New York Bk. No. 93-B-46013 (PBA)

IN THE MATTER OF BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED

NOTICE IS HEREBY GIVEN that Gareth Hughes and Anthony Joaquin, as Joint Provisional Liquidators of Bermuda Fire & Marine Insurance Company Limited (the "Company"), have obtained an extension through January 26, 1995 of the Preliminary Injunction from the United States Bankruptcy Court for the Southern District of New York first issued on December 14, 1993 which Preliminary Injunction (a) enjoins the commencement or continuation of any judicial action, arbitration proceeding, any administrative or regulatory action or proceeding against the Company or any of its property in the United States; (b) enjoins the enforcement of any judicial proceeding, arbitration award, administrative or regulatory proceeding to create, perfect or enforce any lien or other claim against the Company or any of its property in the United States; and (c) requires all persons to turn over and account to the Joint Provisional Liquidators for all funds resulting from the drawdown of letters of credit in excess of what is expressly authorized by the terms of the contracts and any related trust or other agreements pursuant to which such letters of credit have been posted, in their possession, custody or control after written demand for turnover and accounting is made by the Joint Provisional Liquidators against such entity. Copies of the Preliminary Injunction have been provided to all known parties in the United States. Any party who has not received one should contact counsel for the Joint Provisional Liquidators at the following address:

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| Sub-total | 27,859 |
| Associations | 371 |
| Government, Unions and Educational Institutions | 986 |
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| Insurance Companies | 8,258 |
| Accountants, Actuaries, Attorneys & Consultants | 3,576 |
| Managers & Health Care Providers | 1,941 |
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For the Record

Chubb unit disputing D&O liability claim

NEW YORK—Federal Insurance Co. is trying to rescind the directors and officers liability coverage it wrote for two former directors of Leslie Fay Cos., a New York dressmaker that filed for bankruptcy last year amid a scandal over false financial reporting.

In a suit filed in U.S. District Court in Manhattan, the Chubb Corp. unit contends that the \$25 million per-occurrence policy should not apply to Donald F. Kenia and Paul F. Polishan because it excludes claims from "any deliberately fraudulent act or omission or any willful violation of any statute."

Another exclusion bars payments under the policy if directors gain personal profit to which they are not legally entitled.

The two directors made claims under the policy after being named in a 1993 securities lawsuit that alleged they fraudulently overstated the company's finances.

Andersen covered for S&L settlement

SACRAMENTO, Calif.—Arthur Andersen & Co. says it has insurance for at least part of the \$1.7 million it paid to settle a dispute with California's Board of Accountancy, which alleged the firm was negligent in its audits of failed Lincoln Savings & Loan Assn. and other companies.

The board charged that Andersen was grossly negligent in auditing Lincoln, its parent, American Continental Corp., and A&B Loan Co.

Initially, the board had sought to remove or suspend the Big Six firm's license. "This settlement reaffirms that our license to practice in California was not and is not at risk," the firm said in a statement.

Andersen last year settled with the Resolution Trust Corp., paying \$82 million for two claims that its negligent audits led to the collapse of several thrifts, including Lincoln (BI, Aug. 9, 1993).

In settling with the Board of Accountancy, the firm also agreed to:

- Decline any finance company as a new audit client for 60 days. The agreement is limited to Andersen's California practice.
- Perform 10,000 hours of public service.
- Conduct seminars for partners, managers and staff of the firm's auditing and accounting department.
- Require 300 hours of audit experience for certain partners, managers and staff assigned to audit a depository institution.

Inflation index could trim 401(k) benefits

WASHINGTON—A new inflation indexing formula approved by the Senate Finance Committee would reduce benefits that can be funded through defined benefit plans, contributions made to defined contribution plans and salary deferrals to 401(k) plans.

Under current law, the defined benefit plan limit—now \$118,800—is tied to the Consumer Price Index. The \$30,000 per participant limit for defined contribution plans has been frozen for several years. But it will rise in step with the CPA once the maximum funding limit for defined benefit plans hits \$120,000, as expected next year.

By contrast, under the provision approved by the Finance Committee as part of trade legislation, the

funding and contribution limits would be increased in \$5,000 increments by rounding down to the nearest multiple of \$5,000. For example, if the cost of living increase produced a \$12,000 increase before rounding, the actual increase permitted would be \$10,000.

In the case of salary deferrals to 401(k) plans, rounding of annual deferral increases would occur in \$500 increments, rounding down to the nearest multiple of \$500.

As part of the transition to the new rounding procedure, only the first nine months of inflation this year would be considered in computing the new limits for 1995.

In future years, the cost-of-living increase would be measured over a 12-month period ending Sept. 30.

A similar formula is in a pension funding bill approved last month by the House Ways and Means Committee (BI, July 25).

Fewer hurricanes predicted for 1994

FORT COLLINS, Colo.—There will be one severe hurricane in 1994, according to a professor who has predicted hurricane activity successfully in the past.

William Gray, a professor of atmospheric science at Colorado State University in Fort Collins, forecasts a total of four hurricanes this year and seven named storms.

Those figures and other factors indicate that hurricane activity in 1994 will be only about 55% of an average year. This is the fourth consecutive year of below-average activity, he said.

His 1992 prediction of four hurricanes, including one severe storm, was fulfilled. The one severe storm was Hurricane Andrew, the costliest natural disaster in U.S. history.

In June, he predicted five windstorms and hurricane activity of 70% of average. Changes in the forecast factors led to the revision.

The predictions are based on the strength of El Nino, a recurring weather current that flows along the western coast of South America; the direction of winds in certain levels of the atmosphere; rainfall, temperature and pressure readings in West Africa and Atlantic and Caribbean pressure readings.

There is no way to predict whether the storms will hit the U.S. coastline, Mr. Gray said.

Nintendo to fight award in patent infringement

NEW YORK—Nintendo of America Inc. is asking a federal judge to throw out a jury verdict and award of \$208.2 million in damages in a patent infringement suit by a now-defunct rival gamemaker.

Nintendo does not purchase specialty patent-infringement coverage, said Thomas G. Gallatin, partner at Mudge Rose Guthrie Alexander & Ferdon in New York, which represented Nintendo.

Earlier this month, a jury in U.S. District Court in New York awarded the damages to AlpeX Computer Corp., a Colorado company now being liquidated in U.S. Bankruptcy Court in Denver. Two months earlier, the jury had found Nintendo guilty of charges of "willful" infringement of an AlpeX home video game patent.

The jury concluded Nintendo had copied AlpeX technology in its Nintendo Entertainment System, which hit the market about 1985, as well as in the 118 game cartridges used in the NES until 1992.

Garamendi awards funds for fraud fighting

LOS ANGELES—California Insurance Commissioner John Garamendi has awarded \$11.9 million to 20 district attorneys offices statewide to investigate and prosecute workers compensation fraud.

"If we want to put the brakes to the staggering rise in workers' compensation fraud, we have to put money and resources in the hands of prosecutors," Mr. Garamendi said. "These funds will go directly toward putting crooked doctors, lawyers and claimants out of business and behind bars."

The funds include a \$5 million grant to Los Angeles County, a \$1.17 million grant to Orange County and a \$1.2 million to San Diego County.

Los Angeles County District Attorney Gil Garcetti will receive the largest of the 28 grants because of the county's high concentration of fraud scams.

Uranium plant workers settle with government

CINCINNATI—The U.S. Department of Energy recently reached a \$20 million settlement of a class action lawsuit filed by uranium workers alleging they were unknowingly exposed to radiation for 30 years.

The government late last month agreed to pay \$5 million in lifetime medical monitoring costs and \$15 million in damages.

The settlement would effectively end a 1990 class action lawsuit filed by the employees of the Fernald uranium plant, near Cincinnati, who sought \$500 million in damages. However, the settlement is subject to a fairness hearing later this year by the U.S. District Court in Cincinnati.

More than 6,000 former workers, subcontractors and families of workers who are dead would be covered in the settlement.

The suit accused Fernald's previous operator, NLO Inc. and its parent company, National Lead Industries Inc., of intentionally subjecting workers to radiation hazards and hiding the dangers. The workers claimed they suffered emotional distress from the fear of getting cancer

or leukemia. The \$15 million in the settlement will cover emotional distress claims and legal fees.

NLO operated the plant from 1951 to 1985, after which it was operated by a subsidiary of Westinghouse Electric Corp. However, the Energy Department is liable for the claims under contracts with the plants' operators.

EEOC complaint names Del Laboratories exec

NEW YORK—The U.S. Equal Employment Opportunity Commission is suing Del Laboratories Inc., claiming the cosmetic company's chief executive officer sexually harassed numerous female employees over a four-year period.

In bringing the suit against Farmingdale, N.Y.-based Del on behalf of three named plaintiffs and other female employees, the EEOC is seeking up to \$300,000 for each named plaintiff.

James Lee, the EEOC regional lawyer on the case, said the suit against Del differs from most harassment suits the agency has pursued because it involves the alleged actions of a top executive, thus eliminating the most common defense in sexual harassment cases—that the company was unaware of the improper conduct.

The suit alleges that since 1990, Chairman and CEO Dan K. Wasong continuously engaged in a pattern and practice of both physical and verbal sexual harassment of female employees, who were then discharged for resisting his advances or resigned due to intolerable working conditions.

In a statement, Del said the allegations are "completely without merit and the claims have no basis in fact. We deny these baseless allegations and will refute them in court."

Information in brief

Five new rates proposed by the California Assigned Risk Auto Plan for commercial policies for trucks, buses, taxis, limos and van pools will be the subject of an upcoming rate hearing. The hearing will be held at 9:30 a.m. on Oct. 7 in the Insurance Department's 22nd floor

hearing room at 45 Fremont St. in San Francisco. . . . Utah Insurance Commissioner Robert E. Wilcox has approved an immediate 4.24% increase in prospective loss costs used by insurers to develop workers comp rates. . . . Centre Reinsurance (Bermuda) Ltd. completed the acquisition of Anglo American Insurance Co. of London and is preparing it for runoff (BI, June 6). . . . Eli Lilly & Co. says that when it completes its \$4 billion purchase of PCS Health Systems Inc. it will consider arrangements that would give other drug companies a stake in PCS (BI, July 18). . . . Golden Rule Insurance Co. of Lawrenceville, Ill., is suing the state of Kentucky, claiming the state's new health care law is unconstitutional. The insurer says the law effectively bars any health insurance contracts that renew after its July 15 effective date because it mandates that insurers offer one of five standard benefit plans that have not yet been developed. . . . Atlantic Mutual Insurance Co. has raised \$40 million in a private placement. The money will be used to increase the paid-in capital of subsidiary Centennial Insurance Co. . . . The Defense Department is expected to announce by Sept. 30 which of four health insurance companies will provide medical benefits for 840,000 military beneficiaries in California and Hawaii. . . . The Reinsurance Assn. of America and the Assn. of California Insurance Cos. have sued the California Insurance Department, charging that the department improperly limits insurers' and reinsurers' right of setoff of mutual credits and debts within a single reinsurance contract. . . . The Delaware Insurance Department has formed an insurance fraud investigation unit to handle suspected life/health, workers compensation and automobile insurance claims fraud. . . . A federal court judge in Atlanta has dismissed all but one count contained in a lawsuit filed earlier this year by dozens of famous old-time musicians who sued record companies as well as their union for \$750 million in overdue pension and health benefits (BI, Feb. 28). U.S. District Judge Clarence Cooper ruled that the musicians can pursue their case against record companies only for violating federal racketeering laws. **BI**

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No end in sight to soft market

Alternative market, crowded field
keeping prices down, Swiss Re says

By ADRIAN LADBURY

U.S. insurance buyers may never face another rapid hardening of property/casualty insurance rates, a Swiss Reinsurance Co. report suggests.

An overcrowded U.S. market and competitive pressure from alternative facilities will keep insurance rates from hardening in the United States as they have in London and elsewhere, according to a recent report by the world's

second-largest reinsurer.

Absent massive natural catastrophes and extraordinary market shocks, buyers can expect smoother price cycles, the Swiss Re report says.

"With the exception of catastrophe reinsurance, the main features of the P/C market are still oversupply, bad profitability, falling prices in casualty business and stagnating to slightly rising prices in property business. Moreover, competition from the alternative markets is stifling the leeway for price rises in traditional insurance," the report states.

Supply continues to outstrip demand for insurance despite recent catastrophic losses and poor profits. In 1993, supply increased "substantially faster" than demand and has done so since 1988, especially in casualty business, the report says.

But, capital seems to have stopped flowing into the market, which could help restrict further growth in supply and facilitate gradual rate increases, Swiss Re predicts in the report.

Smoother price cycles could remove a major incentive for good U.S. risks to flee the market in favor of alternative vehicles. The alternative insurance market accounted for \$62 billion, or 31%, of total premiums in 1993, compared with \$138 billion, or 69%, for the traditional market, according to Swiss Re.

In addition, alternative market premiums grew twice as fast as traditional market premiums—increasing 30% compared with 15%—between 1988 and 1992, Swiss Re said.

Swiss Re noted that differences in the regulatory cultures in Europe and the United States are increasing. As Europe deregulates, the U.S. regulatory system seems to become more complicated. The report points to the "frosty" relations between U.S. insurers and regulators compared with Europe's "insurer, or even cartel-friendly" control boards.

The role that politics play in the U.S. market makes it unfriendly for foreign companies, according to the report.

"It is a rule of thumb in Europe that the more heavily an insurance market is regulated, the less competitive it will be. In the U.S.A., on the contrary, an attempt is being made to utilize regulation in order to intensify competition.

"From the industry's perspective, regulators are too consumer-oriented and too often allow themselves to be swayed by short-term political considerations," the report says.

"Whoever desires to offer insurance in the U.S.A. must acclimate themselves to a politicized environment and view the heavy regulation as an incentive and opportunity to launch products," the report states.

Copies of "The U.S. Property/Casualty Market from a European Perspective" are available by writing to Thomas Hess, Economic Studies Section, Swiss Reinsurance Co., 50/60 Mythenquai, Postfach 8022, Zurich, Switzerland.

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Senate

Continued from page 1
 employer mandate provision in the Mitchell bill.

Sen. Mitchell had proposed a so-called hard trigger that set a health insurance coverage target of 95% of the population by the year 2000. If that target were not reached and Congress took no other action, an employer mandate would start in 2002 in states where less than 95% of the population had health insurance. The mandate would require employers to pay 50% of premiums. Employers with fewer than 25 employees, though, would be exempt.

By contrast, the mainstream group is tentatively recommending a softer trigger with no automatic employer mandate. Instead, if the 95% target were not met by 2002, a federal commission would recommend ways to meet that goal. Congress would have to approve those recommendations.

The mainstream group also is leaning toward more far-reaching medical malpractice reforms—most likely a \$250,000 cap on non-economic damage awards—and allowing employers with more than 100 employees to self-insure their health benefit programs. The Mitchell bill would bar employers with fewer than 500 employees from self-insuring.

The mainstream group's drive to reach an agreement came amid growing recognition that the major health care reform proposal pending before the Senate—Sen. Mitchell's 1,435-page proposal—must be scaled back considerably if it is to have a chance at passage.

"I can only hope that we will somehow come to our senses, take a reality check...pare down this bill (and) salvage the essential reform elements in it," said Sen. Robert Byrd, D-W.Va.

Sen. Phil Gramm, R-Texas, the most outspoken critic of the Mitchell bill, said it was "deader than Elvis," adding that it would be lucky to win the votes of 35 senators.

It is too soon to say whether the mainstream coalition's effort will be the breakthrough needed to put health care reform legislation on a faster track.

Last month, though, a group of moderate Republicans and Democrats—a number of whom are in the latest coalition—teamed up and put together a reform package that the Senate Finance Committee approved in just three days.

Without such progress, health care reform legislation is almost certain to die on the Senate floor due to the tortoise-like pace.

In the first eight days of debate on Sen. Mitchell's bill, the Senate had agreed to only a handful of amendments.

One, proposed by Sen. Don Nickles, R-Okla., and passed unanimously, struck a provision in the Mitchell bill that would have allowed the Labor Department to impose civil fines of \$10,000 per health plan participant against employers that violated the rules for offering a standard health benefits package.

The Senate also approved on a 55-42 vote an amendment by Sen. Christopher Dodd, D-Conn., that would require all health insurance plans to offer certain preventive-care benefits to pregnant women and children by next July.

The Senate later unanimously approved an amendment by a group of Republicans that would require the myriad national health boards and commissions established by the Mitchell bill to

hold public meetings.

But those amendments, which consumed hours of floor debate before passage, are just the tip of the iceberg. Senate Republicans last week said they had at the ready roughly 150 amendments.

That could mean hundreds of hours of debate and casts doubt on whether the Senate would even be able to schedule a final vote on health legislation this session.

Senate Republicans made no secret of the fact that they will continue their slowing tactics.

Minority Leader Robert Dole, R-Kan., said: "We are not going to be rushed...We're not going to be stampeded by the Democrats."

Sen. Gramm promised a "torrent" of amendments over the next week.

But even the Republicans' pledge to offer a barrage of amendments was progress of a sort and represented a minor truce between Senate Republican and Democratic leaders.

Earlier, Sen. Mitchell threatened to keep the Senate in session around the clock after a number of Republicans, in what many saw as a quasi-filibuster, prepared to make lengthy opening speeches.

IBM urges workers to voice opposition to reform bills

ARMONK, N.Y.—Highlighting how important an issue health care reform has become for major U.S. corporations, top executives at International Business Machines Corp. are urging employees to speak out against the Mitchell and Gephardt health care reform bills.

All 11,000 domestic employees at IBM last week received an electronic memo—written by Paul J. Rizzo, IBM's vice chairman and acting head of employee benefits and human resources, and approved by Chief Executive Officer Louis V. Gerstner—that said both bills would increase IBM's health care costs via "several new taxes."

The memo urged employees in all states to contact their legislators

and state the following: "While I support health care reform, the (bills), as currently written, impede my company's ability to continue providing me with the health benefits I now receive...I want to continue to receive these benefits. They are comprehensive and reasonably priced. The Mitchell and Gephardt bills pose a serious threat to my company's ability to manage and control the cost and quality of these benefits. States should not be given the authority to terminate my IBM benefits and force me into a government-run system. A set of national rules should govern the health benefits of multi-state companies like mine. I urge you to oppose these bills until these issues are resolved."

Large St. Louis employers form health care coalition

ST. LOUIS—Fifteen large companies in St. Louis are embarking on a group health care purchasing project designed to increase competition among area health insurers and health care providers.

The companies, working with health care providers, want to establish purchasing criteria based on quality and cost and design incentives for the more rapid development of new health care deliv-

ery systems and products in St. Louis.

The St. Louis Area Business Health Coalition is not the first employer coalition in the area, but it is the largest. The 15 employers include McDonnell Douglas Corp., Monsanto Inc., Ralston Purina Co. and Union Electric Co. Combined, the 15 companies spent \$210 million last year to provide health care to 140,000

employees and dependents.

James C. Stutz, executive director of the BHC, said the purchasing program should be completed by January 1995, with implementation targeted for January 1996. "The model will provide a blueprint for implementing group purchasing that can be used by any group of employers, private as well as public," he said.

—By Chris Woolsey

Abeille Re gets \$75 million injection from Suez

PARIS—French holding company Compagnie de Suez will inject 400 million French francs (\$75.1 million) into its Abeille Re-assurances unit, which was not part of Suez's pending sale of most of its insurance operations to Commercial Union P.L.C.

C.U. will pay 12.5 billion French francs (\$2.35 billion) for the core life and non-life operations of Suez's subsidiary, Compagnie Financiere du Groupe Victoire.

Suez said it rejected a separate offer by SCOR S.A. of Paris to buy Abeille Re because the price was too low. Suez Chairman Gerard Worms said the company intends to keep and develop Abeille Re.

Under the terms of the C.U. deal, the U.K. insurer will acquire: Abeille Vie, France's sixth-largest life insurer; Abeille Assurances, France's 11th-largest non-life insurer, and a number of its units; and Societe Fonciere Lyonnaise, a

property investment company and a number of smaller financial services companies.

C.U.'s acquisition will be financed primarily with bank debt, along with internal resources and new equity. C.U. has reached a conditional agreement with a syndicate of banks for up to 7.65 billion French francs (\$1.44 billion).

And 322 million pounds (\$496.7 million) is to be raised through a one-for-eight rights issue.

Societe Generale, a French banking group that already holds 3% of C.U.'s ordinary shares, has agreed to buy a further 3% for 112.2 million pounds (\$173.1 million).

The equivalent of about 70 million pounds' (\$108 million) worth of new ordinary shares in C.U. will be issued to Suez and about 200 million pounds (\$308.5 million) will be paid from the U.K. insurer's internal resources.

—By Adrian Ladbury and Maria Kielmas

House, Senate health reform approaches differ

WASHINGTON—The health care reform proposals developed by Rep. Richard Gephardt, D-Mo., and Sen. George Mitchell, D-Maine, take very different approaches to expanding coverage.



The Gephardt bill would require all employers to offer health insurance and pay 80% of premiums.

The non-working uninsured and individuals employed at small firms could obtain coverage through an expanded Medicare program known as Medicare Part C. The government would subsidize premiums for the poor.

The Mitchell bill also would require employers to pay for coverage but only if certain conditions were not met. A mandate would be triggered if 95% of a state's population was not insured by 2002 and Congress had not agreed to another way to expand cover-

age. The mandate would apply to employers with more than 25 workers and would require them to pay half of the premium.

Instead of expanding Medicare to cover the uninsured, the Mitchell bill envisions health care purchasing alliances to provide subsidized coverage.

Other differences include:

- Health plans offered. The Gephardt bill requires employers to offer an indemnity plan and a managed care plan, while the Mitchell bill mandates that firms provide an indemnity plan, a health maintenance organization and a point-of-service plan.

- Health insurance premium taxes. The Gephardt bill would impose a 2% tax on health insurance premiums and self-insurance expenses, while the Mitchell bill sets the premium tax at 1.75%.

Both bills, though, would eliminate the use of flexible benefit plans to fund health care benefits.

—By Jerry Geisel

After Republicans agreed to begin to present amendments, Sen. Mitchell withdrew his threat. The mood on the Senate floor was decidedly partisan. Republicans repeatedly criticized the Mitchell bill as overly bureaucratic.

"We have counted the number of 'shalls' in this legislation—2,681 times. It does not say this is what we recommend insurers do, this is what we recommend businesses do. It says this is what 'shall' take place," complained Sen. Dan Coats, R-Ind.

A primer developed by Sen. Coats on the new mandates and bureaucracies established by the Mitchell bill comprised 81 pages of print "so small that my eyes

cannot read it," the Indiana Republican said.

Republicans complained that the public and employers have little idea of how the Mitchell bill would work because of the size of the proposal.

Millions of employers, for example, may not be aware that the Mitchell bill would wipe out flexible spending accounts, a tax-favored way for employees to pay for uncovered health care expenses, said Sen. Nickles.

However, Sen. John D. Rockefeller IV, D-W.Va., argued that passing the Mitchell bill or similar legislation would be far better than doing nothing.

"We have to weigh and measure and contrast the Mitchell plan or any other plan with the costs and consequences of doing absolutely nothing," he said. "It just becomes numbing" to consider the millions of children without health insurance in the United States, a situation that does not exist in any other industrialized country, he added. **EL**

O'Brien resigns from CEO post at Empire BC/BS

NEW YORK—Managed care pioneer G. Robert O'Brien, who was brought in as chief executive officer to help turn around struggling Empire Blue Cross & Blue Shield, is leaving next week to head a home health care firm.

Empire Chairman Philip Briggs, who will assume Mr. O'Brien's duties until a successor is named, lamented the departure. "We are sorry to lose Bob's talent and experience and we appreciate the significant contribution he was able to make during the past year."

Mr. O'Brien, a CIGNA Corp. veteran, helped Empire make some progress against the severe problems that had threatened its solvency in recent years. For example, the Blues plan streamlined its operations and split into five separate business units, each responsible for a specific sector of the health insurance market (*BI*, Nov. 15, 1993).

But, Empire, which covers more than 6 million people, still faces the possibility of its reserves falling below \$160 million by year end if it is not permitted rate increases. Below that level, the Chicago-based Blue Cross & Blue Shield Assn. would not permit Empire to use the BC/BS name.

Mr. O'Brien will become CEO of U.S. HomeCare Corp. in Hartsdale, N.Y., which specializes in integrated home services, including nursing care and therapy.

—By Michael Schachner

Law firm to appeal malpractice verdict

HOUSTON—Law firm Vinson & Elkins will appeal a legal malpractice verdict of more than \$20 million.

A Houston jury last week awarded the estate of oil magnate W.T. Moran \$17.7 million in compensatory damages and \$3 million under Texas's deceptive trade practices statute.

One of three executors for the \$80 million estate charged that

the law firm cost them millions by botching investments and failing to meet filing deadlines, charging unnecessary fees and handling the estate in a grossly negligent way.

Vinson & Elkins is insured by Attorney's Liability Assurance Society Inc., an Illinois-based risk retention group. ALAS writes per occurrence limits of \$75 million for professional liability.

—By Sara Marley

Superfund

Continued from page 1
under the measure.

The committee approved the plan on a voice vote Friday afternoon, with only a few nays cast. The measure could now go to the House floor as early as this week. However, the Senate Finance Committee has yet to schedule a hearing, let alone a vote, on the matter and is not expected to do so until after Labor Day.

Reinsurers, which found they would face about \$200 million in new retroactive taxes per year under the package, are crying taxation without representation. Those taxes are part of \$810 million that would be raised annually for 10 years from property/casualty insurers to pay for the proposed Environmental Insurance Resolution Fund.

Reinsurers were not invited to the White House talks that allocated the EIRF's taxes, despite having requested the right to attend, complained Frank Nutter, president of the Reinsurance Assn. of America in Washington.

Reinsurers may not be the only ones caught off guard. Tax and in-

be levied on past premiums, future premiums, some combination thereof or none at all (BI, Aug. 15). Repeated attempts to vote on the tax proposal were canceled.

When the Ways and Means Committee met late Thursday afternoon, it became evident that deep divisions remained. Adding to the fractiousness was the fact that the lawmakers had no legislative language for the bill, only a 10-page document spelling out the legislative history of the current Superfund reauthorization effort and some details of the most recent administration EIRF proposal.

In addition, committee members of both parties questioned whether a small group of insurer representatives could speak for the whole industry. Rep. Bill Thomas, R-Calif., was incensed that Assistant Treasury Secretary Leslie Samuels would not answer directly who had been at the White House meeting.

Finally, after several minutes of questioning, Mr. Samuels said that attendees at most sessions were the American Insurance Assn., American International Group Inc., Chubb Corp. and the National Assn. of Independent Insurers.

Alone among those attending the White House meetings, the NAI

has denounced the EIRF tax. Representatives of Lloyd's of London, which supports the EIRF concept, sat in on at least one session as well,

added Mr. Samuels. Rep. Thomas then asked Mr. Samuels what percentage of the total liability premiums to be taxed were written by those at the meetings, a question for which Mr. Samuels had no an-

swer.

"When they entered the room what percentage of the liability did they have and when they left the room what percentage of the liability did they have?" asked Rep. Thomas. That question drew angry responses from some lawmakers, but no firm answer from Mr. Samuels.

"It would be very foolish" to approve the EIRF without much more examination, said Rep. Clay Shaw, R-Fla.

Rep. Robert Matsui, D-Calif., urged that a vote on the matter be postponed until committee members' concerns could be addressed. If the committee passed the bill without adequate oversight, and the measure "gets torpedoed" on the House or Senate floor, "you're finished," he warned.

Although some lawmakers on Friday continued to grumble they had not been given enough time to look over the bill, it was approved on a voice vote after a few hours of discussion.

But the controversy over the

EIRF tax is expected to continue.

The EIRF tax would cost all insurers and reinsurers \$8.1 billion over 10 years.

The proposal would combine retrospective and prospective taxation, with a special tax on insurers that settle claims through the EIRF to be introduced in the fifth year of the fund's operation. Reinsurers would be hit proportionally harder than primary insurers.

During the first four years of its existence, 70% of the fund would be financed through retroactive taxes levied on most commercial liability premiums written between 1968 and 1985. Early versions of the tax had set 1971 as the beginning of the taxable period. The remaining 30% of the fund's revenue would be raised through a prospective tax.

However, of that 70% retroactive tax, more than a third—and 24.7% of the total tax—would be raised through levies on reinsurance companies. Reinsurers accounted for only 6.6% of the applicable premium from 1971 to 1985, the period originally covered by the EIRF, according to the RAA. Primary insurers would pay the rest of the retrospective tax.

In the fifth year of the EIRF's projected 10-year life, the bulk of the taxes would be levied prospectively on primary insurers, which would pay 65.3% of the EIRF's bill. Reinsurers would have to continue paying 24.7% of the EIRF's cost through the retrospective tax.

The remaining 10% would be raised through a levy on insurers based on resolutions made by the EIRF on their behalf during the previous year.

According to the Treasury Department, the retroactive tax would be 0.22% of insurers' applicable premiums and 0.83% of reinsurers' premiums. The first four years of the prospective tax would be 0.33% of insurers' applicable premiums and the final six years' tax would be 0.63% of their premiums.

In addition, insurers would receive a one-time \$50 million exemption from the retroactive tax and a \$5 million annual exemption from the prospective tax. The exemptions would also be granted to Lloyd's of London, but the \$5 million and \$50 million would be granted to the market as whole, not on a per-syndicate basis. It is not clear if reinsurers would receive an exemption.

But traditional underwriters probably won't be the only entities required to pay an EIRF tax, noted Ken Kies, an insurance law specialist with Baker & Hostetler in Washington.

Captives "would be treated the same as anybody else," if the Internal Revenue Service considered them insurance companies for tax purposes, said Mr. Kies. If there is a transfer of risk involved, the IRS views captives as insurance companies, he added.

"If they sell to a third party," captives will be subject to the tax, agreed Les Cheek, director-domestic external affairs for Xerox Corp. in Washington. Xerox is the parent of insurer Talegen.

Reinsurers remain angered at how the compromise was handled.

"We had heard there were going to be meetings and I called the White House and specifically asked to be included. I did not get a return call until the meetings were concluded on Aug. 12. We were told by White House staff that they had been told by unidentified people that reinsurers were not to be included," said Mr. Nutter. "I can only speculate that the parties at the table made it a condition that reinsurers not be involved." **BI**

Updates

Recycling triggers Superfund

SAN FRANCISCO—A company that sells spent automotive batteries to a lead reclamation plant may be liable for cleanup costs at the property where toxic battery remnants are dumped, a court has ruled.

The Superfund law permits recovery for cleanup costs from "any person who by contract, agreement or otherwise arranged for disposal or treatment... of hazardous substances owned or possessed by such person," the 9th U.S. Circuit Court of Appeals ruled earlier this month.

Catellus Development Corp. sought cleanup costs from General Automotive Inc., a Seattle company that operates auto part stores and sold used batteries to a battery cracking plant.

After extracting and smelting the lead in the spent batteries, the cracking plant, operated by Morris P. Kirk & Sons Inc., washed and crushed the casings, loaded them into a truck and dumped them on the Catellus property, where residual lead leached into the soil.

Catellus alleged that General was liable for cleanup costs under the Comprehensive Environmental Response, Compensation and Liability Act of 1980. General countered that the spent batteries were not waste because they were being recycled and the extracted lead was being put to use.

In reversing a trial court, the 9th Circuit cited CERCLA definitions of "waste"—"any garbage, refuse, sludge... and other discarded material"—and "treatment"—"any method, technique or process... designed to change the... character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste non-hazardous."

The case has been remanded for trial to determine damages.

\$58 million award overturned

SANTA ANA, Calif.—A California appeals court overturned a 1991 bad faith judgment of \$58 million against Farmers Insurance Group and its Truck Insurance Exchange unit.

The insurers were not obligated to cover Cypress, Calif., engineering firm Marmac, its founder, James R. Waller Jr., and four stockholders in a third-party liability suit, the court ruled on Aug. 11. A lawyer for Mr. Waller said he will seek a rehearing and if necessary appeal to the state Supreme Court.

In 1986, a Marmac stockholder sued Mr. Waller and four individuals to whom he sold his Marmac stock, alleging that they conspired to sell the firm to oust him and that he suffered emotional distress. A subsequent trial exonerated Mr. Waller.

Farmers refused to provide a defense, citing an exclusion in its package policy for "suits against named insureds by named insureds."

In the 1991 bad faith case, a Superior Court judge ruled that the stockholder was not a named insured and awarded \$63 million, mostly in punitive damages, to the defendants in the original litigation (BI July 15, 1991). That was later trimmed to \$58 million.

On appeal, though, the 4th District Court of Appeal concluded that the plaintiff in the underlying litigation was a Marmac owner and therefore was an "insured" and that coverage was denied properly.

Briefly noted

Edward F. Kosnik has been named executive vp and chief financial officer of **Alexander & Alexander Services Inc.** in New York, replacing Paul E. Rohner, who has not announced his future plans. Mr. Kosnik, a former Penn Central Corp. executive, was most recently chairman, president and CEO of JWP Inc., a service company with operations including construction and computer systems... President Clinton last week signed S. 1458, which limits the product liability exposures of **general aviation aircraft manufacturers**... U.S. District Judge Lowell Reed last week approved the **landmark asbestos personal injury settlement** between the Center for Claims Resolution and an estimated 100,000 future claimants. The settlement fund, which will be financed by the 20 former asbestos companies that comprise the CCR and their insurers, will pay out about \$1 billion over 10 years (BI, Jan. 25, 1993)... A bill that President Clinton signed last week making the Social Security Administration an independent agency will increase **long-term disability costs** for a small percentage of employers by imposing a 36-month limit on substance abusers' eligibility for Social Security disability benefits (BI, Aug. 1)... The state of Minnesota and Blue Cross & Blue Shield of Minnesota are jointly suing six tobacco manufacturers to recover costs stemming from **smoking-related illnesses**. The lawsuit, filed in state court in St. Paul last week, accuses the companies of conspiracy, fraud and antitrust violations... **Lloyd's of London's managing agents** are seeking 11.5 billion pounds (\$17.7 billion) in capacity this year, but members agents and licensed corporate advisers say only 10.3 billion pounds (\$15.9 billion) is available. This year, only 75% of Lloyd's 10.9 billion pounds (\$16.1 billion) of capacity is expected to be used... **Sedgwick Group P.L.C.**'s six-month pretax profits increased 13% to 63.4 million pounds (\$97.8 million) from 55.8 million pounds (\$82.6 million) in 1993. Brokerage revenues increased 20% to 457.1 million pounds (\$705.1 million) from 379.6 million pounds (\$561.6 million), but the underlying increase was only 2%, excluding the acquisition of benefit consultant Noble Lowndes & Partners Ltd... **Standard & Poor's Corp.** last week lowered the claims-paying ability rating of **The Prudential Insurance Co. of America** to AA from AA+, citing "disappointing earnings" and increased contributions to reserves for losses in its securities unit... Investment partnership **PRAC Ltd.** will invest \$20 million in **Pac Rim Holding Corp.**, parent of Woodland Hills, Calif., workers comp insurer Pacific Rim Assurance Co... **Harvard Community Health Plan** and **Pilgrim Health Care**, two of New England's largest HMOs, say they will **proceed with the merger** they had been discussing. Pilgrim provides coverage for 330,000 members and Harvard will cover 675,000 after completing a merger with a Rhode Island HMO... **Tornadoes** spawned by Tropical Storm Beryl caused an estimated \$17 million in insured property damage in central South Carolina last week.

AMERICAN INTERNATIONAL GROUP, INC.

10 FINE STREET
NEW YORK, N.Y. 10020

OFFICE OF
MAURICE R. GREENBERG
CHICAGO

August 9, 1994

Via Facsimile # 202/622-2522

The Honorable Lloyd Bentsen
Secretary of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Lloyd:

I called your office this morning to talk with you about the Superfund financing provisions pending before the House Ways & Means Committee.

You will recall that when our group -- representing 75% of the property/casualty insurance industry -- met with you July 6, you indicated that, while the Treasury position on the 70/30 funding proposal for the EIRF was flexible, it was arrived at after considerable debate and compromise.

We have recently learned that the Treasury may now support a 100% prospectively-based funding mechanism. This is hard for me to believe, if it is true.

As you may know, AIG has agreed to support the overall Superfund reform bill if the Congress approves a funding mechanism for the EIRF that reflects the Treasury's original 70/30 split. Moreover, I believe that the majority of the property/casualty industry will also support this objective, and I will encourage them to do so.

I urge you to hold firm to the original Treasury position and reject any further compromise which would inevitably lead to heightened disunity within the insurance industry.

Sincerely yours,



AIG's Maurice Greenberg wrote Treasury Secretary Bentsen urging a 70/30 tax, reversing a position in which he opposed any prospective taxes.

insurance experts say that the owners of some captive insurers would have to pay EIRF taxes as well.

Other groups complaining of being taxed without being asked for input are the Alliance of American Insurers and the National Assn. of Mutual Insurance Cos.

The EIRF tax deal was designed to speed approval of the Clinton administration's Superfund reauthorization bill by the House Ways and Means Committee, which had been delaying a vote for weeks.

The EIRF component of the reform bill seeks to reduce coverage disputes by paying a portion of policyholders' cleanup costs in return for an agreement from policyholders not to sue their insurers for more money. The EIRF, funded by a pool of money raised through new taxes on insurers, would become operative if 85% of potentially responsible parties agreed to the fund's terms.

But committee members spent weeks disagreeing behind closed doors over whether the tax should

NAIC's latest investment draft more flexible

By MEG FLETCHER

State insurance regulators' most recent draft of proposed insurer investment guidelines is simpler and more flexible than an earlier version, yet remains more strict than current state rules.

The draft, which was three years in the making, was released last week for public review prior to a public hearing next month. It marks the first time that the National Assn. of Insurance Commissioners has tried to devise uniform investment guidelines for all insurers.

"Regulators are concerned with the investment practices of life/health and property/casualty companies, though this model was driven by life companies' failures," said Jukka Lipponen, director of research for Townsend & Schupp, an insurance research and investment banking firm in Hartford, Conn.

The standards strive to promote a "reasonable balance" in insurer investments, the 51-page proposal states.

"It is clearly a lot simpler and less complex," than last fall's discussion draft, said Arthur Fliegelman, an analyst with Salomon Brothers

Inc. in New York.

"The insurance industry will be much happier with this draft," Mr. Lipponen said. It relaxes some proposed rules and moves away from "micromanagement" of insurers' portfolios. Insurers don't want investment rules that would place them at a competitive disadvantage with banks, Mr. Lipponen added.

The new guidelines would:

- Create a single "rated credit instruments" investment category to replace the earlier draft's many specific sections that dealt with various forms of bonds, fixed-income securities, preferred stock and loan-backed securities.
- Modify the property/casualty reserve requirement to allow discounting of reserves and a somewhat broader range of qualified assets.
- Simplify the derivatives section to allow only those used for hedging.
- Liberalize foreign investment limits to a total of 20% and to only 3% for any one country.
- Establish specific loan-to-value standards for mortgages. For example, insurers would be able to loan up to 75%—rather than 60%—of the value of the property covered by a non-amortized mortgage, such as a balloon mortgage.

• Liberalize "baskets"—a catch-all category of investments—to allow strong insurers greater flexibility outside of specific investment limits. However, insurers would not be able to use this flexibility to invest in prohibited derivatives or other prohibited investments.

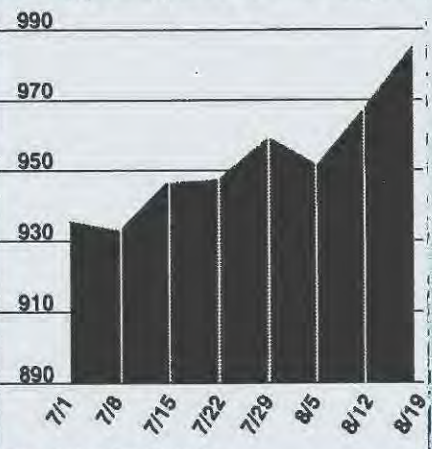
• Give insurance commissioners greater discretion to challenge the prudence of insurers' investments and put the burden on insurers to prove that an investment is prudent.

• Require insurance company boards of directors to monitor compliance with the investment plans they approve.

The draft does not address investments in subsidiaries, which has been referred to another NAIC working group.

Copies of the draft are available from the NAIC's Publication Department at 120 W. 12th St., Suite 1100, Kansas City, Mo. 64105; 816-374-7259. A public hearing on the draft is scheduled for Sept. 21 in Minneapolis, during the NAIC's fall meeting. Those wishing to testify should mail a request along with an outline of their testimony to Joseph Sieverling at the NAIC in Kansas City, Mo.

BI Insurance Index



Base = 100 on Dec. 29, 1978
Source: Nordby International Inc.

Insurance stocks rose last week, as the Business Insurance Index gained 16.7 points to 984.8 Aug. 19 from 968.1 on Aug. 12. Advancing issues for the week were led by: US-LICO Corp., up 8.8%; SCOR U.S. Corp., up 7.7%; and Zenith National Insurance, up 7.3%. Declining issues followed: Safeguard Health Enterprises, down 14.0%; Continental Corp., down 11.2%; and Home Holdings Inc., down 9.3%. The most active issue was U.S. Healthcare, 4.7 million shares traded. The BI Index rose 1.7%; the Dow Jones 30 Industrials lost 0.4%; the NYSE Composite rose 0.4%; and the Standard & Poor's 500 rose 0.4%.

Prop. 103

Continued from page 2

rate of return on equity are not takings of property without due process of law, which would violate the Constitution.

"It is well established that government price regulation does not constitute a taking of property where the regulated group is not required to participate in the regulated industry," wrote Justice Mosk in a separate concurring opinion on the Constitutional questions.

The ruling "affirmed democracy in the state of California," said Insurance Commissioner John Garamendi. Consumer advocates were equally pleased with the decision. Proposition 103 author Harvey Rosenfield gave much of the credit to Mr. Garamendi, praising him for taking on special interest groups.

In a release distributed by Mr. Rosenfield's Proposition 103 Enforcement Project, consumer advocate Ralph Nader is quoted as saying the court's decision "vindicates the verdict reached by California voters in 1988—that the insurance industry had overcharged the public and

must refund the money to consumers."

In contrast, 20th Century officials, who did not appear at the press conference, were "surprised and disappointed" by the ruling, a company statement said.

"The real losers today are the people of California in need of affordable, available insurance," said Neil H. Ashley, chief executive officer of Woodland Hills, Calif.-based 20th Century Industries, the insurer's parent company.

"20th Century's challenge to its rollback order was based upon the economics and (the) formula method. We believed the company should be rewarded for low premiums and lean operations rather than penalized for profitability," he said.

20th Century, a highly efficient company with one of the lowest expense ratios in the industry, yielded a 32% return on equity in 1988, the year to which Proposition 103 applies.

The insurer has not yet decided whether to appeal the ruling to the U.S. Supreme Court, according to Gary Fontana, a partner with Thelen, Marrin, Johnson & Bridges in San Francisco who argued the case before California's high court in June (BI, June 13).

If an appeal is filed, it will be based on the U.S. Constitution's ban on confiscation, he said.

"This is a direct assault on the 14th amendment, and in that respect a direct challenge to the entire system of a competitive market," Mr. Fontana said.

Insurance Department attorney Michael Woocher said he doubts the Supreme Court will take up the case, because the decision invokes numerous related high court rulings backing up the California court's position.

20th Century, already crippled by its \$600 million earthquake loss, may not be forced to pay all of the \$119 million in rebates at stake in the court case, according to Mr. Garamendi.

"We take account of (20th Century's financial problems) in the regulations. The question is open as to how and when they'll be able to pay." However, he said: "The policyholders will get their money before the shareholders do."

The insurer has established a reserve of approximately \$50 million to pay its Proposition 103 liabilities, according to Mr. Fontana.

The ruling becomes final within 30 days. 20th Century has 90 days after that seek U.S. Supreme Court review.

British Issues

| Aug. 18 Companies | Price | P/E* | Div.† | Yield | 1 week high-low |
|-------------------|-------|------|-------|-------|-----------------|
| Comm Union | 544 | 17.3 | 31.0 | 5.7 | 544-536 |
| Genl Accident | 570 | 11.4 | 34.4 | 6.0 | 570-553 |
| Gdn Royal Exch | 190 | 12.3 | 9.5 | 5.0 | 190-150 |
| Independent | 254 | 8.3 | 10.4 | 4.1 | 253-224 |
| Royal | 290 | 12.7 | 9.4 | 3.2 | 290-278 |
| Sun Alliance | 321 | 14.4 | 18.4 | 5.7 | 321-314 |
| Brokers | | | | | |
| Bradstock | 96 | 10.8 | 6.9 | 7.2 | 96-92 |
| Fenchurch | 154 | 12.0 | 9.0 | 5.8 | 154-154 |
| CE Heath | 295 | 10.4 | 20.0 | 6.8 | 297-295 |
| JIB Group | 150 | 13.2 | 9.4 | 6.3 | 150-146 |
| Lloyd Thompson | 166 | 11.2 | 8.4 | 5.1 | 169-166 |
| Lowndes Lmbrt | 389 | 12.3 | 18.8 | 4.8 | 389-389 |
| Nelson Hurst | 154 | 15.1 | 7.0 | 4.5 | 154-154 |
| PWS Holdings | 45 | N/M | 2.5 | 5.5 | 45-43 |
| Sedgwick Grp | 173 | 19.2 | 7.5 | 4.3 | 173-163 |
| Steel Bri Jones | 116 | N/M | 11.3 | 9.7 | 116-115 |
| Willis Corroon | 153 | 14.0 | 8.3 | 5.4 | 156-153 |

Source: Philip Olsen, London. Actual 1993 figures

BI Industry Stock Report AUG. 15, 1994, THROUGH AUG. 19, 1994

| BROKERS | | Price | Weekly % change | Year to date % change | Annual High | Annual Low | Vol.(000) | \$ Div. | % Yield | P/E | Book value | Mkt./Bk. value | Price | Weekly % change | Year to date % change | Annual High | Annual Low | Vol.(000) | \$ Div. | % Yield | P/E | Book value | Mkt./Bk. value | | |
|-----------------------------|-----|----------|-----------------|-----------------------|-------------|------------|-----------|---------|---------|-----|------------|----------------|--------------------------|-----------------|-----------------------|-------------|------------|-----------|---------|---------|------|------------|----------------|-------|------|
| Acordia Inc. | NYS | 26.00 | 1.96 | 5.58 | 28.75 | 21.00 | 5 | 0.80 | 2.31 | 13 | 10.22 | 2.54 | NAC Re Corp. | NDO | 25.88 | -7.17 | -11.16 | 37.00 | 24.00 | 316 | 0.16 | 0.62 | 14 | 19.24 | 1.24 |
| Alexander & Alexander | NYS | 20.25 | 1.89 | 1.89 | 25.25 | 14.00 | 585 | 0.10 | 0.49 | -65 | 6.73 | 3.0* | National Re Group | NYS | 24.63 | -2.96 | -19.59 | 37.13 | 24.25 | 70 | 0.16 | 0.65 | 9 | 17.51 | -4* |
| E.W. Blanch Holdings Inc. | NYS | 21.00 | 3.70 | 20.86 | 23.50 | 15.75 | 25 | 0.32 | 1.52 | 19 | 4.10 | 5.12 | Navigators Corp. | NDO | 18.00 | 5.88 | -48.57 | 39.00 | 16.00 | 74 | 6.00 | 33.33 | -7 | 16.99 | 1.02 |
| Gallagher Arthur J. & Co. | NYS | 32.38 | 0.78 | -9.44 | 37.13 | 28.13 | 102 | 0.88 | 2.72 | 16 | 7.52 | 4.31 | Nobel Insurance Ltd. | NDO | 6.13 | -4.41 | 6.56 | 8.63 | 6.63 | 88 | 0.20 | 2.46 | 4 | 6.84 | 1.12 |
| Hibb, Rogal & Hamilton | NYS | 11.88 | -2.06 | -9.52 | 15.13 | 11.13 | 77 | 0.48 | 4.04 | 16 | 4.51 | 2.65 | NWNL Companies | NYS | 31.63 | 0.80 | -2.69 | 38.75 | 27.00 | 252 | 0.90 | 2.85 | 11 | 23.97 | 1.32 |
| Marsh & McLennan | NYS | 85.00 | -0.87 | 4.45 | 91.88 | 77.00 | 467 | 2.90 | 3.41 | 17 | 16.76 | 5.07 | Ohio Casualty Corp. | NDO | 31.25 | -2.34 | -1.96 | 36.00 | 26.50 | 215 | 1.46 | 4.67 | 13 | 23.84 | 1.31 |
| Poe & Brown | NDO | 21.50 | -5.49 | 19.44 | 22.75 | 16.88 | 4 | 0.40 | 1.86 | 16 | 3.02 | 7.12 | Old Republic Int'l | NYS | 21.63 | -1.70 | -3.89 | 27.63 | 21.50 | 218 | 0.48 | 2.22 | 8 | 23.57 | 0.92 |
| AVERAGE | | | -0.0 | 4.8 | | | | | 2.3 | 4 | | | Orion Capital Corp. | NYS | 32.75 | 1.55 | 6.07 | 37.50 | 28.63 | 70 | 0.72 | 2.20 | 9 | 27.43 | 1.13 |
| INSURERS/REINSURERS | | | | | | | | | | | | | Partner Re Holdings Ltd. | NDO | 21.13 | 0.60 | -2.87 | 23.50 | 18.50 | 1125 | 0.40 | 1.89 | - | N.A. | N.A. |
| ACE Ltd. | NYS | 23.50 | 1.62 | -22.95 | 36.00 | 22.75 | 298 | 0.44 | 1.87 | -31 | 28.74 | 0.82 | Penn-America Group Inc. | NDO | 8.00 | 0.00 | 4.07 | 9.50 | 6.50 | 5 | 0.00 | 0.00 | 9 | 6.21 | 1.29 |
| Acceptance Insurance Cos. | NYS | 14.25 | 0.00 | 22.58 | 15.63 | 11.13 | 53 | 0.00 | 0.00 | 14 | 9.65 | 1.48 | Phoenix Re Corp. | NDO | 25.00 | 1.52 | -9.09 | 38.25 | 18.50 | 191 | 0.30 | 1.20 | 6 | 19.99 | 1.23 |
| AEGON N.V. | NYS | 57.00 | 0.44 | 4.11 | 58.50 | 46.00 | 17 | 2.95 | 5.17 | 10 | 34.71 | 1.64 | Provident Life | NYS | 28.13 | 1.35 | -11.07 | 31.88 | 24.38 | 28 | 1.04 | 3.70 | -11 | 26.38 | 1.0* |
| Aena Life & Casualty | NYS | 49.63 | 0.25 | -17.63 | 66.25 | 48.88 | 1050 | 2.76 | 5.56 | -8 | 71.84 | 0.69 | Re Capital Corp. | NDO | 12.69 | 1.50 | -6.88 | 15.50 | 12.25 | 7 | 0.32 | 2.52 | 12 | 16.88 | 0.75 |
| Allied Group Inc. | NDO | 28.75 | 3.60 | 15.00 | 32.75 | 22.75 | 298 | 0.60 | 2.09 | 7 | 10.45 | 2.75 | Reliance Group Holdings | NYS | 5.75 | 6.98 | -25.81 | 10.38 | 4.88 | 453 | 0.32 | 5.57 | 10 | 4.22 | 1.36 |
| Allmerica Prop. & Casualty | NYS | 15.38 | 2.50 | -28.63 | 22.16 | 14.25 | 250 | 0.16 | 1.04 | 10 | 56.97 | 0.27 | RLI Corp. | NYS | 23.00 | 0.55 | -14.02 | 27.75 | 20.63 | 8 | 0.60 | 2.61 | -45 | 22.91 | 1.00 |
| Allstate Corp. | NYS | 24.75 | -2.46 | -16.81 | 34.25 | 22.63 | 959 | 0.72 | 2.91 | 15 | 18.43 | 1.34 | St. Paul Companies | NYS | 43.63 | -1.97 | -2.79 | 49.00 | 37.69 | 917 | 1.50 | 3.44 | 9 | 57.84 | 0.75 |
| American General | NYS | 28.63 | -0.43 | 0.44 | 36.50 | 24.88 | 1569 | 1.16 | 4.05 | 22 | 22.09 | 1.30 | SAFECO Corp. | NDO | 54.25 | -1.59 | -0.69 | 65.75 | 48.50 | 679 | 1.96 | 3.61 | 10 | 41.59 | 1.30 |
| American Heritage Life Ins. | NYS | 17.88 | 2.14 | -4.03 | 24.63 | 16.50 | 144 | 0.66 | 3.69 | 11 | 12.42 | 1.44 | SCOR U.S. Corp. | NYS | 12.25 | 7.69 | -2.97 | 16.88 | 10.13 | 33 | 0.36 | 2.94 | 8 | 16.08 | 0.76 |
| American Indemnity/Fin'l | NDO | 10.75 | 0.00 | -17.31 | 16.25 | 10.00 | 0 | 0.24 | 2.23 | 4 | 16.18 | 0.66 | Saibels Bruce Group | NDO | 2.13 | 0.00 | 21.43 | 2.19 | 0.31 | 41 | 0.00 | 0.00 | -2 | 1.90 | 1.12 |
| American International | NYS | 92.13 | -3.03 | 4.54 | 100.25 | 81.75 | 1831 | 0.46 | 0.50 | 14 | 45.25 | 2.04 | Selective Ins. Group | NDO | 28.25 | 4.63 | -6.61 | 31.00 | 23.00 | 47 | 1.12 | 3.96 | 11 | 23.11 | 1.22 |
| American Re Corp. | NYS | 29.63 | -1.66 | 4.87 | 37.38 | 23.50 | 53 | 0.00 | 0.00 | 15 | 14.80 | 2.00 | Sphere Drake Holdings | NYS | 15.63 | -0.79 | -5.30 | 21.63 | 14.63 | 76 | 0.12 | 0.77 | 7 | 12.17 | 1.22 |
| Aon Corp. | NYS | 34.38 | 1.85 | 6.87 | 39.00 | 30.00 | 412 | 1.28 | 3.72 | 11 | 33.10 | 1.04 | Statesman Group Inc. | NYS | 15.25 | -0.81 | 22.00 | 15.50 | 10.25 | 200 | 0.10 | 0.66 | 6 | 8.65 | 1.72 |
| Argonaut Group | NDO | 30.00 | 1.91 | -1.84 | 35.50 | 26.25 | 219 | 1.16 | 3.87 | 9 | 27.65 | 1.08 | TIG Holdings | NYS | 20.13 | 3.87 | -11.05 | 28.00 | 17.25 | 559 | 0.20 | 0.99 | 18 | 18.49 | 1.22 |
| AVEMCO Corp. | NYS | 15.13 | 1.68 | -19.33 | 21.25 | 13.75 | 13 | 0.44 | 2.91 | 11 | 8.13 | 1.86 | Titan Holdings Inc. | NYS | 8.63 | -4.17 | -20.69 | 13.38 | 7.75 | 60 | 0.28 | 3.25 | 8 | 8.93 | 0.97 |
| Baldwin & Lyons Inc. | NDO | 14.88 | 1.71 | 0.00 | 16.25 | 13.75 | 35 | 0.24 | 1.61 | 9 | 12.59 | 1.18 | Tokio Marine & Fire | NDO | 63.00 | 2.86 | 16.67 | 66.00 | 49.25 | 8 | 0.41 | 0.64 | - | 57.72 | 1.25 |
| Berkley W.R. Corp. | NDO | 36.98 | -1.67 | 12.60 | 48.00 | 32.00 | 93 | 0.44 | 1.19 | 17 | 28.12 | 1.31 | Torchmark Corp. | NYS | 40.63 | 0.00 | -9.22 | 59.75 | 36.75 | 522 | 1.12 | 2.76 | 10 | 17.35 | 2.34 |
| Berkshire Hathaway Inc. | NYS | 19200.00 | 1.05 | 17.61 | 19850.00 | 15150.00 | 1 | 0.00 | 0.00 | 27 | 8115.28 | 2.37 | Transatlantic Holdings | NYS | 55.13 | -0.90 | 3.28 | 61.50 | 45.38 | 25 | 0.36 | 0.65 | 14 | 29.60 | 1.32 |
| Capital Re Corporation | NYS | 22.25 | -1.11 | -13.59 | 28.25 | 18.50 | 13 | 0.20 | 0.90 | 8 | 21.66 | 1.03 | Transatlantic Re Corp. | NDO | 22.38 | 1.70 | -17.13 | 27.00 | 17.25 | 197 | 0.00 | 0.00 | - | N.A. | N.A. |
| Capsure Holdings Corp. | NYS | 13.00 | 6.12 | -3.70 | 18.13 | 12.25 | 22 | 0.00 | 0.00 | 12 | 13.08 | 0.99 | Travelers Corp. | NYS | 34.75 | 2.21 | -10.61 | 49.50 | 31.00 | 2437 | 0.60 | 1.73 | 8 | 33.35 | 1.34 |
| Chubb Corp. | NYS | 72.75 | -0.68 | -7.47 | 91.38 | 70.75 | 844 | 1.84 | 2.53 | 25 | 46.59 | 1.56 | Trenwick Group Inc. | NDO | 38.25 | 2.00 | -1.29 | 47.75 | 33.25 | 58 | 1.00 | 2.61 | 13 | 26.00 | 1.47 |
| CIGNA Corp. | NYS | 65.00 | -0.76 | 2.77 | 74.00 | 57.00 | 754 | 3.04 | 4.68 | 13 | 78.23 | 0.83 | United Fire & Casualty | NDO | 40.50 | 1.25 | 12.50 | 44.00 | 36.00 | 1 | 1.08 | 2.67 | 9 | 28.96 | 1.40 |
| CNA Financial Corp. | NYS | 61.00 | -0.41 | -22.54 | 89.50 | 60.00 | 135 | 0.00 | 0.00 | -16 | 77.92 | 0.78 | UNUM Corp. | NDO | 45.25 | 4.69 | 18.24 | 50.75 | 38.50 | 2604 | 1.60 | 3.18 | 36 | 38.90 | 1.29 |
| Continental Corp. | NYS | 16.88 | -11.18 | -38.91 | 33.00 | 14.13 | 2156 | 1.00 | 5.93 | 73 | 38.99 | 0.43 | USF&G Corp. | NYS | 47.75 | -0.52 | -9. | | | | | | | | |

