

# Business Insurance

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

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## Compromise likely to save California Earthquake Authority

SACRAMENTO, Calif.—The creation of a California Earthquake Authority is looking certain with a deal struck Thursday between the state's Democratic Senate Leader and Republican Assembly Speaker.

"It's definitely on the way," said a spokesman for the Personal Insurance Federation in Sacramento.

Additionally, nearly \$2 billion—potentially the largest reinsurance placement in history—is still likely to be available, although reinsurers had set a spring 1996

See Updates on next page

## Advances in AIDS treatment lead to questions for insurers

By ROBERT KAZEL

A promising new path in the treatment of HIV infection that offers a hope of keeping many patients alive longer and practically symptom-free is presenting employers and insurers with vexing questions on who should receive the treatments and when.

Many in the health care community were intrigued last month when experts at the 11th International Conference on AIDS in Vancouver, British Columbia, presented a new approach to fighting HIV that appears to suppress virus activity in all stages of HIV infection.

The treatment involves a so-called "cocktail" of drugs, combining one or more anti-viral medications already commonly used, such as AZT, plus newer "protease inhibitor" drugs that have been approved

by the Food and Drug Administration in the past several months. The protease inhibitors slow down the reproduction of the virus in the body.

Researchers report that by using the anti-viral drugs and protease inhibitors together, the HIV virus in the patient's bloodstream frequently can be reduced to amounts too small to measure.

This approach seems to be helpful in advanced cases, but also for those without symptoms of HIV and who are most likely to still be working and covered by a group health care plan.

Employers and insurers are struggling to understand the implications of this shift in the course of HIV treatment for their employees and their corporate budgets.

"The question is what kind

See AIDS on page 30

## Employers get a break

### Tax law simplifies pension rules, allows increased contributions

WASHINGTON—Pension provisions in a broad small-business tax measure signed last week by President Clinton are a welcome break for employers and employees from many of the pension-related bills Congress has passed over the last decade.

Rather than making pension rules more complex, the Small Business Job Protection Act of 1996 simplifies certain rules. At the same time, the new law will allow many employees to increase contributions to their pension plans and provide other pension-related tax breaks to employees.

"There are some very favorable changes in the law," said Fred Ruckmick, director of taxes and legal services for Buck Consultants Inc. in New York. "While perhaps not giant steps, the changes are defi-

nately steps in the right direction," he said.

"There will be a number of opportunities for employers and employees to take advantage of," added Dick Joss, a resource actuary with Watson Wyatt Worldwide in Washington.

But, to take advantage of these changes and comply with other provisions, employers will have to analyze those provisions—many of which go into effect in January.

To aid employers and employees in understanding the new law's pension provisions, *Business Insurance* Editor-at-Large Jerry Geisel interviewed consultants for their answers to questions benefit managers have been raising.

How can employers qualify for the new safe harbors that will exempt

them from running the basic 401(k) non-discrimination test?

The law offers two safe harbors that, if met, will exempt employers from running the non-discrimination test on their 401(k) plans.

To qualify, an employer must do one of these:

- Match 100% of lower-paid employees' salary deferrals up to the first 3% of compensation and 50% of salary deferrals on the next 2% of compensation.

- Make contributions of 3% of compensation for each lower-paid employee eligible to participate in

See Pensions on page 26



## The cost of a breakthrough

Protease inhibitors appear to offer the best hope of suppressing HIV, but are also significantly more expensive than older anti-viral drugs. Protease inhibitors are generally used in combination with the anti-viral drugs.

Brand name	Generic name	Manufacturer	One-year cost (est.)
<b>Protease inhibitors:</b>			
Norvir	Ritonavir	Abbott Laboratories	\$6,220
Inverase	Saquinavir	Hoffmann-La Roche Inc.	5,749
Crixivan	Indinavir	Merck & Co. Inc.	4,380
<b>Anti-viral drugs:</b>			
Retrovir (AZT)	Zidovudine	Glaxo Wellcome P.L.C.	3,395
d4t	Stavudine	Bristol-Myers Squibb Co.	3,789
ddl	Didanosine	Bristol-Myers Squibb Co.	2,150

Source: Centers for Disease Control

GRAPHIC BY ADAM DOI

## Rehabilitation plan covers claims from physicians' defunct RRG

By SALLY ROBERTS

NASHVILLE, Tenn.—Outstanding claims against policyholder members of defunct Osteopathic Mutual Insurance Co. Risk Retention Group Inc. will be covered under a rehabilitation plan approved earlier this month by a district court in Nashville, Tenn.

A group of osteopathic physicians formed the risk retention group in 1986 to provide medical malpractice coverage to its members during the height of the hard market. Osteopathic Mutual Insurance Co. Risk Retention Group Inc. voluntarily ceased operations in September 1993 after two consecutive years of reported losses

and after liability coverage became readily available in the traditional market.

In 1992, OMIC, which was do-

**'We're solvent, but we don't know how much longer we will be,' according to Gulf Atlantic's Joe Jacobs.**

miciled in Nashville and operated in all states but New York, reported \$10 million in gross written premiums and a \$2.7 million

loss. By 1993, it had \$20.2 million in reserves and a surplus of \$3.1 million.

After a reserve analysis, it was clear the rates for policyholder members' would be so high "no one would buy," said Joe Jacobs, chief executive officer of OMIC's reinsurer, Gulf Atlantic Insurance Co. in Tallahassee, Fla.

In essence, OMIC was "operating in a soft market with not a whole lot of surplus," Mr. Jacobs said.

"We then went to the Tennessee Insurance Department and said, 'We're solvent, but we don't know how much longer we will be,'" he said.

See RRG on page 4

## N.J. probing health plan's mob ties

By DOUGLAS McLEOD

NEWARK, N.J.—A New Jersey managed care company is at the center of what authorities describe as a plot by a New York organized crime family to gain a foothold in the health care industry.

State law enforcement officials last week arrested several alleged members and associates of the Genovese crime family and executed search warrants at 15 locations, including the offices of Tri-Con Associates, a Hasbrouck Heights, N.J., managed care firm.

According to law enforcement officials, Tri-Con acted as a health care intermediary, bringing groups—including union members and employees of self-insured companies—into a network of health maintenance and preferred provider organizations it had lined up.

Stefano Mazzola, Tri-Con's chief executive officer and a former Passaic, N.J., police officer, paid illegal commissions to get the business, passed along kickbacks to a Genovese family member and placed mob associates on client insurance plans without the clients' knowledge, charged Terrence P. Farley, director of the New Jersey division of criminal justice.

A mob informant also reportedly tape-recorded a conversation in which alleged Genovese leader Michael A. Borelli Jr. discussed plans to threaten an official of a Hudson County, N.J., hospital he wanted to participate in the network.

The extent of Tri-Con's operations is still unclear.

In promotional material, Tri-Con says it manages coverage for a million work-

See Tri-Con on page 31



AP WORLD WIDE PHOTOS

Stefano Mazzola, right, is among 11 charged with helping a crime family infiltrate managed care.

## 1996 Ward's Results

### Ward's 50 Property/Casualty and Life/Health Insurers

Page 3

## Updates

### CEA accord reached

Continued from previous page

deadline for the creation of the CEA, according to the Department of Insurance and John C. Graham, executive vp of E.W. Blanch Co., a reinsurance broker, (BI, July 15, Jan. 22).

A compromise amendment bill was expected to pass the Senate on Friday and the Assembly early this week. According to the compromise agreement between Senate Leader Bill Lockyer of Hayward and Assembly Speaker Curt Pringle of Garden Grove, insurers would maintain contingent liability for a second layer of coverage totaling \$3 billion over 12 years. Under the initial proposal, the second layer of coverage required their commitment of \$3 billion over 10 years with the ability to begin reducing that contribution earlier as the CEA earned interest income.

Insurers also have to make available about \$1 billion for the first layer of coverage.

The new accord clarifies that homeowners in different parts of the state can be charged different rates if scientists justify the rates based on differences in seismic risk.

Already, State Farm Group and Farmers Insurance Group have announced they are ready to begin selling policies once the Legislature completes action. Gov. Pete Wilson signs it and 90 days after Commissioner Chuck Quackenbush implements the \$10.5 billion authority, the Personal Insurance Federation spokesman said. The PIF represents State Farm and Farmers.

Allstate Corp. will write policies if the measure passes the way it is set up now, a spokesman said.

### U.S. injunction may halt Equitas

RICHMOND, Va.—The future of Lloyd's of London is in jeopardy after a federal court judge late last Friday virtually killed the market's reconstruction and renewal plan.

Judge Robert E. Payne ruled that membership in Lloyd's is a security and slapped an injunction on Lloyd's attempt to promote Equitas and its reconstruction plan in the United States.

"The irreparable injury that plaintiffs and the other American names would suffer if their motion is denied significantly outweighs any demonstrated harm to Lloyd's of complying with its obligations under the securities laws of the United States," Judge Payne wrote.

Federal securities law would require Lloyd's to release more details on Equitas than it has to date and would allow U.S. names to sue Lloyd's in the United States.

The judge set a hearing for Nov. 4.

Lloyd's plans to file an appeal immediately.

As the 2,700 Lloyd's members in the United States represent about 10% of the \$4.7 billion R&R plan, the plan could be toppled without their support, a Lloyd's spokesman said.

"It could mean the end of Lloyd's in its present form," he said.

The vote on the R&R plan is due Aug. 28, but even if it were approved by U.K. members, it is unlikely it would be viable without the U.S. members, he said. The plan itself could not be reconstructed in time for Lloyd's to meet its solvency test Sept. 4, the spokesman said.

Earlier last week, state attorneys general in Colorado and New York fired off letters supporting U.S. Lloyd's members' contention that their grievances should be heard in U.S. courts.

In a letter to Lloyd's attorneys, Stephen K. Erkenbrack, Colorado chief deputy attorney general, demanded changes in the agreement over securities fraud allegations that Lloyd's had made with many state securities commissioners (BI, July 15).

In particular, the portion of the agreement that absolves Lloyd's from past, present and future legal claims runs counter to Colorado law, he said.

Also, Colorado Lloyd's members should not have to pay additional money to participate in Lloyd's reconstruction and renewal plan as the liabilities of Lloyd's are still unverifiable, it says. "Given the allegations of fraud by Lloyd's, it is problematic for us to accept the conclusion that Colorado names are obligated to pay additional funds in order to participate in the R&R/Equitas program," the letter says.

And, New York Attorney General Dennis C. Vacco wrote to Judge Payne, asserting that disputes between U.S. members and Lloyd's should be heard in the United States.

### Accounting firm settles suit

NEW YORK—Coopers & Lybrand L.L.P. will pay \$68 million to settle litigation against the accounting firm relating to the improper transfer of shares from one company to another by deceased media mogul Robert Maxwell.

The settlement will increase the projected payout to Maxwell Communication Corp. P.L.C. creditors to between 46% and 51% instead of 44% and 48% which was previously projected. Mr. Maxwell took \$450 million (\$698 million) from his employees' pension funds.

The litigation arose out of C&L's audit of the 1991 accounts of Macmillan Inc., a former subsidiary of MCC, according to a statement issued by Price Waterhouse, the administrators of MCC.

C&L failed to report the removal of shares in Berlitz International Inc. from Macmillan to other companies controlled by Mr. Maxwell. The shares allegedly were used by Mr. Maxwell to obtain \$110 million (\$170.3 million) in bank loans, and the money was used to prop up his ailing media empire.

A C&L spokesman would not comment on insurance issues.

See Updates on page 30

### Errors & omissions

• Caremark Pharmaceutical Services was omitted from the Aug. 5 directory of prescription benefit managers. A complete listing appears on page 7.

## Insurer results little changed

By JUDY GREENWALD

Each month, SAFECO Corp.'s George P. Yonker reviews a report on increases in the insurer's renewal premiums for the same risks.

"I sometimes wonder if I'm not getting a report that's copied from the prior year because it's been so consistent" throughout the years, says the vp-finance. Each month, "it kind of tells the same story."

Based on major U.S. commercial property/casualty insurers'

first-half results, analysts say renewal reports for most insurers are likely to continue to tell the same story.

Although insurers feel the financial pressures of the soft market, catastrophe losses and increasing environmental reserves, there are no apparent indications of any change in the first-half results.

The 20 insurers surveyed by *Business Insurance* that report this data posted a 3.1% increase in net income for the first half, to

\$4.53 billion from \$4.39 billion. This compares with a 14.2% increase in the first quarter (BI, May 20), and a 16.8% increase in 1995 (BI, March 25).

"We see virtually no change in the market," said Robert M. Steinberg, chairman and chief executive officer of



See Results on page 29

## Captive studies can pay off

By RODD ZOLKOS

BURLINGTON, Vt.—A well-conducted captive feasibility study should give prospective captive parents a firm understanding of whether a captive truly is preferable to self-insuring or seeking traditional insurance coverage.

What's more, according to a panel on captive feasibility studies speaking at the annual conference of the Vermont Captive Insurance Assn. in Burlington, Vt., earlier this month, the feasibility study should make it clear how the planned structure of the captive and other issues associated

with its operation relate to the costs associated with capitalizing and operating it.

"Defining the structure, we feel,

Convergence of the insurance and capital markets is inevitable ..... page 20

helps define some of the financial parameters," said one of the panelists, John P. Yonkunas, a principal and consulting actuary in the Weatogue, Conn., office of consulting firm Tillinghast-Towers Perrin.

And, if the feasibility is done well, the study should help facilitate review conducted by a domi-

cile's captive regulators.

For all the work that goes into the feasibility studies, however, often seemingly obvious details are overlooked, suggested Joel S. Chansky, a principal and consulting actuary in the Wakefield, Mass., office of actuarial consulting firm Milliman & Robertson Inc.

"Having received a lot of these feasibility studies, a lot of the time you don't know who the captive is, when the study was done," he said.

Mr. Chansky suggested that the feasibility studies should include a clear cover page, including the

See Study on page 20

## Overreserving law causes uproar

By ROBERTO CENICEROS

SACRAMENTO, Calif.—Employer groups and insurers are both fuming about the Department of Insurance's final implementation of legislation aimed at discouraging insurers from overreserving for claims.

Insurers say A.B. 1913, which passed into law in 1994 but is just now being implemented, favors policyholders but it ultimately will create an administrative burden that will increase costs for insurance companies and eventually

for buyers, too.

Employers are angered that Insurance Commissioner Chuck Quackenbush has reduced their potential rebates by setting a minimum claim threshold that was not there when the legislation was passed.

The legislation calls for insurers to revise employers' experience modifications downward and provide refunds if a claim settles for less than 60% of its reserved value.

It applies to claims that close after Jan. 1, 1995, even if they

were opened in preceding years, according to the DOI's rules for implementation. That means insurers must go back and recalculate and provide refunds for claims that were opened several year ago.

The DOI also ruled that the revision will apply only to claims of \$10,000 or more. That determination has employers angry because the original legislation did not mention a threshold for exempting claims, said Willie Washington, workers compensation and

See Reserves on page 16

## Business Insurance goes online

Corporate risk management and employee benefit professionals—and those who work with them—have a new home on the World Wide Web.

*Business Insurance* this week debuts its home page on the Web at <http://www.businessinsurance.com>.

Searching for where to find breaking industry news before your issue is delivered? Visit BI online.

Wondering when a special BI directory is going to be published?

Visit BI online.

Curious how insurance buyers and sellers are using the Internet? Visit BI online.

Looking for a place to exchange information with your peers or get advice? Visit BI online.

Hunting for information on—and links to—industry-related Web sites without sifting through thousands of sites? Visit BI online.

The site offers a broad range of information and news of interest to risk management and employee benefit professionals, insurers and

reinsurers, agents and brokers, consultants and others interested in this field.

"*Business Insurance* is excited to be giving our readers an online information resource," said Editor Paul D. Winston.

"We see our home page as a clearinghouse, offering news and information, links to other industry sites and a forum for communicating with others," said Mr. Winston.

"The Internet is ideal for quick

See Web site on page 4

## Inside

Pabst Brewing Co. is cutting back health care benefits for its retirees. **PAGE 6**

Risk managers could benefit from Bob Dole's tort reform proposals, this week's editorial says. **PAGE 8**

Domestic partner benefits are becoming more popular but are not yet mainstream, columnist Dennis Nirtaut writes in Ask A Benefit Manager. **PAGE 19**

War-risk insurance could become a more important consideration after a recent court ruling. **PAGE 23**

### Departments

Advertiser Index ..... 24  
Ask A Benefit Manager ..... 19

Benefit Beat ..... 6  
Classifieds ..... 26  
Insurance Services Guide ..... 27  
International ..... 23  
Letters ..... 8  
Opinions ..... 8  
Perspectives ..... 19

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# Ward's lists look beyond numbers

By **DAVE LENCKUS**

The numbers don't tell the whole story for the 50 property/casualty and 50 life/health insurers that Ward Financial Group has identified as the safest and best-performing U.S. insurers.

Metric benchmarks—like lofty risk-based capital ratios, strong surplus-to-total assets ratios and high returns on average equity—illustrate how those 100 companies stand out from the rest of the industry.

Those numbers, though, do not reveal the business practices that drive high performance year after year.

A separate benchmarking project involving more than one-fifth of those companies—18 property/casualty and four life/health insurers—sheds some light on those business practices.

It shows that the Top 50 companies that are involved in the project are willing to pay higher salaries for top-notch claims people in an effort to prevent litigation over claims.

It shows that the top-performing and safest companies in the survey have cut away strangling bureaucracy from their organizations.

It shows that the survey's top-performing and safest companies spend no more on technology than other project participants but end up with more efficient systems because of how they budget their purchases.

"It all comes down to keeping your eye on the ball—keeping on top of the fundamentals," observed John L. Ward, chief executive officer of Ward Financial, the Cincinnati-based management consulting firm that annually determines the Top 50 groups.

Based on numerous solvency and income data over a five-year period (see story, page 14), Ward Financial identifies the 50 safest insurers in each market segment that also have done the best job of earning a profit.

It then compares their solvency and earnings results with the remainder of property/casualty and life/health industries in two separate, voluminous reports.

A few financial measurements cannot tell the whole financial story about an insurance company, but a few measures can provide a clear indication why these 100 insurers are the safest and best-performing companies in the country, according to Mr. Ward (see charts below).

From 1991 through 1995, the Ward's 50 property/casualty insurers posted a 298.4% risk-based capital ratio, which is one-and-a-half times better than the total industry's 194.2% ratio.

The percentage of assets attributable to surplus for the Ward's 50 was 35.3%, a safer number than the 26.6% ratio for the total industry.

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

Still, the Ward's 50 group over the past five years reported a 19.3% return on average equity, compared with a 12.1% return for the total industry.

On the life/health side, the Ward's 50 posted a 244.7% risk-based capital ratio, compared with the industry's 221.8% ratio.

The surplus-to-assets ratio was identical—10.3%—for the Ward's 50 and the total industry over the past five years. But, the Ward's 50 posted

a 17.1% return on average equity, compared with the industry's 12.8% return during that period.

How did the portion of Top 50 companies from each market segment that participated in the survey climb to those financial heights?

For property/casualty insurers, five business-practice areas among the nearly 3,000 measured in the benchmarking project provide some key insights, according to Mr. Ward. Those areas are employee productivity, claims service, loss adjustment, claims litigation and information technology.

For life/health insurers, their underwriting, policyholder service and information technology business practices offer some clues as to what sets them apart (see story, page 11).

In the property/casualty insurer group, a common business practice of the top performers is not doing anything on the cheap—in terms of either money or time spent on any area.

Eighteen of the Top 50 property/casualty insurers that participated in the project on average had 264 employees for every \$100 million of gross premiums, or 11.3% less than the 293.8 employees that the other 57 insurers that participated in the project need to generate that revenue.

One reason employees at top-performing companies are more productive is that those companies tie pay to employee performance.

The top-performing companies pay their employees, including executives, more—on average \$49,100 annually, or 4.6% more than the \$46,900 on average that the other project participants pay.

But, most of the time, employees at the top-performing companies earn that higher income only after reaching certain goals.

Other companies in the project only sometimes use incentive-laden salary structures.

The top-performing companies also are less bureaucratic, according to Mr. Ward.

Their span-of-control index, or the ratio of non-supervisory employees to supervisory employees, is 6.4, compared with 5.6 for the other project participants.

Higher ratios mean flatter organizational structures. Lower numbers mean the companies have more management stacking and reporting requirements.

Ward Financial has determined that the optimum ratio is between 6 and 8. Companies with lower numbers generally post more mediocre labor costs, like greater salaries and benefits for every dollar of premium that is generated. A span-of-control index exceeding 8 usually indicates the company is overstaffed, which leads to diminishing returns, Mr. Ward said.

Top-performing companies also virtually always rotate employees throughout different departments. "Over time, this makes your workforce more productive," Mr. Ward said.

The other project participants only sometimes rotate employees.

One area in which the top performers fared no better than the other insurers is total loss-adjustment expense as a percentage of gross premiums.

The expense for both the top performers and the other insurers in the

project was 9.5%.

But, the top performers' claims-adjustment departments spend more money on claims servicing, compared with their peers at other insurers. Claims-service expense represents 6.5% of gross premiums for top performers, compared with 5.4% for the other insurance companies.

As a direct result, for every 100 reported claims, the top performers faced 1.9 lawsuits, while the other insurers faced 3.4 lawsuits. The cost of that litigation, measured as a percentage of gross premiums, was 2.9% for the top performers and 4.1% for the other insurers.

"The key point here is where you spend it," Mr. Ward observed.

"A lot of insurance companies don't focus on that," he said. "Legal cost containment to insurers means squeezing legal firms. It really means fewer lawsuits, which results from having higher-quality loss adjusters."

Higher-quality adjusters demand greater pay.

The difference in pay among loss adjusters at top-performing companies and those at other companies in the project is even more pronounced than the difference between the two groups in companywide pay. The top performers pay claims adjusters \$49,900 annually, compared with the \$42,200 the other insurers pay.

The top performers virtually always use their own staff of adjusters, rather than independent adjusters, to settle claims. That practice ensures greater consistency and a better product, Mr. Ward said.

The other insurers in the project rely on staff adjusters most of the time.

The resulting allocated claims-service expense for each reported claim for the top performers is \$77, or 23.7% less than the \$101 average expense for the other insurers.

See Ward's on page 10

- How Ward's Financial Group selects the 50 companies that make the cut . . . . . **Page 10**
- Benchmarking project demonstrates how the top companies got where they are . . . . . **Page 11**
- Charts of Ward's benchmarks and the leaders in specific segments . . . . . **Page 11**
- The demographics of the typical Ward's 50 property/casualty insurer . . . . . **Page 14**

## Ward's 50 property/casualty

- |   |   |
|---|---|
| Alfa Insurance Group *  | Mercury Casualty Group                          |
| ALLIED Mutual Insurance Group                                   | Motors Insurance Corp.                          |
| American Family Insurance Group                                 | National Indemnity Co.                          |
| American International Group Inc.                               | National Re Corp. *                             |
| Amica Mutual Insurance Co.                                      | New York Marine & General Group                 |
| Auto Owners Insurance Group                                     | NORCAL Mutual Insurance Co. *                   |
| AVEMCO Insurance Cos.   | North Carolina Farm Bureau Mutual Insurance Co. |
| California State Auto Assn.                                     | Northland Insurance Group *                     |
| Canal Insurance Group *   | Ohio Casualty Insurance Co.                     |
| Chrysler Insurance Group *                                      | Orion Capital Group                             |
| Cincinnati Insurance Group *                                    | RLI Insurance Group *                           |
| Empire Fire & Marine Group *                                    | SAFECO Insurance Group *                        |
| Erie Insurance Group *  | Southern Farm Bureau Casualty Insurance Co.     |
| Federal Insurance Co.   | St. Paul Fire & Marine Insurance Co. *          |
| Foremost Insurance Co.  | State Auto Insurance Group                      |
| Frankenmuth Mutual Insurance Co. *                              | Tennessee Farmers Mutual Insurance Co. *        |
| General Reinsurance Group                                       | Trinity Universal Insurance Co.                 |
| Georgia Farm Bureau Mutual Insurance Co.                        | Underwriters Reinsurance Group                  |
| Government Employees Insurance Co. *                            | United Fire & Casualty Group                    |
| GRE Insurance Group   | United National Insurance Group *               |
| Hanover Insurance Co.   | Universal Underwriters Insurance Group          |
| Horace Mann Insurance Group                                     | USAA Group *                                    |
| Interinsurance Exchange, Automobile Club of Southern California | Virginia Surety Co. Inc.                        |
| Kentucky Farm Bureau Mutual Insurance Company                   | Western World Group                             |
| Medical Protective Co. *  | Westfield Cos.                                  |

\* Ward's 50 company 1991-1996

## Ward's 50 life/health

- |  |   |
|--|---|
| Alfa Life Insurance Corp.                      | Horace Mann Life Insurance Co.                |
| American Family Life Assurance Co. of Columbus | Jefferson-Pilot Life Insurance Co. *          |
| American General Life & Accident Insurance Co. | Kansas City Life Insurance Co.                |
| American Life Insurance Co.                    | Liberty Life Insurance Co.                    |
| American National Insurance Co.                | Liberty National Life Insurance Co.           |
| Ameritas Life Insurance Co.                    | Life Reassurance Corp. of America             |
| AMEX Life Assurance Co. *                      | Lincoln National Life Insurance Co.           |
| Beneficial Life Insurance Co.                  | Midland National Life Insurance Co. *         |
| Central National Life Insurance Co. *          | Minnesota Mutual Life Insurance Co.           |
| Cincinnati Life Insurance Co.                  | Mutual of Omaha Insurance Co.                 |
| Combined Insurance Co. of America              | New York Life Insurance Co.                   |
| Connecticut General Life Insurance Co.         | Northwestern Mutual Life Insurance Co.        |
| Country Life Insurance Co.                     | Ohio National Life Insurance Co.              |
| Employers Health Insurance Co.                 | Physicians Mutual Insurance Co. *             |
| Equitable Life Insurance Co. of Iowa           | Primerica Life Insurance Co.                  |
| Farm Bureau Life Insurance Co. of Michigan     | Principal Mutual Life Insurance Co.           |
| Farmers New World Life Insurance Co. *         | Provident Mutual Life Insurance Co.           |
| Federated Life Insurance Co. *                 | Sentry Life Insurance Co.                     |
| First Colony Life Insurance Co.                | Southern Farm Bureau Life Insurance Co.       |
| General American Life Insurance Co.            | Teachers Insurance & Annuity Assn. of America |
| Golden Rule Insurance Co.                      | Transamerica Occidental Life Insurance Co.    |
| Great American Life Insurance Co.              | Trustmark Insurance Co.                       |
| Great Southern Life Insurance Co.              | United Insurance Co. of America               |
| Guardian Life Insurance Co. of America         | UNUM Life Insurance Co. of America            |
| Home Beneficial Life Insurance Co. *           | Western & Southern Life Insurance Co.         |

\* Ward's 50 company 1991-1996

# Web site

Continued from page 2  
access to information and will make it easier for readers to communicate with us, and hopefully with each other, as well," Mr. Winston said.

"We're looking forward to getting feedback on the site and will strive to adapt as needed to meet our audience's needs."

The Web site currently is organized into seven online departments:

- **Updates**, which posts late-breaking news from the magazine every Friday before the next issue is delivered.

- **Magazine**, which contains information about the *BI* staff and services, including an editorial calendar and a list of directories, advertising and subscription information.

This area also contains information about obtaining past *BI* articles online from several electronic information services, as well as article research, reprint and photocopy services.

- **Internet Articles**, which features an archive of articles from past issues of *Business Insurance* on Internet trends, issues and usage in employee benefits, risk management and commercial insurance.

- **Global Focus**, which is an archive of articles from *BI*'s Global Focus, a special section on international risk management topics published six times annually and sent exclusively to subscribers outside the United States.

- **Calendar**, which contains a searchable database of upcoming industry meetings and events and an e-mail form for submitting listings to *BI*.

- **Online Forum**, which offers an

unmoderated message board area for users to exchange information and discuss a wide range of risk management and employee benefit topics.

- **Web Links**, which features a directory of sites on the World Wide Web that may be of interest to risk and benefit managers and an e-mail form for submitting new links.

*BI*'s home page also features an e-mail option that can be used to send feedback on the site, a letter to the editor for publication or general queries to the magazine's staff.

"We expect *BI*'s home page to



Internet browsers can tap into a variety of information sources by visiting *BI*'s new Web site.

change and grow in response to users' needs and the magazine's ability to deliver new information," said Mr. Winston.

"We hope readers make [www.businessinsurance.com](http://www.businessinsurance.com) a regular stop on their travels along the information superhighway," he said. **BI**

# RRG

Continued from page 1  
Since 1993, OMIC has been in runoff under the voluntary supervision of the state insurance department.

The 260 open malpractice claims in 1993 have since dwindled to 23 outstanding policyholder claims and 93 extended reporting endorsements, which have potential liability, Mr. Jacobs said. Instead of waiting years to settle the remaining claims, the Tennessee Insurance Department "concluded it was a good idea to declare a victory."

In June, Douglas M. Sizemore, Tennessee Commissioner of Commerce and Insurance, was appointed receiver of OMIC, and on Aug. 13, the Chancery Court of the State of Tennessee approved a rehabilitation plan that will cover remaining policyholder members' obligations.

Under the terms of the plan, nearly \$4 million of OMIC's assets will be transferred to Gulf Atlantic, which will then cover the estimated \$4 million in policyholder members' current and future obligations.

The remaining \$829,693 in surplus will be retained by Mr. Sizemore until a decision is made as to whether Gulf Atlantic or the policyholders are entitled to the money. The court ultimately could decide how the money will be distributed.

Once the transactions are complete, Mr. Sizemore will seek an order of liquidation, according to court papers.

"We decided to do what's good for the policyholders and agreed to disagree" on the remaining surplus, Mr. Jacobs said.

Mr. Jacobs said he believes Gulf Atlantic is entitled to the more than \$800,000 because OMIC owes the reinsurer money on a loan it took out to start the company.

Mr. Sizemore and other parties involved at the Tennessee Insurance Department were unavailable for comment.

OMIC provided medical malpractice coverage with four policy limits, ranging from \$100,000 per claim and \$300,000 aggregate, up to \$1 million per claim and \$3 million aggregate. **BI**

## Prince joins *BI* in New York

NEW YORK—Michael Prince, 32, has joined *Business Insurance* as an associate editor in the New York bureau.

He has served as an editorial intern in New York since June. He replaces Michael Schachner, who left to pursue another career.

Mr. Prince joined *BI* after his graduation from the Columbia University Graduate School of Journalism in New York, where he obtained a master of science degree in journalism.

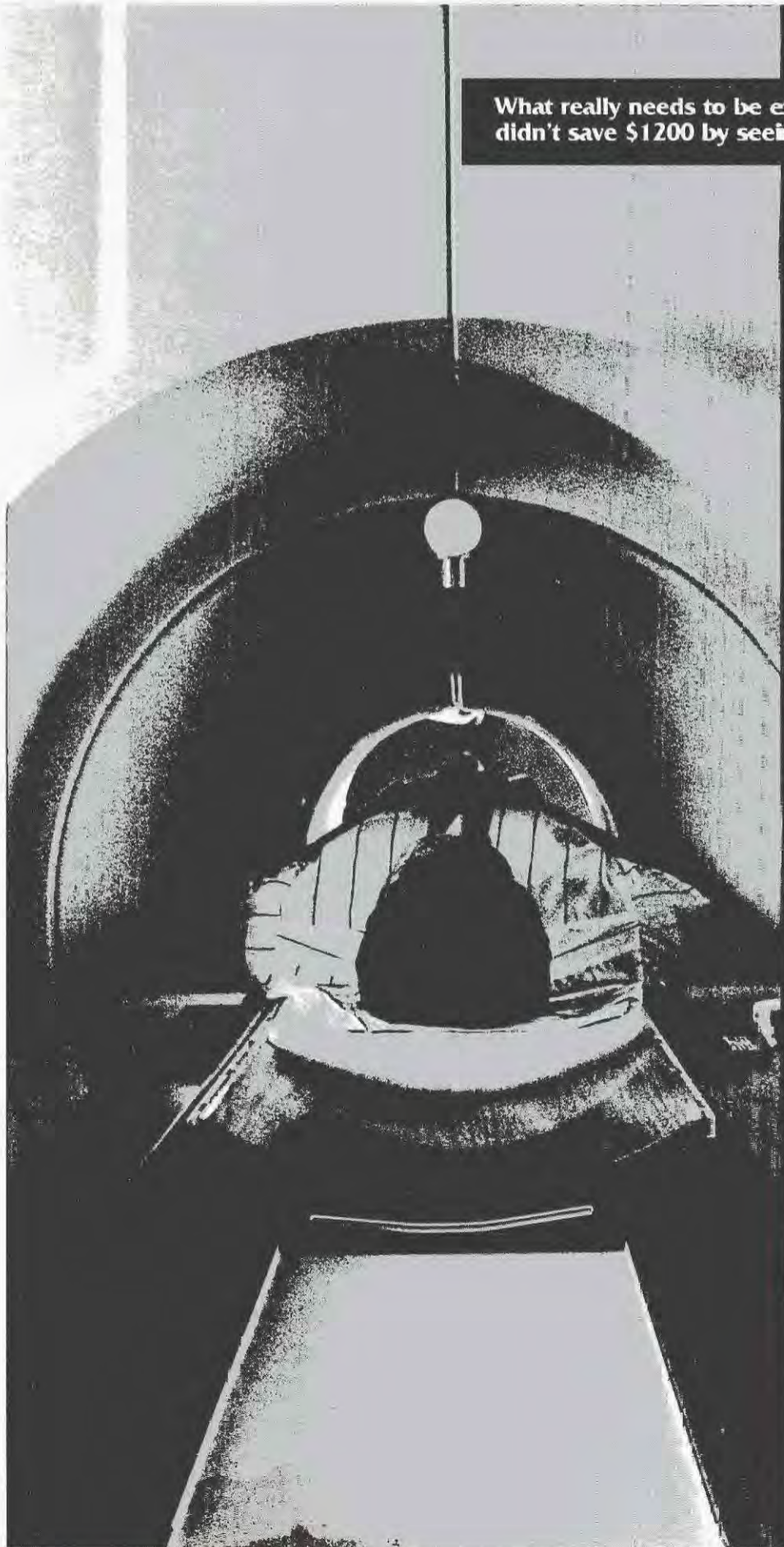
Prior to attending Columbia, he was an attorney in New York with Wisheart & Koch from 1990 to 1995, practicing employment litigation.

He holds a bachelor of arts degree in political science from Boston University and a law degree from Boston University School of Law.

Mr. Prince can be reached at 212-210-0143. **BI**



**Mr. Prince**



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# Pabst retiree health benefits run dry

MILWAUKEE—Pabst Brewing Co.'s 817 retirees must quickly find new health care coverage, because Pabst has announced that it will no longer provide health care benefits for them effective Sept. 1.

Canceling the fully paid health insurance and prescription drug coverage, written by Blue Cross of Wisconsin, will save Pabst an estimated \$3.5 million a year and enable it to keep its downtown Milwaukee plant open, the company said.

The National Labor Relations Board was asked to block the move after Pabst released its plans three weeks ago, but action is unlikely before the benefits run out.

Chuck Hoffmann, financial officer for Brewery Workers Local 9, said the union is exploring legal remedies. The union has lined up three insurance agencies to help retirees convert to individual coverage. The majority of those affected are covered by Medicare.

Legislation President Clinton signed last week will curb insurers' ability to deny coverage for pre-existing medical conditions, but it won't take effect until July 1.

Rep. Gerald Kleczka, D-Wis., has asked U.S. Labor Secretary Robert Reich to determine whether Pabst is violating the Employee Retirement Income Security Act.

—By Cristal Cody

## Partner benefits

Employees at the American Speech-Language-Hearing Assn. can now obtain benefits for same-sex and heterosexual domestic partners under a new insurance plan underwritten by Allmerica Financial Corp.

Domestic partner benefits include the health insurance choice of either a preferred provider organization or an exclusive provider organization; up to 16 weeks of unpaid family and medical leave; bereavement leave; and sick leave to care for a family member. The company offers a separate employee benefit plan for single and married employees.

Although none of the 177 staff members at its headquarters in Rockville, Md., is using the partner benefits, "offering domestic partner benefits is appropriate and necessary for any organization that respects the inherent diversity of the workplace," said Frederick Spahr, ASHA's executive director.

Under the plan's guidelines, employees may designate a partner of the same or opposite sex as a spousal equivalent.

ASHA defines partners as a couple who are 18 years or older and have lived together for at least six months with the intention to do so indefinitely. The policy is not exclusive to gay and lesbian couples but specifically recognizes their partners, a spokesman for the association said.

To incorporate the benefit, ASHA moved from a minimum premium contract to a self-funded plan and changed insurers because Northwestern National Life Insurance Co., which previously underwrote the association's benefit plan, would not provide the specific benefits ASHA wanted to offer.

—By Cristal Cody

## Onsite therapy

PHILADELPHIA—CIGNA Corp. employees leaving their desks during the workday may not be headed for lunch.

If they're limping or groaning, chances are they're en route to an onsite physical therapy program that has helped more than 300 workers.

The insurance company decided to introduce a physical therapy pro-

## Benefit Beat

gram at its Philadelphia headquarters in 1994 and last year began a similar program at its offices in Bloomfield, Conn. The number of employees using the services has risen rapidly, and appointments now are being scheduled several days a week in the company's wellness centers.

CIGNA's motivation was twofold, said Jerry Meyn, vp of employee benefits and health management. First, some employees spent too much time outside the office in physical therapy. Second, workers needed encouragement to complete all the physical therapy they required after returning to work with an injury or

chronic problem.

The physical therapy services are open to any CIGNA Corp. employee with a doctor's prescription. Dependents are not eligible. The program is administered by King of Prussia, Pa.-based NovaCare Outpatient Rehabilitation, and sessions last up to an hour. Services offered onsite include physical therapy, occupational/hand therapy, massage therapy and maintenance programs.

The most common complaints that result in use of the program are knee and shoulder problems, followed by back and neck injuries, Mr. Meyn said.

The facilities are free, whether or

not the injury is job-related. Only 5% of employees' conditions have been caused by office activities.

—By Robert Kazzl

## Dental plans growing

Enrollment in dental HMOs increased 15% in 1995, to 19.5 million members from 17 million, according to preliminary survey data collected by the National Assn. of Dental Plans.

Dental preferred provider plans offered by companies that filed preliminary surveys grew at almost twice the rate in dental health maintenance organizations, bringing the overall growth rate of the initial reporting group of 80 companies to an average of 18%. PPO enrollment figures were unavailable.

The initial group reporting for the survey are mostly NADP's dental HMO members.

Tim Dorazio, board chairman of

Dallas-based NADP, a non-profit trade association for dental managed care plans, said employees choose dental managed care "because of the quality of provider networks, which are subject to both credentialing and quality assurance systems as well as plans' customer service."

These preliminary enrollment figures are part of NADP's annual statistical survey to be released in October. The survey has been expanded in a data collection effort with InterStudy, an independent publisher of managed care statistics.

The final study will provide for the first time since 1989 a measure of the entire dental benefits market along with market share represented by each product.

Data was requested from more than 200 additional companies. The majority of the additional companies provide dental PPO, indemnity or referral plans.

—By Cristal Cody

DID YOU HEAR THE

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# NCQA touts new evaluation tool

By ROBERT KAZEL

WASHINGTON—The leading watchdog organization that accredits and grades managed care companies is introducing a new, streamlined approach for employers to compare plans' performance and a computerized tool to sort through the data.

Executives of the Washington-based National Committee for Quality Assurance last week heralded its new Quality Compass product as the first affordable means for plan sponsors to judge if health maintenance organizations and point-of-service plans are competitive in terms of standards and health outcomes.

The NCQA publishes plan performance information called HEDIS, or Health Plan Employer and Infor-

mation Set, in addition to accrediting managed health plans.

The new Quality Compass system is an attempt to integrate both types of information into a well-organized set of data that benefit managers and employees can use to select health plans. The product currently has files on 226 health plans representing 28 million covered lives, and will be updated at least twice yearly.

"Basically, I think Quality Compass is going to change the rules of the game," said Dr. Cary Sennett, NCQA vp for performance measurement.

Until now, the NCQA and various benefit consultants have attempted, with limited success, to get performance data from health plans and distribute it to employ-

"The problem is there is too much data out there and very little information," Dr. Sennett said. For a plan sponsor interested in comparing several health plans, the numbers available often were not in a form that would allow direct plan-to-plan comparison. The raw data reports for Quality Compass, for example, span 3,000 double-sided pages.

The best way out of the paper jungle for most companies, NCQA officials believe, is CD-ROM computer technology. The group is making all Quality Compass data available in printed form and on CD-ROM disks, and plan data can be searched electronically by region, state, plan type and key word.

Plan sponsors can page rapidly through NCQA ratings relating to a plan's health outcomes and proce-

dures, including child immunization rates, cholesterol screening rates, cervical cancer screenings and maternity length of stay, and these can be gauged against national and regional benchmarks, Dr. Sennett said.

Plans are ranked on a scale from high-achieving to low-achieving for every measure, though NCQA officials caution that the information isn't perfect because submission of data for HEDIS is voluntary and many managed care plans have not cooperated.

Although the NCQA has no concrete plans yet on how to give workers access to the information, NCQA President Margaret E. O'Kane said the organization hopes that simplified report cards eventually will be distributed to employees through their companies and unions, at public libraries and via the Internet.

Using CD-ROMs to contain all

the information will be a great advance over previous forms of HEDIS reports, said Suzanne Mercure, benefits administration manager for Southern California Edison Co. in Rosemead, Calif.

"To go through the paper and try to compare has been very difficult," Ms. Mercure said during a news conference organized by the NCQA. "We will use much more HEDIS data than we have in the past."

The new HEDIS product also may be useful to employer purchasing coalitions, many of which have tried to obtain reliable comparative data for years.

Elisa Hamill, chief executive officer of The Alliance, a Denver-based purchasing coalition, said during the news conference that such data will be valuable when the 700-employer coalition puts out bids for managed care contracts. A year ago, good comparative data at an affordable price did not exist, she said.

The NCQA will sell printed Quality Compass regional reports for \$500 each. For CD-ROM versions, users can choose whichever plans they want to include and pay prices ranging from \$800 for 25 plans to \$3,200 for all 226 plans.

More information on Quality Compass may be obtained from the NCQA at 800-839-6487.

## PBM omitted from directory

The following listing was omitted from the Aug. 5 directory of prescription benefit managers.

**Caremark  
Pharmaceutical Services**  
2211 Sanders Road,  
Northbrook, Ill. 60062;  
847-559-4700; fax: 847-559-5256

1995 revenues	
Total gross revenue*	\$2,300,000,000
PBM gross revenue	\$1,400,000,000
PBM Clients	
Total	2,000
Employer/group plans with direct service	774
Lives Covered	
<b>Group health:</b>	
Total	15,000,000
Active enrollees	9,800,000
through employers	60%
through third-party vendors	37%
through Medicare/Medicaid	3%
Retail Network	
Pharmacies under direct contract	53,750
Staff	
Total	2,300
Professionals	350

**PBM services since: 1985.**

**Parent:** Caremark International.

**Services:** Retail pharmacy network, mail-order distribution, claims processing, concurrent utilization review, retrospective utilization review, benefit design consulting, formulary management/review, monitoring of physician prescribing practices, patient/physician education, disease management.

**Formularies offered:** Open, closed, restricted/customized.

**Pharmacies contracted:** Independently owned; retail chains.

**Reports provided:** Physician prescribing patterns; generic vs. name brands dispensed analysis; employee utilization; program savings; integrated, concurrent and retrospective intervention outcomes.

**Service area:** United States.

**Billing methods:** Fee per claim, negotiated rates for drugs, risk sharing arrangement.

**Officers:** C.A. Lance Piccolo, chairman/CEO; James G. Connelly III, president/COO; Thomas W. Hodson, senior vp/CFO; Donna C.E. Williamson, senior vp-integrated services; Kris Gibney, corporate vp-pharmaceutical services; Donna Hooper, corporate vp-international; Dennis R. Owczarski, treasurer; John M. Pelletiere, corporate vp-controller; Robert S. Smith, acting general counsel.

**Contact:** Todd Martin, vp-sales.

\* Net revenue for Caremark International.

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# Opinions

## Dole elevates tort reform issue

ALTHOUGH BOB DOLE's advocacy of an across-the-board income tax cut is winning considerably more attention than any of his other proposals, the Republican presidential hopeful has done the risk management community a real service by including a series of tort reform proposals in his economic plan.

We hope those ideas are more than campaign rhetoric and become a starting point for serious debate and, ultimately, reform.

While in the Senate, Mr. Dole had a long record as a proponent of product liability reform. He numbered among the co-sponsors of the Senate reform bill that formed the basis of the product reform bill approved by both houses of Congress but was vetoed by President Clinton earlier this year.

Mr. Dole's latest proposed tort reforms go beyond product liability to address flaws in the broader civil justice system (*BI*, Aug. 12).

At the center of the Republican nominee's legal reform recommendations is a proposal to limit punitive damages. Businesses have long sought relief from excessive and unreasonable punitive awards.

The Dole plan would limit the awards in almost all civil cases to the greater of \$250,000 or three times economic damages. Under the Dole proposal, cases involving death, serious injury, criminal misconduct, alcohol or drug use or civil rights violations would not be subject to the formula.

As a corollary, Mr. Dole advocates abolishing joint and several liability for non-economic damages in all civil cases. He also proposes curbing contingency fees in some cases and creating an "early offer" system of encouraging speedy settlement of economic damage claims by setting higher evidentiary standards for the collection of non-economic and punitive damages. States could choose whether to institute either of the last two proposals.

Mr. Dole's legal reform proposals stand in sharp contrast to those of President Clinton, who has steadily



fastly opposed meaningful tort reform.

Of course, there is no guarantee that a President Dole would be able to get his reforms enacted. Even as Senate majority leader, then-Sen. Dole had to put up with defections from his own GOP majority when the roll was called on product liability reform.

And, of course, there's more than a little politics involved in his support for civil justice reform.

For example, the Dole campaign paper takes jabs at the "go-for-broke mentality of trial lawyers" who are counted among President Clinton's staunchest supporters.

Nevertheless, Mr. Dole is to be commended for spotlighting the important issue of tort reform during his campaign. We hope the issue wins some serious discussion among the presidential candidates and ultimately leads to much-needed reforms, regardless of who wins in November.

# Letters

## Readers ask lawyer: What's up pussycat?

To the editor: Is Eugene Anderson going the way of Ralph Nader?

As a policyholders attorney, it is Mr. Anderson's job to get the broadest coverage interpretations and largest settlement for his clients, just as Chris Campos' work for insurers gives him the job of keeping those settlements to the minimum consistent with an honest interpretation of the policy.

However, I have noted that in his recent writings Mr. Anderson has gone beyond questions of coverage interpretation and, as in his Aug. 5 reply to Mr. Campos' June 24 letter, resorted to bashing the insurance industry.

Since a business income loss is determined "...based on...the likely net income of the business if no loss or damage occurred," to quote the ISO form, there is room for honest differences of opinion on the amount of a loss, and insurers have a right to question their insureds' assumptions. This does not necessarily mean that claimants are being treated as "scam artists and thieves" by insurers, though I am sure some adjusters and accountants do operate that way.

*Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; fax: 312-280-3174; e-mail: pwinston@crain.com*

Rather than characterize business interruption insurance as a "defective product" because of the time and expense of proving a claim, as a consultant I would recommend purchasing a form that would cover such expenses, or try to endorse standard policies to provide this coverage.

As stated in Mr. Campos' letter, the best approach is for policyholders and insurers to work together on business interruption losses. Obviously this is not possible when either side regards the other as a crook.

I agree with Mr. Anderson that "pussycat" policyholders who accept an insurer's first offer without question are not getting value for their insurance dollar. However, Mr. Anderson cannot reasonably expect insurers to be pussycats, either.

Harry Cylinder  
Philadelphia

\*\*\*

To the editor: For years I have followed Mr. Anderson's colorful commentary, as published by *Business Insurance* and other publications, but his Aug. 5 letter needs a response. Mr. Anderson, it's time for a reality check and a check of your sense of humor! You forgot to mention that the tooth fairy was an attorney and likely majored in creative and revisionist history.

There is no reason to pick on Mr. Campos, or the fact that his accounting firm has to put up daily with policyholder's public adjusters and their lawyers. (Please note that I do not refer to them as scam artists or thieves.)

As we both know, the plain facts of life are that policyholders with bona fide and rational business interruption claims have little, if

any, problems with insurance companies. It's when the lawyer gets involved, that any insurance company's claim adjuster needs to raise the caution flag.

In addition, the so-called "pussycat" policyholder does get his milk, but unfortunately, there is nothing left over for the tooth fairy.

Henry Dykowsky  
President  
Henry Dykowsky & Associates Inc.  
New City, N.Y.

## Saying goodbye to industry leader

To the editor: No doubt you have learned of Anita Benedetti's passing and are deeply saddened by the news, as I am.

Anita touched the lives of countless other numbers of risk managers and insurance professionals in very positive ways. Her dedication to the Risk & Insurance Management Society and her cheerful demeanor will long be remembered by all those who knew and worked with Anita.

It is difficult to say "goodbye" to one of our industry's most respected leaders. However, Anita leaves us the gifts of integrity, commitment and respect for others along with the highest standard of service to the members she served so well and so long.

Gerald J. Ciardelli  
Risk Manager  
Jostens Inc.  
Minneapolis

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## Life/health

Continued from page 11

for two departments to duplicate each other's work.

In addition, the top performers most of the time use underwriting teams organized around geographic areas or groups of agents. So, each region or group of agents has its own underwriting team consisting of:

- A new-business department, which collects applications and performs some pre-underwriting.

- Underwriters.

- A policy issuance department.

"It's the most efficient way to work. You can pump out more policies than you can with the typical assembly line approach," Mr. Ward said.

The other insurance companies only sometimes use that type of ap-

proach, according to Ward.

Underwriters' production illustrates the impact of those various measures.

For top performers, first-year premiums are \$1.8 million, almost 38.5% more than the \$1.3 million for underwriters with other insurers.

But, unlike a best practice that top-performing property/casualty insurance companies implement companywide, top-performing life/health insurers pay the underwriters they employ substantially less—\$39,800 on average—than the \$47,800 that the other insurance companies in the project pay their underwriters.

Mr. Ward said the top-performing life/health insurers can pay their underwriters less because they typically use expert computer systems in underwriting complicated risks.

—By Dave Lenckus

## Benchmarking workforces

Employees of the commercial property/casualty insurers that participate in Ward Financial Group's benchmarking project largely are women who stay on the job an average of five to 10 years.

A majority—64%—of the approximately 75 insurance companies that participate in the benchmarking project reported that women comprise 60% to 70% of their workforces.

Among the remaining insurers, 18% reported that women comprise 70% or more of their workforce.

An equal percentage said that women comprise 50% to 60% of their workforce.

A large majority of the surveyed insurers' employees—82%—have

worked five to 10 years for their employers.

Twelve percent of the surveyed insurers' employees have tenures longer than 10 years.

Six percent of the insurance companies in the project reported that the average length of service for their employees is less than five years.

The employee turnover rate for 59% of the insurers in the benchmarking project ranges between 5% and 10% annually. Employee turnover for 29% of insurers tops 10% annually. The remaining 12% have turnover rates of less than 5%—with half of those reporting turnover of less than 2% annually.

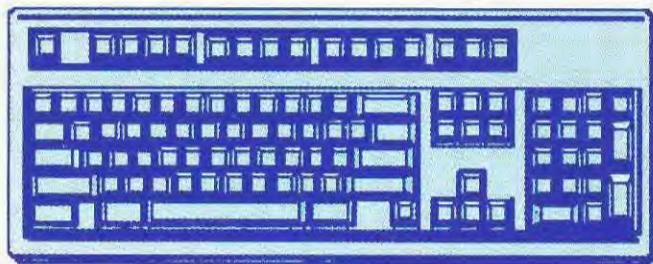
Seven out of 10 insurers reported that 30% to 40% of their em-

ployees hold college degrees. Eighteen percent of the insurers report that more than 40% of their employees have graduated college. The remaining 12% of insurers reported that less than 30% of their workers hold college degrees.

More than three-quarters of the insurance companies reported that the average age of their employees ranges from 35 to 40. The workforce is older on average for 18% of the respondents and younger for 6%.

The standard employee workweek for 76% of the insurers is 37.5 hours or less. For 12% of the insurers, it's 38.25 hours. Another 12% of the insurers impose a 40-hour workweek.

—By Dave Lenckus



## Corporate buyers are a keystroke away.

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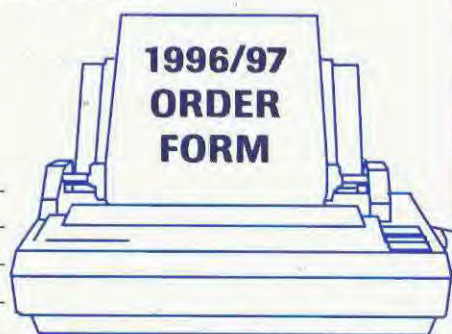
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**Business Insurance**

## Court prompts J&H to amend retirement rule

By GAVIN SOUTER

NEW YORK—Johnson & Higgins' directors no longer will have to resign from the brokerage once they reach age 62 after a federal appeals court ruled that the policy was unlawful.

In the case brought by the Equal Employment Opportunity Commission, the agency argued that J&H's policy of making directors retire at 62—or 60, if they had been directors for more than 15 years—violated the Age Discrimination in Employment Act.

A federal district court had ruled against J&H last year (*BI*, June 19, 1995). Earlier this month, the 2nd U.S. Circuit Court of Appeals upheld the lower court's decision.

In its appeal, Johnson & Higgins argued that the Equal Employment Opportunity Commission did not satisfy its statutory duty to conciliate the dispute with the broker first; the EEOC did not have the power to enforce the ADEA where no aggrieved members of the broker's board of directors filed charges or supported the suit; the ADEA is inapplicable in the case because the directors were not "employees" for purposes of the statute; and even if applicable, the broker's retirement policy does not violate the ADEA because the policy is based on reasonable factors other than age.

The appeals court rejected all of the broker's arguments.

In a dissenting opinion, Judge Dennis G. Jacobs said the ADEA was not applicable because directors of J&H are employers rather than employees.

"They alone hold all the legal and financial power to direct the corporation's acts. The challenged retirement policy is one that only the directors have the power to adopt," he said.

The broker has chosen not to appeal the ruling and will amend its retirement policy.

J&H will be able to comply with the decision if directors are permitted to remain employees of the company until age 65, a J&H spokesman said.

J&H Chairman David Olsen and President and Chief Operating Officer Richard Nielsen both plan to retire next year at age 60 (*BI*, July 22).

*Equal Employment Opportunity Commission vs. Johnson & Higgins, 2nd U.S. Circuit Court of Appeals, No. 95-6216, Aug. 8, 1996.*

# Reserves

Continued from page 2

human resources policy director for the California Manufacturers Assn. in Sacramento.

The original legislation did not intend for the law to have a threshold, said a spokeswoman for Sen. Richard Polanco, D-Los Angeles. Sen. Polanco, as a former assemblyman, sponsored the legislation, which is the direct result of an oversight hearing held by the subcommittee on International Trade and Business Development. Testimony at the hearing indicated that by setting reserves at levels far in excess of the actual cost of settling a claim, insurers drove up experience modifiers used to set rates—and, therefore, workers comp costs—for California employers.

Mr. Washington conceded there may be a need for a threshold so that insurers do not have to go back and re-evaluate numerous small and insignificant claims.

"But certainly I never envisioned a \$10,000 threshold," Mr. Washington said. "Absolutely I think it is too high."

He fears a \$10,000 threshold would exempt tens of thousands of claims from the pool that insurers otherwise would have to recalculate for employers.

The Workers Compensation Insurance Rating Bureau of California estimated that in 1996 the \$10,000 threshold will exempt nearly 25,000 claims worth about \$40 million from the new law.

Mr. Washington said he is skeptical of those numbers and expects the impact on employers to be far greater. He helped create the law because he was finding instances in which claims were closing for \$3,000, yet some insurers were reserving 10 times that amount. The greater the reserve for claims, the more employers are charged in premiums.

However, insurers argue that the law favors employers because it does not call for an upward revision of experience modifications when claims settle for more than their reserved value, said Doug Widtfeldt, vp for the Assn. of California Insurance Cos. in Sacramento.

"There are a number of claims that close for a higher amount, so it's a very one-sided law," Mr. Widtfeldt said.

Insurers also would rather have seen the department interpret the law to apply only to claims that opened and closed after Jan. 1, 1995. That would have eliminated much of the administrative burden of recalculating old claims. In addition, insurers wanted the law to apply to claims above \$20,000. That amount is closer than the \$10,000 threshold to the cost an average claim closes for, according to Mr. Widtfeldt.

For ACIC member companies in the state's open-competition environment to suddenly have to go back and arbitrarily return premium and perhaps recapture agent's commissions that have been paid, "we just feel it is very arbitrary the way the law is being implemented," Mr. Widtfeldt said. "It really wreaks havoc on our ability to properly price products."

But the CMA's Mr. Washington is not swayed by such arguments. He said the law was meant to put insurers on notice.

"That is precisely what we were after in the bill, is to cause the insurers to be more diligent in the way they reserve," he said. "If they over-reserve they are going to have to refund the money. And now they are talking about this being onerous that they have to go back and make these adjustments and so forth, and I'm saying 'tough.'"

Both insurers and employers are taking action.

Mr. Washington is trying to drum up support to repeal the Insurance Department's claims threshold. He

Other employer representatives agree.

"Since there was never any

**'Since there was never any (threshold) dollar amount mentioned in the legislation, we are incensed that they are trying to create one through regulation,' says Juli Boryles.**

said Mr. Quackenbush did not have the authority to implement a threshold absent in the legislation itself.

(threshold) dollar amount mentioned in the legislation, we are incensed that they are trying to create one

through regulation," said Juli Boryles, director of the California Chamber of Commerce's workers comp committee.

But the Insurance Department disagrees. The commissioner does have the authority to clarify vaguely written legislation, a spokesman said.

The department chose the \$10,000 threshold because actuarial calculation revealed that making the law apply to claims below \$10,000 would provide little if any return to employers while unfairly burdening insurers, he said.

Insurers would prefer the approach taken in Massachusetts, where both upward and downward

revisions to experience modifications are allowed for reserve amounts that do not match claims. Mr. Widtfeldt said.

Additionally, he said, in Massachusetts, revisions are made annually to an employer's aggregate claims. Under the California law, insurers must make revisions on the basis of each individual claim.

Insurers hope employer groups will agree to support calls for a Massachusetts-like plan as a compromise, Mr. Widtfeldt said.

If compromise is not reached, the ACCC will seek legislation this year or next that would mitigate the impact on insurers, he said. **B**

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# Captives advised on managing Net risks

By RODD ZOLKOS

BURLINGTON, Vt.—The Internet offers a broad range of opportunities to captive insurers and other companies, but those wanting to tap the Net also must be aware of potential liabilities and regulatory issues.

As with any business activity, however, captive insurers can take steps to manage the risks that might be lurking online, panelists said during a discussion at the annual conference of the Vermont Captive Insurance Assn.

in Burlington earlier this month.

John M. Froehl Jr., chief financial officer and treasurer for Cheshire, Conn.-based Housing Authority Insurance Inc., speculated that because today's children are so comfortable with the technology, the electronic networking the Internet allows will be the way captives transact their business within the next 15 years.

But, Mr. Froehl and another panelist, Frederick Lane III, a principal with Pro Se Computing Inc., a Burlington, Vt.-based computer con-

sulting firm, noted that liability concerns abound in areas like security of information and systems and workplace harassment.

And, as insurance deals are transacted over the Net, there will be important regulatory questions to settle.

"My web site's in California, and my customer is in Connecticut," Mr. Froehl said hypothetically. "Am I selling insurance in California or Connecticut?"

The National Assn. of Insurance Commissioners is examining the

issue, said Mr. Froehl, though he expects that process to resemble other government efforts to regulate new developments.

Typically the regulatory process has lagged well behind the pace of cutting-edge development, he said, as with federal securities regulators continually playing catch-up as Wall Street creates new investment instruments.

"The NAIC has just formed a working committee to study the Internet," Mr. Froehl said. "That means in five

years we'll get something out of them that says, 'We think. . . . By then we'll be so much further ahead of them.'"

For the near future, though, he thinks regulators will allow some Internet insurance transactions to continue unimpeded, just to see how the process develops.

On the liability side, concerns begin to creep in anytime someone in your company connects directly to the Internet, Mr. Lane said.

Anytime an employee uses e-mail, "you raise the possibility that the information that is being sent can be found by someone who isn't supposed to find it," he said.

Because of the Internet's very nature as a decentralized network with an open architecture, "it's extremely difficult to impose any kind of security on the Internet," Mr. Lane said.

Concerns about the loss or theft of confidential material are very real, and there has been increasing concern lately about the issue of electronic industrial espionage, he said.

One way to secure these transmissions is through the use of encryption devices, but the government won't allow widespread manufacture or distribution of these devices out of concern that it would then become easy for terrorists or other criminal groups to begin exchanging coded information.

In the absence of systems to secure e-mail transmissions, captive insurers and other companies need to make their employees aware that e-mail is not a secure method of correspondence.

To maintain security, sometimes it still might be necessary to send information by traditional "snail mail," he said.

Captive officials also need to recognize e-mail's growing use as a litigation tool, Mr. Lane said.

"One of the things that plaintiffs lawyers are paying increasing attention to is that e-mail is extremely difficult to destroy," he said. E-mail can be retrieved from computer systems long after the electronic correspondence takes place.

"In terms of what you are looking at when you insure your companies, you need to be aware of having clear-cut policies not just in terms of what you say in e-mail but also how things are backed up or destroyed."

What is said or transmitted in e-mail can raise the potential of employment liability or harassment issues.

"I think harassment or discrimination issues are probably the most dangerous areas you can move into on the Internet," Mr. Lane said.

Problems can arise, for example, when one employee sends another a computer image or message taken from a computer "bulletin board" that the co-worker finds offensive.

"Now there are programs out there that can assist you in screening some of that stuff," Mr. Lane said.

Companies also can reduce their exposure by developing Internet use policies for their employees that emphasize "that this is not a toy that has been given to them, because using it as a toy exposes the company to a lot of liability."

Captives conducting business online also must deal with the resulting exposure to computer viruses that can invade a system through software downloaded from Net sources. To combat viruses, Mr. Lane urged captive officials to "practice safe computing."

"You need to have very clear-cut rules about how software gets onto your computer system," he said. Mr. Froehl, for example, said his captive no longer lets employees load software they've brought from home onto the company's computers.

In general, Mr. Lane said, many of the potential risks associated with Internet use could be reduced by taking

See Internet on page 20

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# ASK A BENEFIT MANAGER

**Q**

The issue of extending benefits to domestic partners has arisen within my organization. What are the key factors to consider with regard to domestic partner benefits, and to what extent are they being used today?

**A**

There are various reasons for employers extending benefits to domestic partners. Some reasons include the need to address perceived inequities among employees, that is, the married population compared with the non-married population. Another reason is to respond to the needs of an increasingly diverse workforce. Of course, one of the key functions of a benefit program is to attract and retain employees required in the organization. Some organizations want to be recognized as leaders, and they do this by providing benefits seen as progressive, such as domestic partner benefits.

Other reasons for offering such benefits include pressure from the gay community, demand from unions and the potential threat of lawsuits for not extending the benefits.

While benefits to domestic partners have increased over time, they have not yet become mainstream. According to a survey by the Society of Human Resource Management, 63% of the 145 surveyed companies had a formal policy against discrimination on the basis of sexual orientation; however, only 2% of these companies extended health benefits to domestic partners. According to a study conducted by the International Society of Certified Employee Benefit Specialists, more than 200 entities offer domestic partner benefits.

Like many benefits, the extension of benefits to domestic partners has been more common within specific industries.

Industries in which extension of domestic partner benefits is most popular include entertainment, high tech, municipal governments and academia. An exception to this industry focus and one of the earlier companies to extend benefits to domestic partners is North Moreton, Vt.-based ice cream maker Ben & Jerry's Homemade Inc., which extended benefits to domestic partners in 1989.

Geographic location appears to influence the extension of domestic partner benefits. Growth of domestic partner benefits has been strongest in California and the East Coast.

In planning or considering extending benefits to domestic partners, one of the key decisions is whether to extend benefits to all domestic partners or to same-sex partners only. The argument for extending benefits to same-sex partners only is that the opposite-sex couples have the option of marrying if they want benefit coverage.

However, marriage is not available to same-sex partners.

Some notable examples of both approaches include San Francisco-based Levi Strauss & Co., which has extended benefits to all domestic partners, and Cambridge, Mass.-based Lotus Development Corp., which has extended benefits to same-sex partners only. One thing to keep in mind when making this decision is the number of couples living together outside of marriage. According to the U.S. Census Bureau estimates, 4.2 million households are made up of unmarried couples. Of these, about 2.6 million are gay and lesbian couples. This means 8.4 million people are in domestic partner relationships.

Most employers require some level of documentation for those enrolling as domestic partners to prove there truly is a domestic partnership. The type of documentation required generally is up to the employer. However, employers should ensure the required documentation is germane to proving the

## Domestic partner benefits gain favor in some corners though not yet widespread

relationship, or the request can lead to claims of invasion of privacy. There is a wide range of documentation requirements. A common practice is requiring that domestic partners sign a written affirmation of the domestic partnership. Other requirements include documentation that a domestic partnership exists. Examples of such documentation include copies of bank statements, postmarked letters, a drivers license or tax returns to demonstrate that the partners reside at the same address.

Some U.S. cities have passed ordinances allowing individuals to formally register as domestic partners. In these locations, some employers have required the employees to register with the city as a requirement for eligibility for the domestic partner benefit. This may be an issue, because some partners may not want to publicly register their relationships.

In a documentation statement provided to employees applying for domestic partner benefits, employers often include a statement that the employee will promptly notify the company of any change in domestic partner status.

Another consideration is a statement regarding misrepresentation of the relationship.

Taxation of the domestic partner benefit is a key issue. The Internal Revenue Service has yet to issue formal regulations related to domestic partner benefits. The only direction for domestic partner benefits has been provided through private letter rulings issued by the IRS, the latest of which was published earlier this year. According to these private letter rulings, employer-provided health benefits for domestic partners are not excludable from taxable income. Such employer-provided benefits are excludable from taxable income only if the recipients are legal spouses or legal dependents.

For federal income tax purposes, the determination of marital status is based on state law. Dependent status depends on state and local law and Section 152 of the Internal Revenue Code.

No state recognizes same-sex marriages or marriage-like arrangements as legal spouse status. Therefore, employees who receive benefits for their same-sex domestic partners will have to pay taxes on those benefits.

Although no state recognizes same-sex marriages, based on a 1993 Hawaii Supreme Court decision, a trial court must decide whether the state legislature has a compelling reason to prohibit local authorities from issuing marriage licenses to same-sex couples. The Hawaii legislature barred same-sex marriages in 1994. The Hawaii court is expected to hear the case this year.

For health care benefits, employees are taxed on the amount of the fair market value of the health coverage. The fair market value is determined on the basis of the amount the individual would have to pay for the particular coverage.

There is not an exemption from federal tax withholding on imputed income for domestic partner coverage.

Another issue with regard to taxation is a flexible benefit plan. Under a flexible benefit plan, in which the employee is provided flex allowances that include extra amounts of money or credits for coverage of a domestic partner who is not a legal dependent, the extra dollars or credits must be treated as taxable income.

Additionally, under Section 125, health care flexible spending account benefits may not be provided to domestic partners.

One element that has concerned employers in reviewing the extension of benefits, particularly health care benefits, to domestic partners is the cost of these benefits. However, experience has shown that adverse selection has not been a problem. Employers'

experiences to date have not shown a significant increase in their health care costs related to domestic partner benefits. According to the Federal AIDS Cost and Utilization Survey, the average lifetime medical cost of HIV treatments is \$119,000 per patient. The actual cost experience with regard to extending benefits to domestic partners has been minimized mainly because of the actual enrollment for health care benefits for domestic partners has been extremely low. Experience has shown no more than 2% to 3% of all eligible employees elect domestic partner coverage at organizations offering this benefit. Of that 2% to 3%, normally two-thirds of the couples electing the coverage are opposite-sex couples.

Among the types of benefits extended to domestic partners, it appears health care-type benefits are by far the most common. Some organizations extend eligibility for medical coverage; others include both dental and vision coverage as well. Another type of benefit that is extended is sick and bereavement leave related to the domestic partner.

It should be noted that employers extending benefits to domestic partners may experience negative public reaction to their decisions.

An example of this is Apple Computer Inc., where commissioners in Williamson County, Texas (Austin), denied Cupertino, Calif.-based Apple the usual tax abatements in exchange for building a sales support center locally. The reason for the denial was Apple's domestic partner policy. The tax incentives eventually were approved.

Another example was The Walt Disney Co., which received a letter from 15 Florida legislators condemning Burbank, Calif.-based Disney's domestic partner benefits policy as anti-family.

Overall, the extension of benefits to domestic partners has not been widespread, and in cases where benefits have been extended, there has been a minimal response in enrolling for these benefits.

The future of domestic partner benefits is unclear. According to a survey conducted on this topic by the International Society of Certified Employee Benefit Specialists, 52% of respondents think increasing numbers of employers will continue to offer domestic partner benefits.

However, among survey respondents associated with employers not offering domestic partner benefits, 74% indicated that domestic partner benefits either are no longer under consideration or are unlikely to be under consideration. Only the future will tell.

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BI

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Mr. Nirtaut

# Insurance, reinsurance and captives all heading for the same destination

By **RODD ZOLKOS**

**BURLINGTON, Vt.**—The convergence of the insurance, reinsurance and capital markets not only is inevitable but necessary to provide the capacity to cover growing worldwide exposures, many financial and insurance industry experts say.

That convergence already is under way, according to a group of insurance and finance industry executives who addressed members of the Vermont Captive Insurance Assn. at the association's annual meeting earlier this month in Burlington, Vt.

And the risk-financing tools being developed can be tapped directly by existing captive insurance companies.

"They don't have to be upstreamed to the parent company," said Edward Bowers, president of Marsh & McLennan Financial Markets Inc. in Philadelphia.

M&M will be working with clients to find risk financing and transfer arrangements in insurance credit markets; country risk swaps, which are customized fee-based arrangements under which exposures such as political risk are traded based on some underlying value and with a defined trigger; integrated risk management programs; and risk securitization.

"The convergence of the capital and insurance markets has in many ways already begun," Mr.

Bowers said.

In many companies, for example, it has become commonplace to buy investment instruments to hedge such exposures as interest rate and foreign exchange risk, he said.

At the same time, many of Wall Street's largest players have been investing in the new Bermuda reinsurance facilities.

Mr. Bowers noted that, among other things, his company is looking to become involved in the market for country-risk swaps, finding ways to transfer such exposures as political risk in emerging market countries.

"All over the world, investors are taking risks," according to Mr. Bowers.

"What we have to do is find risks overseas the investors will take," he said.

"If you have exposures in Eastern Europe, Latin America, the Far East, you can go to the capital markets and find people who are happy to let you lay off part of that risk," according to Mr. Bowers.

"There's an awful lot of money floating around the world today looking for a home," he said.

John "Casey" H. Roach Jr., senior managing director at AIG Global Risk, a division of American International Group Inc. in New York, noted that the market already has several insurance-related products of "financial engineering," a process he defined as

"the art of designing financial structures that create an otherwise unavailable risk/return profile."

want to make sure they understand what they are buying," Mr. Roach said.

But the opportunities the finan-

**'All over the world, investors are taking risks. What we have to do is find risks overseas the investors will take,' says Edward Bowers of Marsh & McLennan.**

Among them are products such as combined risk insurance, which can reduce insurance costs by making payment contingent on a combination of a financial trigger with an event, such as the double-hit of earthquake losses coming at a time when interest rates drop; or weather swaps, a similar financial tool that can help a company guard against the negative effects weather might have on cash flows or income.

AIG has been involved in setting up "at least half a dozen" integrated risk management programs so far this year and has at least six others under way, Mr. Roach said.

He noted, however, that most of those that have included a financial component have gone all the way to the customer company's board for approval.

"The issue is the boards and the people running the companies

cial products offer seem to fit not only the policyholders' needs and objectives but those of the investment community as well.

"The need to finance cat risks... and objectives of the capital markets are extremely complementary," said Brian S. Murphy, president and chief executive officer of Marsh & McLennan Risk Products in New York.

"There's a growing interest in specialized investment funds that would focus exclusively on catastrophic risk," according to Mr. Murphy.

Such funds would be similar to existing mutual funds active in the equity markets, he said.

To investors, the appeal of investing in catastrophe risks includes an attractive potential return similar to that of a B-rated bond, Mr. Murphy said, and the fact that cat risk investments would represent "zero beta" as-

sets, whose returns are not correlated with that of other financial instruments.

"A bad day on Wall Street doesn't affect the odds of a hurricane hitting the East Coast," Mr. Murphy explained.

What's more, cat risks would be one more way for investors to diversify their portfolios.

Much of that same appeal would exist for captives acting as investors, according to Mr. Murphy.

Investors have changed their perceptions of the insurance industry in recent years, said James A. Rowan Jr., a principal at Legg Mason Wood Walker Inc. in Baltimore.

Where once insurance was perceived as a conservative, predictable, safe and overcapitalized industry, today's investors are more likely to see it as innovative, "but similarly more volatile and dangerous, undercapitalized with unknown risks and proactive, rather than a formerly reactive industry," Mr. Rowan said.

Investors have some fears of the industry, he said, including fears of faulty reinsurance, rate inadequacy, "games with loss reserves" and management that isn't up to new challenges.

Investors also are wary of "foolish boldness" in the insurance industry, Mr. Rowan said.

"You don't get any points for being bold and not knowing what you're doing." **B**

## Study

*Continued from page 2*

captive's name; the names, addresses and phone numbers of the individuals responsible for the study; and the date of the study.

The study also should make clear its background and scope, clearly identifying the captive's parent or members, why the study was undertaken, the logistics of

ments reflecting an adverse scenario and explanations of any assumptions.

"The state's going to focus on the adverse scenario because they're looking at the solvency of the company: What if?" said Daniel E. George, a senior account executive with Vermont Insurance Management Inc. in Montpelier, Vt.

Other possible components of a feasibility study could be details

diversification, Mr. Yonkunas said.

In terms of capitalization, Mr. George emphasized that captive parents recognize the maximum they can undertake. "Know what your limits are," he said. "Know what you can afford."

A feasibility study should not be limited to quantitative analysis alone, however. Qualitative analysis can bring to light issues that are not brought out by an actuarial study.

For example, Mr. Yonkunas said he has worked with captives that gave their parent company a financial benefit by providing cheaper coverage capacity through direct access to the reinsurance market.

The captive might also offer the parent certain benefits through the ability to insure third-party risks. For corporations with dedicated suppliers, "there might be an opportunity to lock these suppliers in by providing reinsurance or third-party insurance," Mr. Yonkunas said.

Or a captive might offer its parent a way to meet financial responsibility requirements, as in the case of a landfill owner.

As an actuary, "We can't judge these issues," according to Mr. Yonkunas. "The owner can more than we can. We help guide them through it."

In preparing a feasibility study, choosing the right actuary "is everything," Mr. George said. Prospective captive parents should be careful to choose an actuary with a knowledge of the proposed domicile's requirements, with expertise in the parent's industry.

Getting a manager involved early in the process can help, he said, because the manager will know the actuaries, know the domicile's requirements, will be able to recommend other service providers and will be able to coordinate the application and licensing process. **B**

## Internet

*Continued from page 17*

appropriate precautions.

Among them, captive officials should make sure they have a good education program for employees who might be going online.

"Your employees or your insureds' employees need to have at least some amount of training about their use of computers,

what is appropriate use of the Internet," Mr. Lane said.

Captive insurers also might benefit by limiting some employees' Internet access, and captives also should prepare a handbook on employees' computer use, he said.

"Absent these kinds of measures, there is at least some potential for liability out there for a company that doesn't keep a handle on how these things are being used," he said. **B**

**'It's very useful for these reports to have one, two or three pages that lay out exactly what these findings are,' says Milliman & Robertson Inc.'s Joel S. Chansky.**

the planned insurance program, the source and nature of the captive's funding, its sales and marketing plan and its limitations.

It also should offer a summary of recommended rates and premium levels, adequacy of reserves and capitalization, the minimum number of participants recommended and both expected and adverse pro forma financial statements. "It's very useful for these reports to have one, two or three pages that lay out exactly what these findings are," Mr. Chansky said. "A lot of times we'll turn to this first if we're receiving one of these."

Any examination of the captive's projected losses should include calculations under both an expected and an adverse scenario, Mr. Chansky said. "A lot of the feasibility studies that come in don't have a so-called adverse scenario," he said. "It is part of the (Vermont) guidelines."

Pro forma financial statements should cover five years, including income statements, balance sheets and cash flow statements, state-

of any fronting arrangements, rating and underwriting procedures, dividend or profit distribution plans, capitalization and reinsurance, both assumed into the captive or ceded.

In examining a prospective captive from an actuarial perspective, the questions of the captive's structure and its operation feed into the issue of the costs associated with it, Mr. Yonkunas said. For example, requirements of the proposed domicile and whether the captive will be writing reinsurance or direct insurance help shape cost assumptions.

"Typically offshore domiciles are more expensive than onshore," he said. "Different domiciles have different levels of fees and you sort of have to gauge that."

Overall cost estimates must consider the value of claims, operating expenses—management costs, legal expenses, audit costs, actuarial fees and premium taxes—and capital required to keep the program solvent. The latter must include consideration of any retention, loss exposure and risk

## Vermont gets 20 closer to lofty captive goal

### Domicile seeks Bermuda level

**BURLINGTON, Vt.**—Adding 20 new captives to Vermont's roster so far this year pleases Gov. Howard Dean, but he'll admit to loftier goals.

"We have a ways to go before we catch Bermuda but that's the next step," the governor said while attending the Vermont Captive Insurance Assn.'s annual conference in Burlington, Vt., to speak to captive industry representatives gathered there.

At the same time, acknowledging the presence of New York insurance officials at the Vermont meeting seeking information and advice on creating a domicile in that state, Mr. Dean stressed that Vermont cannot rest on its laurels as the domicile of choice in the United States.

"We always have to be competitive. We lowered our tax rate twice in the past four years

because we always have to compete," the governor said.

At the same time, though, Gov. Dean said that he believes that beyond the premium tax rate, most captive parents are interested in a competitive—though not lax—regulatory environment, something Vermont has demonstrated its ability to offer.

"That's really what we sell, reasonable regulation and quality of life," according to Mr. Dean.

This year's Vermont Captive Insurance Assn. conference, the group's 11th annual gathering, set another record for attendance, drawing approximately 800 registrants and more than 50 exhibitors to the meeting, which was Aug. 11-14 in Burlington.

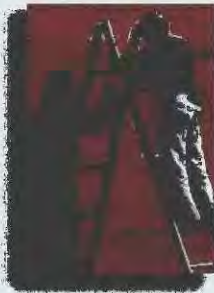
The association's 1997 conference is scheduled for Aug. 2-6 in Burlington.

For more information on next year's conference, call the V CIA at 802-253-2263.

—By Rodd Zolkos



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## Algeria

Continued from previous page

But all news concerning security in Algeria that originates from the Algerian media or the international media based in Algeria is subject to government approval before publication. Hence political analysts believe much of

### The lack of attacks on oil installations is entirely due to the controllers of the armed groups, says Martin Stone.

the violence goes unreported. "All the real news comes from rumors," Mr. Stone said.

Publicly, the government and foreign oil companies investing in the country have claimed they have escaped much of the violence. But few of the foreign companies have any expatriate personnel left in the country and have moved logistical headquarters of their Algerian operations to the south of France or to their head offices in Europe or in North America.

The foreign companies use local security staff hired from civilians and the Algerian army, as well as foreign security personnel to guard their sites, mostly in the desert areas. According to oil industry sources, these security teams work 12-hour shifts and consist usually of about 10 to 12 men. The foreign oil companies pay the Algerian army about \$70

per man per day for security service at oil installations and provide room and board, say executives from U.S., Canadian and European oil companies. Officers cost about 50% to 100% more.

However, these executives say that foreign security personnel have proved more effective than the Algerian army in providing security.

Killings and kidnappings of both Algerian and foreign oil technicians at isolated oil installations in the desert have been continuing for nearly two years. Oil executives say neither the government nor the companies want to publicize these incidents, according to Mr. Stone.

Mr. Stone said he believes the situation in Algeria will deteriorate and the violence will continue, as no realistic solution to the political problem in the country has been proposed.

The fact that there have been no major terrorist attacks on oil installations, and hence no major terrorist insurance claims, is entirely due to the controllers of the armed groups, Mr. Stone says. These are not just Islamic fundamentalist groups. Most political analysts allege that Algeria's own security forces—especially the military intelligence that has always controlled the country's export industries like oil—control many of the armed groups, which in turn select their targets, Mr. Stone added.

"We know that if the armed groups wanted to shoot down oil industry planes or attack oil and gas pipelines, they could. But those who control them do not want to lose their income. Everybody knows that," he said. ■

## Risk

Continued from previous page  
management policies, compared with 48% of listed and 49% of unlisted public companies.

Public companies in Australia take two forms: those listed on the stock exchange and traded, and those whose shares are not publicly traded but allow public investment.

By contrast, only 22% of private companies had formal risk management policies. Private companies in Australia have limited shareholdings and cannot be traded, nor can their shares be offered to the public.

"These are frightening statistics, and indicate that risk awareness is at an alarming low in many major companies. Only 37% of company directors see risk management as part of the business planning process, and few are getting information from their risk manager," said Mr. Crews of ARIMA.

Asked to rate their sources of risk management information, most directors selected the chief executive officer, 59%; senior management, 45%; and the finance director, 37%.

The least-mentioned sources of information were the risk manager, 6%; and the compliance manager, 8%. The survey did not survey companies on whether they employ a risk manager.

But Mr. Crews said the statistics perhaps indicate that relatively few organizations employ designated risk managers. Risk managers tend to be employed by larger companies in Australia, he said.

"Obviously risk management principles—identifying, analyzing

and prioritizing, managing and monitoring risks—are not being implemented in many companies.

"For those organizations, and their shareholders and customers, this could be devastating. They must protect their assets through implementation of a structured risk management program," Mr. Crews said.

Directors rated customer satisfaction, human resource management and information technology as their top three risks, but Mr. Crews questioned the wisdom of their selection.

"Legal compliance should be a top priority for every organization, plus fraud, and business interruption," he said.

Of those surveyed, 65% rated customer satisfaction among their top three risks. Fraud rated only 3%; treasury risks, 11%; and environmental risks, 11%.

However, in the agricultural and mining sector alone, environmental risks were in the top three for 42% of directors.

Business interruption also rated highest among directors of agricultural and mining companies, with 39% placing it in their top three.

Many directors responded that they use intuition to manage risks. Asked to assess whether their approach to each of 10 risks was intuitive, structured, or structured and documented, many directors did not answer the question. In smaller companies, with sales revenue of less than \$500,000 Australian (\$389,150), intuition rated highly.

The tools directors used most often to assist them in managing risk were a procedures manual, 64%; training programs, 62%; and external audits, 50%. Directors were

asked to select all the methods they used, from nine choices.

The option of established risk management systems was selected by 44% of listed, public companies; 38% of public, unlisted companies; 16% of private companies; and 77% of statutory authorities.

Among all companies, slightly more than half—55%—reported risk management issues to the board on an ad hoc basis. Some only reported to the board "when something goes wrong," including 10% of companies with more than \$1 billion Australian in revenues.

Mr. Crews said the common Australian "Don't worry" attitude "is not enough when it comes to something going wrong. Inadequate risk management has seen many a company fail."

Mr. Crews said he planned to contact the Australian Institute of Company Directors to see whether ARIMA could assist in implementing an education program for company directors.

"There's an education process needed for Australian directors," he said. "Good risk management programs not only save companies from the serious ramifications of disasters, they can reduce day-to-day business costs."

"Most companies buy insurance, but that's not the sole answer. Risk management is an all-encompassing approach that ensures all a company's risks are properly managed," Mr. Crews said.

The survey asked if Australian directors needed a business judgment law to protect them from action over "honest business mistakes," and 85% agreed. Such laws allow company directors to use honesty as a defense against court actions brought by shareholders and customers.

Mr. Crews said he was concerned about the companies that failed to answer the survey. "Did they not reply because of time constraints, or because they didn't know what risk management is?" he questioned.

Copies of the survey are available for about \$27 (about \$20 for members) from the Australian Institute of Company Directors, Company Director House, 3rd Floor, 71 York St., Sydney, New South Wales, Australia 2000. 011-61-2-9299-8788; fax: 011-61-2-9299-1006.

## Winterthur protests S&P rating

LONDON—Winterthur Swiss Insurance Co. objects to the criteria that U.S. credit rating agency Standard & Poor's Corp. used in recently downgrading the insurer's claims-paying ability rating.

Winterthur's rating was revised Aug. 8, one week after another major Swiss insurance group, Zurich Insurance Group, also was downgraded.

S&P downgraded Winterthur's claims-paying ability rating to AA-from AAA based on its assessment that the group's capital adequacy is insufficient to maintain the higher rating after two years of acquisition-led growth, together with higher financial and investment leverage and an increasing fo-

cus on return on equity. S&P had given similar reasons for downgrading Zurich to AA+ from AAA.

Winterthur said it did "not quite agree" with the criteria S&P used to assess the adequacy of its capital, saying the rating agency did not sufficiently consider its underwriting portfolio composition.

"Thanks to our restrictive underwriting policy and our traditionally strong position in mass business, our portfolio is hardly susceptible to fluctuations. Furthermore, Winterthur has acquired a number of profitable companies worldwide over the last few years. Although the reported shareholders' equity decreased as a result of the good will which is being continuously

written off, Winterthur has been able to reinforce its profitability substantially through these acquisitions," the insurer said in a statement.

The insurer also believes that S&P's requirements for capital necessary to achieve its top AAA rating greatly exceed capital requirements set by the European Union, "which Winterthur has always more than fulfilled."

Furthermore, Winterthur said it substantially strengthened its insurance reserves in 1995, putting the insurer on a sound footing for 1996.

Last month, Winterthur had said it was combining all its Swiss business units, with the exception of multinational industrial business, under a single management beginning Jan. 1, 1997. This reorganization is intended to help it to adapt its market approach and distribution channels to more quickly meet the needs of customers.

Zurich also protested its downgrading.

It said S&P's justification for the change "is a contradiction to the very strong financial improvement" it has shown in recent years.

It added that in line with a commitment to enhance shareholder value, it has significantly increased earnings and return on equity since 1992. Also, its balance sheet has been further strengthened, as reflected by its "very strong" capital position and the high level of technical insurance reserves.

Acquisitions by Zurich in 1995 and 1996, including business from The Home Insurance Co. and all of Kemper Corp. (BI, April 17, 1995), will strengthen its earnings without compromising the solidity of its balance sheet, Zurich said.

—By Edwin Unsworth

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Dated: Hempstead, New York  
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## ADVERTISER

## INDEX

### Issue of August 26

ADVERTISER	PAGE #
Acordia of Lexington	15R
American Physical Therapy	4
Assicurazioni Generali	22
Bene Com Associates	27
Burnham Systems	27
Business Insurance	14,21,28
Carvill America, Inc.	25
CCIA	15R
City of Hope	15
CNA/Risk Management	6-7
Fireman's Fund	18
Fitzmaurice & Co.	15R
GHI	21R
G & M Marine Incorporated	25
The Guardian	16-17
Media/Professional Ins.	10A/D
National Reinsurance	9
Royal Insurance	32
SBPA Systems, Inc.	27
Town of Hempstead	24
Wausau Insurance Company	5
World Captive Forum	10
Zurich Reinsurance Centre	12-13

# ALEC delays talks on comp reforms

By MICHAEL BRADFORD

Controversial workers compensation reform proposals are having a hard time getting a hearing before the American Legislative Exchange Council, a group of state legislators and private businesses that develop model legislation for state lawmakers.

Most of the resolutions drafted by a task force first set up to counsel Speaker of the House Newt Gingrich, R-Ga., have been tabled repeatedly by ALEC in the face of strong resistance from insurers, lawmakers and some businesses (BI, March 18).

ALEC convened a meeting earlier this month in Newport, R.I., with the workers comp issues on its agenda but delayed discussion until at least December on four proposals calling

for alternatives to workers comp. 24-hour coverage, establishing tax-exempt employee- and employer-funded medical savings accounts to pay workers comp claims, employer-directed care and letting employers opt out of workers comp systems.

ALEC, a Washington-based bipartisan group of 3,000 state legislators and representatives of about 350 private companies, develops model legislation on a variety of issues and was presented with six workers comp resolutions developed by the Gingrich task force and promoted by its chairman, Richard M. Scrushy, chairman and chief executive officer of Health-South Corp. in Birmingham, Ala.

At the Rhode Island meeting this month, ALEC did pass the other two resolutions, outlined in a document titled "The Need for Alternative Op-

tions in Workers' Compensation," but their impact on state workers comp systems isn't likely to have far-reaching effects.

One resolution urges lawmakers to strengthen laws making workers comp the exclusive remedy for work-related accidents, and another is a tort reform measure that emphasizes the importance of state legislation to hold accountable any parties who bring frivolous workers comp-related suits.

ALEC also passed a separate resolution strengthening the definition of independent contractors in the workplace, which was not one of the six proposals from the task force.

ALEC's board of directors has 30 days after the adoption of the proposals and the resolution to approve their passage. If they fail to act, the

proposals are approved automatically, meaning they will be discussed further and could be developed into model legislation.

The board also can ask for further review.

Some ALEC members are becoming frustrated by the pace at which the reforms are moving.

"There's quite a bit of frustration," said Greg Smith, director of the ALEC task force reviewing the proposals. While a subcommittee on workers compensation has been meeting weekly to discuss the proposals, many other members aren't involved, he said.

"We're looking at doing a white paper that will outline the pros and cons" of the four remaining proposals, he said. "That would at least get it out there for discussion."

"It's really unfortunate that we can't take a look at the options that might be better for employees and employers," said Steve Bent, executive director of the Texas Assn. of Responsible Nonsubscribers, or TXANS.

Mr. Bent said he joined ALEC to contribute to the discussion on workers comp issues, particularly with regard to allowing employers to opt out of state systems.

Texas is the only state that realistically allows employers the opt-out choice.

The alternative is available in New Jersey but is so stringent and com-

plex that no employer has taken advantage of it.

Mr. Bent is encouraged that discussions are continuing within ALEC but admits "it's going to be a tough battle."

"A big mistake was mentioning 'opt out' as an alternative" without stressing that some alternative has to be in place to provide benefits and protect employees and employers, he said.

Progress on the reforms has slowed partly because workers compensation insurers continue to urge ALEC to study the proposals more before adopting them.

The American Insurance Assn. responded to the proposals in a July letter to Rep. Gary Daniels, R-N.H., chairman of the ALEC task force, in which the association said the document on alternative coverage options "has serious flaws that would undercut the considerable progress reining in rampant workers compensation costs while preserving a strong program of assistance for workers injured on the job. We therefore respectfully request that ALEC refrain from action on this proposal."

Resistance comes from lawmakers as well.

"All the proposals should be considered but not developed into model legislation" without a lot of further study, said Rep. Terry R. Parke, R-Ill., a member of the executive committee of the ALEC task force. **BI**

# Proposed model act would give states more power to reform common law

By GAVIN SOUTER

PHOENIX—Adoption of a new model act clarifying states' right to reform common law might help state lawmakers win back ground lost to courts in determining tort law, according to a leading tort lawyer.

By implementing the act, the power to determine public policy and enact tort reforms will be returned to legislatures, where it be-

comes in personal injury cases or to limit the size of damage awards, Mr. Langerman said.

Also, under the state's constitution the courts were granted the power to determine common law, and any change in that law would require a constitutional amendment, he said.

"And the people of Arizona would not vote for that," Mr. Langerman said.

The courts are the proper and neutral ground to resolve legal disputes, he asserted.

"There are two reasons why you have a judicial branch of government—to resolve private disputes in a neutral forum and to determine certain public policy issues in a neutral forum. It is the monied interests that don't want it all in a neutral forum." **BI**

According to the model act, the purpose of allowing the common law to stand "was to permit the courts to continue to apply the common law that was in existence at the time of statehood and develop it in the interest of the public policy of the state unless it was abrogated or altered by the legislature."

However, Ms. Stanton said, in many cases courts have ignored the right of state legislatures to abrogate common law and have held tort reforms unconstitutional. For example, the Arizona Supreme Court several years ago overturned legislation enacted by the Legislature that limited the damages that could be imposed on an employer for wrongful dismissal.

In *Wagenseller vs. Scottsdale Memorial Hospital*, the Arizona Supreme Court held that it had independent authority to determine what actions of the employer violated the public policy of the state, Ms. Stanton said.

The court established a cause of action on wrongful termination in order to award punitive damages to the former employee, she said.

"Historically and logically, it has to be the Legislature that tells the court what public policy should be," Ms. Stanton said.

In fact, the court ruled as it did even though Arizona law does not permit courts to create new causes of action or modify existing causes of action under common law, she said.

The proposed legislation will not make it into force in Arizona even if it is passed by the Arizona Legislature, said Mr. Langerman.

"The Legislature does not have the power to tell the Supreme Court what it can and cannot do," he said.

**In the past 13 years, 40 court decisions have held state tort reform unconstitutional, says Victor Schwartz.**

longs, he says. The model act will help avoid situations such as a case in Arizona where the state Supreme Court overturned state law and public policy on employment law, added an Arizona attorney who helped draft the act.

However, the model act is unlikely to become state law, said Richard Langerman, president of the Arizona Trial Lawyers Assn. Enactment would require a constitutional amendment, he said.

If the proposed Adoption of Common Law Act is taken up by state governments, it will help the legislatures stave off encroachment of their lawmaking territory regarding torts, according to Victor Schwartz, an attorney at law firm Crowell & Moring in Washington.

"In the past 13 years, there have been 40 court decisions holding state tort reform unconstitutional. . . . What they are doing is substituting their own view of public policy for the public policy determined by the elected legislatures," he said.

Earlier this month, the proposed model act was approved by a civil justice task force of the American Legislative Exchange Council in Washington. Mr. Schwartz is co-chairman of the task force.

The model act is expected to be approved by the ALEC board of directors within 30 days.

The ALEC model act was drafted by John Greene, president of the Arizona Senate, and Alexis Stanton, policy and legal adviser to the Arizona Senate majority leader. A bill proposing adoption

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# Pensions

Continued from page 1  
the 401(k) plan.

This provision will go into effect in 1999.

For most employers, the cost of beefing up their matching contributions—typically employers match 50% of employees' deferrals, up to the first 6% of compensation—will be significantly greater than the cost reductions of not having to run the non-discrimination test.

"I don't see a groundswell of interest" in the safe harbors, said Buck's Mr. Rumack.

Still, employers whose formulas for matching employees' salary deferrals are near the safe harbor standard may bump up their contributions.

"Some employers will use the safe harbors. There is no doubt about that," Mr. Rumack said.

### The law offers a new, optional way of running the non-discrimination test. How will this work?

Under current rules, employers have to compare current-year salary deferrals of lower-paid employees with those of highly compensated employees. Generally, average salary deferrals of highly paid employees cannot exceed the average salary deferrals of lower-

paid employees by more than two percentage points.

To be sure this difference is not exceeded, employers must constantly monitor employees' salary deferrals.

But the law adds a new wrinkle to non-discrimination testing. Employers, if they choose, can compare salary deferrals of lower-paid employees in the prior year with current-year salary deferrals of highly compensated employees.

Through this procedure, employers will know at the start of the year how much highly compensated employees can defer to the 401(k) plan.

"The testing process gets a lot simpler. There is no need for constant testing and monitoring," Mr. Rumack said.

The new testing technique goes into effect in 1997. That means employers will be able to use 1996 salary deferrals of lower-paid employees as a testing base during the first year that this provision is in effect.

**After running the 401(k) plan non-discrimination test, employers sometimes find that highly compensated employees deferred more than the law allows. To prevent the 401(k) plan from being disqualified, "excess" contributions must be returned to highly compensated employees. How does the law change the way those**

### contributions are returned?

Currently, corrections are made by returning excess contributions to employees, beginning with those who have deferred the highest percentage.

That method favors the privileged few: the most highly paid of the highly compensated employees. That is because contributions of that elite group—as a percentage of pay—are likely to be lower

**'Some employers will use the safe harbors. There is no doubt about that,' says Fred Rumack of Buck Consultants.**

than the percentage contributions of lower-paid highly compensated employees, even if the dollar contributions are greater.

Take the case of an employee earning \$67,000 who contributes \$5,000, which is 7.5% of pay. That contribution would be reduced before that of an employee earning \$150,000 who contributes \$9,000, which is 6% of pay. The new law changes that inequity by requiring excess contributions to be distributed first to those non-highly compensated who deferred

the highest dollar amount for the year. This takes effect in 1997.

"This remedies a situation in which the lower end of highly compensated employees got hit the most," said Frank Roque, a consultant with Hewitt Associates L.L.C.

### How does the new law affect the family aggregation rule?

The family aggregation rule will be eliminated, effective in 1997. This rule affects employees who own at least 5% of a company's stock or are among its 10 highest-paid employees and have a family member, such as a spouse, who works at the same company. Under this rule, compensation of family members working for the same company is aggregated when determining pension benefits and contributions—even if only one of the individuals is in the 5% shareholder category or is one of the 10 highest-paid employees.

Take the situation of a family where the husband earns \$150,000 and is one of the 10 highest-paid employees and the wife earns \$50,000. Under tax law, only the first \$150,000 of an employee's compensation can be considered in calculating pension benefits and contributions.

Because of the family aggregation rule, even though the husband and wife had \$200,000 in

compensation, only \$150,000 would be considered in determining pension benefits and contributions.

While the elimination of this rule will primarily benefit smaller, family-owned companies, it also will help top corporate officers at large corporations who have family members working at the same organization.

### How does the new law modify plan non-discrimination testing for new and young employees?

The law, effective in 1999, will allow employers to exclude deferrals of employees under age 21 and those with less than a year of service when running the basic non-discrimination test.

This change should encourage more employers to extend 401(k) plans to new and young employees.

That is because those employees are less likely to make contributions to 401(k) plans than other workers. Because young and new employees tend to be lower-paid, their minimal participation in the plans can bring down average deferrals of the entire group of lower-paid workers. And that, in turn, under non-discrimination testing rules, lowers deferrals that can be made by highly compensated employees.

See Pensions on page 27

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# Pensions

*Continued from previous page*  
**How does the law simplify the definition of highly compensated employees for non-discrimination testing?**

The law scraps the numerous current definitions of highly compensated employees. Instead, highly compensated employees generally will be considered those who earned at least 5% of company stock in the current or preceding year or employees earning more than \$80,000 during the preceding year, up from the current \$66,000 threshold. This provision takes effect in 1997. However, 1996 compensation would determine who is a highly compensated employee, using the \$80,000 threshold.

This change is a boon to upper middle-class employees—those earning \$66,000 to \$80,000, said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York. They now will be able to make maximum contributions to 401(k) plans, for example, since they will be considered non-highly compensated.

**How does the new law help tax-exempt employers?**

Tax-exempt employers, such as hospitals and trade associations, again will be allowed to offer 401(k) plans to their employees. In 1986, Congress took away the right of tax-exempt organizations to set up 401(k) plans, though it allowed groups to continue already-established plans.

"All of a sudden, 401(k) plans are opening up to the world of tax-exempt employers. This is something we have gotten a lot of inquiries on," said Foster Higgins' Mr. Saveth.

The provision goes into effect next year. It does not, though, apply to state and local governments.

**How does the new law affect the min-**

**imum participation rule for pension plans?**

The new law, effective in 1997, ends the minimum participation rule for defined contribution plans. It remains in place for defined benefit plans.

Under this rule, a corporate pension plan—to obtain tax-favored status—must cover at least 50 employees or 40% of all employees, whichever is less. This rule has caused problems when companies buy smaller firms that have their own pension plans with different benefit formulas. It can force a company to merge acquired units' pension plans into their own.

**How does the definition of employee compensation—for determining maximum pension benefits and contributions—change under the law?**

Under current law, the maximum annual contribution toward an employee's pension cannot exceed 25% of compensation, or \$30,000, whichever is less. However, employees' pretax contributions, such as contributions to flexible spending accounts and 401(k) plans, are deducted from their compensation. This has the effect of reducing contributions that employees—especially second-wage earners—can make to pension plans.

Take the case of an employee earning \$30,000. Assume the employee makes a \$5,000 contribution to a dependent care FSA and a \$1,000 contribution to a medical care FSA. The employee then wants to make a \$5,000 deferral to a 401(k) plan.

But, because these pretax contributions are deducted from what is considered employee compensation, the maximum 401(k) deferral would be limited to \$4,750, which is 25% of the \$19,000 that would be considered employee compensation.

Under the new law, though, pretax contributions will be included in compensation for determining maximum pension contributions. As a result, in

the above example, the employee would be able to defer \$5,000 into the 401(k) plan. The new definition of compensation kicks in in 1998.

**What happens to Section 457 plan assets?**

The law requires assets held by Section 457 plans—deferred compensation plans offered by state and local governments—to be held in trust where they are beyond the reach of creditors. Section 457 plans established after this year must comply with this new requirement immediately, while existing plans will have to comply beginning in 1999.

**What happens to the excise tax imposed on employers that are found to engage in a transaction prohibited under the Employee Retirement Income Security Act?**

Effective last week, the excise tax on prohibited transactions was raised to 10% from 5%.

**How does the new law affect the 15% excise tax on jumbo distributions—annual benefits of at least \$155,000 and lump-sum distributions of at least \$750,000?**

The 15% tax will be eliminated from 1997 through 1999 and resume

ir: the year 2000.

**How does the law affect the rule requiring older employees to receive at least a minimum distribution from their pension plans by April 1 of the calendar year after the year in which they reach age 70½?**

The minimum distribution rule will be repealed—except for employees who own at least 5% of a company's stock—beginning next year. The minimum distribution rule was seen as an administrative burden on employers. It also annoyed employees who wanted the assets held by their pension plans to continue to grow. **BI**

## Tax law impact on captives not as onerous as feared

WASHINGTON—While the Small Business Job Protection Act of 1996 takes a whack at tax-exempt organizations that are shareholders of offshore captive insurers, the impact isn't as great as some apparently think it is.

The law requires certain tax-exempt shareholders of captives that are controlled foreign corporations to treat their captives' earnings as taxable unrelated business (BI, Aug. 5). But—as a result of behind the scenes lobbying—the law excludes tax-exempt hospitals and universities from the new tax bite.

But some tax and insurance experts—for reasons not entirely clear—have interpreted the exemption more narrowly to cover only universities and university-related hospitals.

This interpretation is incorrect, says Tom Jones, a partner at McDermott, Will & Emery in Chicago. Mr. Jones notes that the conference report accompanying the legislation clearly states that tax-exempt universities and hospitals both are covered by the exemption.

Meanwhile, the new law makes clear that insurance pools owned and operated by tax-exempt charitable non-profit organizations are exempt from federal taxes. The law sets numerous requirements for risk pools to qualify for favorable tax treatment. Under those requirements, risk pools must:

- Be organized as a non-profit organization under state law authorizing risk pooling for charitable organizations.
- Be exempt from state income tax.
- Obtain at least \$1 million in startup capital from non-member charitable organizations.

At the moment, the only pool that apparently will qualify for this provision is the Nonprofits' Insurance Alliance of California, organized in 1989 under a special California law and with the help of \$1.3 million in contributions for startup capital from a consortium of foundations.

The NIAC turned to Congress for help after failing to win tax-exempt status from the Internal Revenue Service and the courts. It had argued that it qualified for tax-exempt status under a provision in the 1986 tax law.

Legislation to clarify the 1986 law was introduced by Rep. Pete Stark, D-Calif., and later by Rep. Bill Thomas, R-Calif., who got it attached to the House version of the small business tax bill. The provision survived as House and Senate negotiators assembled a compromise bill.

The provision will save the NIAC roughly \$500,000 in taxes next year, said NIAC President and founder Pamela Davis. The Santa Cruz, Calif.-based NIAC now has about 1,500 members, including homes for unwed mothers and group homes for troubled teen-agers. The NIAC provides a broad range of liability coverages with limits of up to \$10 million, though most policyholders opt for \$1 million of coverage.

While the NIAC at the moment is the only pool that will meet the criteria laid down by the new law, others could follow.

Because of the law's specific requirements, "There now is a mark for pools to shoot for," Ms. Davis said.

—By Jerry Geisel

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*Commercial Consumers*

<b>Administrative:</b>	
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Vice Presidents, General Managers and Other Administrative Personnel	4,884
<b>Financial:</b>	
Chief Financial Officers and Vice Presidents of Finance	3,011
Secretaries, Treasurers, controllers and other Financial Personnel	2,827
<b>Risk/Employee Benefits:</b>	
Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	17,307
<b>Sub-total</b>	<b>29,775</b>
Associations	301
Government, Unions and Educational Institutions	969
<b>Commercial Consumers</b>	
<b>Sub-total</b>	<b>31,045</b>
Insurance Agents and Brokers	8,664
Insurance Companies	7,831
Accountants, Actuaries, Attorneys & Consultants	3,148
Adjusters, Appraisers, TPAs, Captive Managers & Health Care Providers	1,880
Others Allied to the Field	680
<b>Total Qualified</b>	<b>53,248</b>
Non-qualified	12
Single Copy Sales	40
<b>TOTAL CIRCULATION</b>	<b>53,300</b>

\* Source Business/Occupational breakdown of qualified circulation, May 27, 1996 Issue, as submitted to BPA for June 1996 BPA Publisher's Statement

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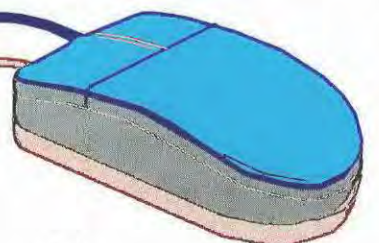
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# Summary of major property/casualty insurers' first-half 1996 results

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

Rank 1996	Corporate					Property/casualty operations								
	Net income 1996	Percent increase (decline) 1995-1996	Consolidated revenues 1996	Combined ratio 1996	Combined ratio 1995	Net premiums written 1996	Percent increase (decrease) 1995-1996	Pretax underwriting income (loss) 1996	Percent increase (decline) 1995-1996	Pretax investment income 1996	Percent increase (decrease) 1995-1996	Policyholders surplus 1996	Percent increase (decrease) 1995-1996	
1	Fremont General Corp.	39,013	46.1	304,596	96.7	100.9	259,204	(10.8)	8,287	409.2	57,889	21.6	351,175	21.3
2	Berkshire Hathaway Group	289,100	37.1	2,252,500	96.0	104.6	2,179,900	226.2	77,900	516.6	318,900	22.4	N/A	N/A
3	Old Republic Int'l	106,006	30.7	884,262	100.7	103.3	426,628 <sup>2</sup>	(2.3)	(14,850) <sup>2</sup>	34.0	95,884 <sup>2</sup>	1.7	1,364,557	3.8
4	USF&G Corp.	123,500	30.5	1,725,000	105.6 <sup>2</sup>	107.5 <sup>2</sup>	1,334,500 <sup>2</sup>	7.6	(75,400)	15.9	217,700	(0.6)	1,400,000	4.8
5	CNA Financial Corp.	531,400	29.8	8,410,000	108.4 <sup>2</sup>	110.2 <sup>2</sup>	5,270,000 <sup>2</sup>	3.3	(499,600) <sup>2</sup>	5.9	902,800 <sup>2</sup>	(5.6)	5,840,000	8.1
6	SAFECO Corp.	216,686	29.0	2,011,860	99.4	102.9	1,144,886	4.4	6,482	121.3	140,777	(3.3)	1,985,993	19.1
7	General Re/Cologne Re Group	461,100	16.1	4,016,100	100.6	101.0	2,788,900	7.5	(15,300)	32.3	535,700	25.6	4,986,900	8.3
8	The St. Paul Cos. Inc.	268,874	15.8	2,859,812	105.3	101.9	2,012,537	0.1	(81,152)	(97.3)	382,722	6.5	3,712,709	26.9
9	American International Group	1,395,586	15.7	13,601,072	96.9	97.3	6,491,831	7.8	185,877	12.2	823,040	8.6	N/A	N/A
10	Argonaut Insurance Co.	35,425	10.9	107,392	125.3	131.5	70,343	7.1	(8,555)	(199.6)	39,623	(15.6)	625,219	6.7
11	Hartford Steam Boiler	30,400	2.4	277,400	95.1	91.2	225,900	13.6	9,800	(38.4)	15,900	13.6	320,200	1.0
12	Chubb Corp.	325,700	(1.8)	3,211,700	98.8	96.3	2,383,600	12.5	8,500	(82.9)	315,500	7.3	2,402,600	16.8
13	ITT Hartford Group Inc.	239,000	(2.4)	6,304,000	106.4	105.4	3,532,000	1.7	(253,000)	(31.8)	405,000	7.1	3,730,000	5.7
14	CIGNA Corp.	469,000	(5.3)	9,376,000	103.0	106.4	1,734,000	0.2	(51,000)	55.3	195,000	3.2	1,990,000	6.4
15	American States Financial	76,672	(6.8)	1,011,436	108.7	108.4	824,854	(4.0)	(68,635)	7.3	119,180	(0.4)	875,243	(5.6)
16	Sentry Insurance Cos. <sup>2</sup>	40,226	(14.4)	796,923	107.1	104.7	628,230	7.3	(48,391)	(46.0)	100,511	4.0	1,203,657	14.4
17	Ohio Casualty Corp.	18,381	(55.2)	724,050	115.5 <sup>2</sup>	106.9 <sup>2</sup>	617,262 <sup>2</sup>	(4.7)	(97,896)	(117.4)	86,966	(6.3)	908,223	26.8
18	TIG Holdings	2,700	(94.7)	913,000	106.9	107.0	787,000	(4.1)	(49,000)	(36.1)	143,000	8.3	947,000	4.2
19	Reliance Ins. Co. and subs.	(25,189)	(156.5)	1,491,682	116.8	101.3	915,255	1.1	(150,837)	(1,049.0)	126,328	3.6	1,116,624	7.0
20	Travelers/Aetna P/C Corp.	(118,200)	(167.9)	3,354,100	132.9 <sup>2</sup>	107.7 <sup>2</sup>	2,646,700 <sup>2</sup>	45.5	(880,100) <sup>2</sup>	(434.4)	666,300	94.7	5,287,700	135.2
	—Nationwide Mutual Ins. Co. <sup>2</sup>	N/A	N/A	N/A	110.6	107.9	4,031,179	3.4	(438,326)	(34.0)	445,528	1.8	5,534,502	6.7
	—Liberty Mutual Ins. Co. <sup>2</sup>	N/A	N/A	N/A	114.3	112.7	2,591,682	(3.4)	(374,443)	(5.0)	518,593	0.1	4,951,529	16.7
	—Commercial Union Ins.(U.S.) <sup>2</sup>	N/A	N/A	N/A	115.0 <sup>2</sup>	108.9 <sup>2</sup>	914,100	3.4	(144,800)	(55.9)	121,200	(1.4)	1,057,200	7.2
	—Kemper	N/A	N/A	1,974,445	139.7	110.0	1,745,638	7.8	(673,886)	(319.4)	211,248	18.3	1,797,743	(4.3)
	<b>Cumulative</b>	<b>4,525,380</b>	<b>3.1</b>	<b>65,607,330</b>	<b>107.7</b>	<b>104.9</b>	<b>45,556,129</b>	<b>9.0</b>	<b>(3,628,325)</b>	<b>(69.6)</b>	<b>6,985,289</b>	<b>10.0</b>	<b>51,388,774</b>	<b>17.0</b>

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

## Results

Continued from page 2

Reliance Insurance Group in New York.

"We see business pretty much as usual," agreed SAFECO's Mr. Yonker. "I don't think that the market has changed really that much from a pricing standpoint."

Furthermore, "I can't think of anything that's happening currently that indicates we're going to see a turn in the pricing cycle," he said. This is "pretty much what we've seen for the last several years now."

Other insurer executives agree more of the same seems likely.

"I think the industry as a whole has reconciled itself to the fact that you have to be able to compete in a soft market," said Judy Blades, vp of commercial market segment operations at ITT Hartford Group Inc. in Hartford, Conn.

"You're going to have continued pressure on expenses and continued pressure on bringing value to the customer in order to differentiate yourself," she said.

"We see little change upcoming," said Mark Chappell, assistant vp and director of market research and planning for Indianapolis-based American States Financial Corp., formerly a wholly owned subsidiary of Lincoln National Corp., which replaces Lincoln National in BI's survey this quarter. Lincoln National continues to hold about an 83% stake in American States, which made its initial public offering in May (BI, March 25).

"At this point in time, earnings from an industry standpoint are not low enough to drive away capital nor high enough to satisfy most of the industry," said Mr. Chappell.

"The only potential factor which could change the industry pricing near term is the re-igniting of inflation," which is unlikely, he said.

"The outlook for any improvement in pricing or underwriting standards looks pretty bleak and I don't expect any help from the Jan.

1, 1997, renewal season," said David Seifer, an analyst with Donaldson Lufkin Jenrette Securities Corp. in New York.

"We believe that the negative trends in primary commercial casualty fundamentals cannot go on forever, but the industry certainly has accumulated sufficient capital in recent years to maintain conditions for a while longer."

Gary Ransom, senior vp at Conning & Co. in Hartford, Conn., said, "Competition is still pretty fierce and that's starting to build up some pressures" that will eventually have to be relieved. But, he added, it "could go on like this for a couple of years."

"I think the industry would be ecstatic if we could just get soft pricing back," and move away from the current cutthroat competition, said John L. Ward, CEO of Cincinnati-based Ward Financial Group.

Among other findings from the survey of first-half results:

- Net premiums written for the insurers surveyed increased 9% to \$45.56 billion from \$41.78 billion. This reflects the 226.2% premium increase reported by Berkshire Hathaway Inc., which now includes GEICO Corp. in its consolidated results. GEICO, which had been 51% owned by Berkshire, is now its wholly owned subsidiary (BI, Jan. 1).

- Results also include a 45.5% premium increase by Travelers/Aetna Property Casualty Corp., whose 1995 numbers do not reflect Aetna. Without the gains by either Berkshire Hathaway or Travelers/Aetna, the insurers would have reported just a 3.7% premium increase.

- With catastrophe losses and environmental reserve additions both contributing factors, underwriting losses increased 69.6% during the half, to \$3.63 billion from \$2.14 billion. This compares with a 39.5% increase in losses for the first quarter and a 20.1% deterioration in 1995.

- As interest rates rise, investment income increased 10%, to \$6.99 bil-

lion from \$6.35 billion. This is an improvement from the 7.3% increase posted for the first quarter and the 5.2% increase reported for 1995.

- Policyholder surplus for the 22 companies that report this data increased 17% to \$51.39 billion from \$43.92 billion. This compares with a 16.3% increase for the first quarter and a 22.7% increase for all of 1995.

- Insurers reported a 107.7% combined ratio for the first half vs. a 104.9% combined ratio for the comparable period a year ago. This compares with a 105.5% combined ratio for the first quarter and a 107.3% combined ratio for 1995.

A division between the "haves" and the "have-nots" continues to exist insofar as underwriting results are concerned, said Michael Lewis, first vp at Dean Witter Reynolds in New York. The good companies report good underwriting results, while the others continue "to muddle along" and, overall, the industry's return on equity remains inadequate, he said.

Net income results are generally better than revenue growth, "but it's only because companies are resorting to compensating for the tough pricing times with other aspects of their operation," said Mr. Ward. These include cost cutting and analyzing and restructuring reinsurance needs. At the same time, investment income remains relatively strong, he said.

Catastrophes were a key element in the results.

First-half results are "a mixed bag of good comparisons and not-so-good comparisons depending on where the catastrophes fell," said Barbara Stewart of Stewart Economics in Atlanta.

"There were a lot of Midwestern storms," said Gloria Vogel, senior vp with Advest Inc. in New York. "There was some flooding; there were some tornadoes. I don't think there was any single event, and it varied by company."

The St. Paul Cos. Inc., for instance, reported \$114.6 million in

catastrophe losses for the first half, compared with \$70.9 million for the comparable period a year ago, while Ohio Casualty Corp. reported \$37.1 million in catastrophe losses, compared with \$16.8 million in 1995's first half.

Meanwhile, the hurricane season is upon the industry, said Ms. Vogel. "The third quarter traditionally is a bad hurricane quarter, and we're only halfway through the season," she warned.

Results also reflect environmental reserve increases by Kemper and Reliance Group Holdings Inc. Kemper boosted its reserves for asbestos and environmental liabilities by \$550 million pretax, while Reliance increased reserves by \$134 million on a pretax basis.

In addition, a spokeswoman for ITT/Hartford noted the insurer is in the process of studying its environmental reserves, a process it expects to complete by the end of the year.

"We are hearing that the rating agencies are putting pressure on the primary insurers to take care of pre-1986 environmental exposures," said Mr. Seifer.

However, Reliance's Mr. Steinberg said, "The facts are that we were not influenced by any outside forces other than the issue that we felt this was an industry problem that we needed to get behind us."

Kemper's chief financial officer, Walter White, said also the insurer acted on its own. Kemper always has been considered to be "ahead of the pack" in its environmental reserves, he said.

Mr. White said \$250 million of the reserve addition is for members of the Kemper pool, including the Lumbermens Mutual Casualty Co., American Motorists Insurance Co. and American Manufacturers Mutual Insurance Co. units. "We believe we are fully reserved" for those units, he said.

The remaining \$300 million was for Kemper Reinsurance Co., whose reserves, as an excess treaty writer, have been more difficult to establish. Kemper believes, however, that

it has now set Kemper Re's reserves "with a reasonable degree of accuracy," which will be verified in the future with an outside study, said Mr. White.

Conning's Mr. Ransom noted that several other major insurers made reserve additions last year as well (BI, Nov. 20, 1995). "I guess we're just looking at the companies that had exposure, but didn't really do anything material and they needed to take their turn in a sense."

Mr. Ward said, "We have not heard the end of the unfavorable surprises," from asbestos and environmental reserves, but "the worst is behind us."

Alan Levin, managing director at Standard & Poor's Corp. in New York, said he is in fact worried about insurers' general reserves and is "concerned about the fact that the true financial results, including adequate reserving, may be a lot less attractive than what has been reported."

"Pricing is very weak, and therefore we fear that companies are not establishing adequately for the exposures that they're taking on."

When you strip away environmental and catastrophe reserves, "the growth of just general property/casualty reserves has been very modest the last 12 to 18 months and that implies the reserves have not been kept adequate."

Insurers may be putting off adding to reserves because they believe their focus on specialization allows them to underwrite programs more profitably, "but we remain a little skeptical about that. Everyone can't be a specialist," said Mr. Levin.

Due to soft pricing, the competitive marketplace, catastrophes and environmental reserve needs, insurers are either not being as conservative in their reserving or are "eating into" redundancies that historically may have been a part of their loss reserves, said Mr. Ward.

"But at this point my assessment is that it's not a significant surprise waiting to happen in a big way," he said. **BI**

# AIDS

Continued from page 1

of guidelines for payment will be developed," said Dr. Wade M. Aubry, national medical consultant for the Chicago-based Blue Cross & Blue Shield Assn. and former senior vp of Blue Shield of California. "I don't think there's even total agreement within the scientific community, if the person is totally asymptomatic and has good immunological (test results). There is little evidence and lack of consensus on how these drugs should be used in this situation," he said.

In the meantime, health care plans are likely to fend for themselves in balancing the cost of the new medications against the potential long-term gain of keeping employees feeling well and in their jobs. Guidance may be a long time coming: A physician committee that advises Blues plans on technical medical issues, which is overseen by Dr. Aubry, has no present plans to consider the appropriate use of protease inhibitors, said Naomi Aronson, director of the association's technology evaluation center.

For plan sponsors, questions about AIDS therapy are not unusual. According to a Centers for Disease Control study this year, 32% of businesses with 250 to 749 employees reported having had an employee with HIV or AIDS. For companies with 750 or more workers, 54% of the businesses had at least one infected employee. About one in five Americans with AIDS has private health insurance.

The new drugs will represent a significant cost because employees requiring the combination treatment will have drug expenses of at least \$10,000, experts estimate. That estimate does not include other drug costs associated with opportunistic infections, such as pneumonia, for some patients.

Those receiving the combination treatment also are supposed to have "viral load" tests, a newly heralded kind of blood test that directly measures the amount of virus in the body. Frequent viral load tests—perhaps several times a year—can help a doctor to fine-tune the amount of drugs necessary to keep the virus dormant. The tests cost about \$100 apiece.

The new drugs, if they are as effective as hoped, represent a cost issue in another respect. They conceivably may require continual reimbursement of the drugs as maintenance medication for the life of the employee. Until now, the average lifetime cost of treating an HIV-infected person has been about \$120,000, though due to the in-

adequacy of antiviral drugs average lifetime expectancy after an AIDS diagnosis has often been less than two years.

Whether insurers and managed care networks will be willing to quickly place outwardly healthy employees on costly drugs after infection is still a questionable matter, and one that concerns those with the virus.

Those testing positive for the virus appear to be getting reimbursement for protease inhibitor drugs from insurers without much trouble, at least so far, said Mark Scherzer, a New York attorney who represents HIV patients in insurance disputes. "If these drugs are more effective at keeping people healthy for significant periods of time, I think the overall cost to (insurers) will be lower," he said.

The viral load test, necessary for optimum dosage of the new drugs, was not approved for reimbursement by many insurers until about three months ago, said Karin Timour, a founder of the insurance and health care access committee of New York ACT UP, an AIDS activist group. Employers and insurance gatekeepers owe it to employees to grant liberal access to drugs on practical, economic grounds, she said.

"They're employing people who have talents and skills that they need," she said. People are going to spend a lot less time in the hospital (with the new drugs). They're going to extend the length of time that people can work while they have HIV and in fact AIDS."

But even if employees with HIV don't seem to be having major problems with insurers, meeting high deductibles or reaching caps on drug coverage still causes difficulties under some plans (see related story). Also, drug formularies of health maintenance organizations may turn out to be too strict in the near future, denying doctors the flexibility they need to experiment with different combinations of antiviral drugs and protease inhibitors, said Michael Isbell, an attorney and associate executive director of New York-based Gay Men's Health Crisis, a social service organization for persons with AIDS.

"When the bills start coming due, what will insurance companies do?" Mr. Isbell said. "It's a little too soon to know."

Industry analysts expect the cost to plan sponsors to be significant, but in the long run it will save companies money on avoidable hospitalizations.

"Certainly it's very positive to allow people to continue life, but for the plan sponsor it's certainly going to be a significant cost impact," said Scott

Kirschner, a health care economist with Watson Wyatt Worldwide in Atlanta. Plan sponsors may find themselves making large payouts over time because they typically have set \$1 million lifetime limits on health care reimbursements. With such a high limit, even relatively expensive AIDS treatments would be unlikely to exceed these caps, and employers will have to pay for them, he said.

Still, the drugs are a relatively minor expense compared to what plan sponsors would face without these new medications, said Kenneth T. LaPensee, director of health service analysis for Lyndhurst, N.J.-based Alexander Consulting Group. With the new drug cocktails, that cost will continue to plummet, he said.

"The drugs are expensive, but relative to previous estimates, it's really chicken feed," Mr. LaPensee said.

Insurers are not typically denying the patient treatment as a way to save money, he said. "We haven't heard of any problems of people not getting drugs that doctors say they need, yet," he said. "We don't see a lot of carriers running for cover right now."

While costly, it is also true that the emerging AIDS treatments are far less expensive than treatments for several other life-threatening conditions that health plans routinely cover. Ten years' worth of the new HIV drugs, for example, probably will cost less than a liver transplant, end-stage renal disease, an acute heart attack or care for a premature, low-weight infant, based on information in a study, "Health Benefit Plans and the Americans with Disabilities Act," published by Cornell University.

Many employers facing HIV and AIDS costs may be unfamiliar with different treatments and are likely to leave insurance reimbursement decisions to their prescription benefit management firm. Contracting with a PBM in some cases can cushion the impact of an occasional catastrophic claim.

"We did find that for some of the big, big drugs like immunosuppressors (for transplants) and AIDS medications, that we were able to get 40% discounts on the drugs that we had been buying at the retail pharmacy level," said Helen Darling, manager of health care strategy and programs of Stamford, Conn.-based Xerox Corp., which put in its PBM program about two years ago.

"While the drugs are expensive, they are life-saving, so that's very, very important," she said. "We would hope, of course, that as the drugs are developed that the actual cost of the drugs will come down." ■

## Cost caps force one patient's 'creativity'

WASHINGTON—For some employees, the biggest barrier to obtaining the latest AIDS drugs has nothing to do with the content of a formulary. It's a simple matter of a cap.

Normally, employees never approach insurers' caps on total drug expenses. Then there are cases such as Jeff Bloom's.

Mr. Bloom, 37, was working in the Washington area nine years ago as the chief executive officer and chief financial officer of a \$6 million-a-year audio/video equipment distributor. He tested HIV-positive in January 1987 but continued to work, feeling relatively healthy for four years.

Symptoms ultimately appeared, however. The worst were neurological and spinal cord infections that made it nearly impossible for him to walk.

Heavy demand for medications rapidly triggered the fine print in Mr. Bloom's group health plan, which placed a \$3,000 annual cap on prescription drugs.

His drug costs mounted to about \$17,000 a year, and as the insurer's denials rolled in Mr. Bloom asked the insurer to reconsider its rules on prag-

matic grounds.

"The ironic thing was they were willing to pay for the consequence of not paying for the prescriptions (hospitalization), but not the prescriptions themselves," he said. "Fortunately, I am creative enough to get around the system."

That "creativity" included enlisting the help of HIV-positive friends, who persuaded their doctors to write prescriptions for extra amounts of medication for Mr. Bloom. The maneuvering beyond the edge of the law, he maintains, was an emergency tactic.

"It's a lot of additional stress for people who are already dealing with AIDS," he said. "You could get your friends or doctor in trouble. But for them, it being 'quasi-legal' is not important, because my health is more important to them."

He also tried more conventional routes: getting drug samples from his doctor, buying medicine with his own money and demanding a formal hearing at which he presented his case to the insurance company and called expert medical witnesses. The last strategy failed.

"Their argument was, 'If we make an exception for you, we have to make it for everyone,'" he said.

Mr. Bloom, who has used two protease inhibitor drugs in the past 15 months (see story, page 1), retired in August 1994 and said he is feeling somewhat better. His prescription worries have eased now that his former company has signed with a new insurer with more generous drug benefits, and he continues to have COBRA coverage.

He will go on Medicare in February and is unsure who will pay for the drugs after that, because Medicare covers drugs only during hospital stays.

One thing Mr. Bloom said he is sure about is that a health system is flawed when a denial of prescription drug benefits is allowed to take away a healthy worker's career.

"The concept of not paying for prescriptions but paying for (hospital) care inevitably leads to higher costs," he said. "Forget compassion. Forget morality. Forget all these things. Look at the business side."

—By Robert Kazel

## Updates

### Merger will help pension plans

WASHINGTON—A merger between Keystone Consolidated Industries Inc. and DeSoto Inc., cleared last week by the Pension Benefit Guaranty Corp., will significantly improve funding of Keystone's pension plans.

Keystone's four plans, as of 1994, had \$84 million in unfunded liabilities, an amount that put Keystone, a Dallas-based producer of fencing and wire products, on the PBGC's list of the 50 companies with the most underfunded pension plans.

As part of its acquisition of DeSoto, a Joliet, Ill., manufacturer of detergents and other household cleaning products, Keystone's four underfunded plans will be consolidated with DeSoto's overfunded plan. That will reduce Keystone's unfunded liabilities to less than \$30 million. The merged plans will have more than 9,700 participants.

Keystone needed PBGC's approval to borrow money to buy DeSoto because of debt limitations imposed on Keystone when the company received a waiver a decade ago from the Internal Revenue Service that postponed Keystone's contributions to its pension program.

In separate developments, the PBGC this month terminated a pension plan sponsored by McLouth Steel Products Corp., a one-time Trenton, Mich., steel producer, which filed for bankruptcy in 1995 and whose assets were sold this month. The McLouth plan, which has about 2,500 participants, is underfunded by \$15 million, with assets of \$58 million and liabilities of \$73 million.

The PBGC also took over a cash balance pension plan sponsored by Sewell Manufacturing Inc., a manufacturer of men's clothing in Bremen, Ga., which filed for bankruptcy last year. A cash balance plan is a type of defined benefit plan that uses easy-to-understand benefit formulas.

The Sewell plan has about 1,200 participants and is underfunded by \$7 million, with assets of about \$1 million and liabilities of \$8 million.

The PBGC terminated the plan because the company couldn't afford to make the required \$2.1 million in payments to the plan and remain in business. The takeover of the Sewell plan marks the first time the PBGC has terminated a cash balance plan of any significance, an agency spokeswoman said.

### Humana leaves Washington

WASHINGTON—Humana Inc. signed a non-binding letter of intent last week to sell its Washington-area health care centers and physicians to Kaiser Permanente Mid-Atlantic States Region.

A definitive agreement is expected within the next few weeks, subject to regulatory approval.

Terms were not disclosed.

The Louisville, Ky.-based managed care company lost about \$30 million on its Washington operations during the two years since it entered the market, said a spokesman.

"Humana has not been a major player in town, and Kaiser by acquiring this network of independent physicians paves the way for it to broaden its product offering," said Dennis Treat, a managing consultant with A. Foster Higgins & Co. Inc. in Washington.

Humana has about 117,000 members in the Washington area, compared with 397,000 for the local Kaiser plan.

"I don't think this is going to have an enormous impact on the marketplace," said Jay Jarvis, administrator of the Northern Virginia Group Health Alliance, an employer group based in suburban Annandale, Va. "It is definitely a buyer's marketplace. All of the insurance companies are dropping rates and most of them are losing money."

### Briefly noted

**Ford Motor Co.** is appealing a \$10 million fine levied against the company for improperly obtaining documents from State Farm Group relating to a lawsuit pending against the automaker (BI, Aug. 12). Ford will argue in a Sept. 16 hearing before the state court of appeals in Dallas that the fine should be overturned. . . . **Tobacco companies** can add Arizona, Michigan and Kansas to the list of states suing them because of the health effects of cigarettes. The Michigan suit also names wholesale distributors for the tobacco companies. . . . President Clinton, in a gala White House ceremony, signed legislation last week that will curb the ability of health care plans to deny coverage for **pre-existing medical conditions**. The measure also gives long-term care insurance tax-favored status and authorizes a four-year pilot program to test the effectiveness of medical savings accounts in holding down health care costs (BI, Aug. 5). . . . Two civil suits seeking unspecified damages were filed earlier this month in Fulton County Superior Court and State Court of Fulton County in Atlanta on behalf of two spectators injured in the bombing at the **Olympic Games**. . . . **Blue Cross & Blue Shield of Ohio** policyholders approved the insurer's proposed \$299.5 million merger with Columbia/HCA Healthcare Corp. The deal won the approval of 59% of members, though less than a third who could vote participated. The Cleveland-based plan expects state approval for the merger by year's end. . . . Effective Sept. 1, Dwight E. Davis becomes president and chief operating officer of **Wausau Insurance Cos.** in Wausau, Wis., succeeding Galen R. Barnes, who becomes president of the Nationwide Insurance Enterprise in Columbus, Ohio. Mr. Barnes also was named vice chairman of the Wausau companies and remains president of Employers Life Insurance Co. of Wausau and Wausau Preferred Health Insurance Co. . . . Robert B. Williams, former managing director in charge of new business development at Marsh & McLennan Cos. Inc., has joined **Aon Risk Services Cos.** in New York as executive vp-major corporate accounts. . . . Keith A. Maib, formerly a partner at Coopers & Lybrand L.L.P., has joined Indianapolis-based **Acordia Inc.** as executive vp and chief financial officer. Mr. Maib succeeds Patrick M. Sheridan, who will continue as chief financial officer of Anthem Inc., Acordia's parent. . . . The **Paying Names' Action Group** has decided not to appeal a High Court judge's decision to refuse its application for a judicial review of Lloyd's of London's reconstruction and renewal plan.

# Tri-Con

Continued from page 1

ers and boasts of relationships with more than two dozen employers, unions, HMOs, PPOs and insurance companies.

Some of the named companies, though, told *Business Insurance* that they have never done business with Tri-Con.

A spokesman for New Jersey Attorney General Peter Verniero said investigators are now reviewing material seized from Tri-Con's offices to determine what the company actually did.

Information from the investigation will be presented to a state grand jury, Mr. Verniero said.

Messrs. Mazzola and Borelli and nine other men arrested last week all pleaded not guilty to racketeering and various other charges and were released on bond.

Mr. Mazzola, his lawyer and Mr. Borelli could not be reached for comment.

Last week's arrests were the culmination of a broad two-year investigation into a northern New Jersey faction of the New York-based Genovese family.

Along with more traditional mob activities like gambling and loan sharking, prosecutors say they turned up evidence that the Genovese family had moved into the lucrative health care field.

The organization, law enforcement officials say, had the potential to "pick apart the industry at every level," simultaneously acting as a broker for groups seeking health care coverage; organizing its own HMO and PPO networks; acting as a third-party administrator for insurance companies; and even providing medical services like medical imaging and dental care.

The operation also carried the potential risk that confidential patient information could fall into the hands of mob associates who could then use it for blackmail, noted Robert T. Buccino, deputy chief of the New Jersey organized crime bureau.

Mr. Buccino said there is no evidence that patient information was misused in this case.

Those arrested last week included:

- Mr. Borelli and Peter Grecco, alleged leaders of a Genovese family "crew" that operated out of the Monroe Buddies social club in Hoboken, N.J.

- Michael Sciarra, another alleged Genovese leader and former president of the Teamsters Local 560 in Union City, N.J.

- John Agathos Jr., an official of the Hotel, Restaurant and Bartenders Employees Local 69 in Secaucus, N.J. He is charged with con-

spiring with a doctor to submit a phony medical claim and with stealing from Local 69's pension fund.

- Mr. Mazzola, a former Passaic police officer and head of Tri-Con. After retiring from the police force in 1976, Mr. Mazzola was convicted and served a three-year prison term for participation in an armed robbery of a supermarket employee. He was later charged with acting as an enforcer in a sports gambling ring operated by Genovese members and pleaded guilty to one conspiracy count.

Mr. Mazzola joined Tri-Con after being released from prison in 1993.

According to its promotional material, Tri-Con was affiliated with several other health care-related companies, at least some of which operated from the same rented offices in Hasbrouck Heights used by Tri-Con.

The largest of these affiliates, prosecutors said, was Medical Integrated Systems Inc. The promotional material suggests that, among other things, Medical Integrated Systems provides "credit services" including lease financing, loans and lines of credit and project and joint venture financing.

Other Tri-Con affiliates include Physical Therapy Systems, Medical Imaging Systems, International Health Care Services Inc., Dental Care Delivery Systems Inc., Ecco Systems and Contemporary Group, the material shows.

None of these companies, including Tri-Con, is licensed by the New Jersey Insurance Department, state officials say.

A Tri-Con officer, Brian Olifs of Fort Lee, N.J., did have an insurance producer's license, but the license expired in October 1995, according to an Insurance Department spokeswoman.

Mr. Olifs—who could not be reached—has not been charged with any wrongdoing.

Through its subsidiaries—principally Medical Integrated Systems—Tri-Con provided HMO and PPO programs to clients in Florida, New Jersey, New York, Oklahoma and Montana, state prosecutors say. Clients included municipalities, county and state groups, insured and self-insured companies and union health and welfare funds.

Mr. Farley, with the division of criminal justice, charged that Mr. Mazzola paid kickbacks disguised as service fees to individuals who brought groups into the HMO and PPO plans. The "fees" amounted to about \$100 per person per year, he said.

Tri-Con collected a 28% commission on the fees paid by employers and unions for health coverage, law enforcement officials said. Mr. Mazzola passed some of the money to Mr. Borelli as a "tribute," Mr. Farley said.

Mr. Mazzola also placed mob associates on

the insurance plans of client groups without the groups' knowledge, Mr. Farley said.

The charges against Messrs. Mazzola and Borelli specifically accuse them of defrauding Travelers Insurance Co. by enrolling an individual in a company health plan when the individual was not a company employee. Mr. Mazzola also paid a kickback to Mr. Borelli in return for Mr. Borelli's enrolling a group of employees in one of Mr. Mazzola's HMO plans, the charges state.

Tri-Con's promotional material names several purported client companies and several insurers for which it claims to provide third-party administration services. Some of these companies, though, say no such relationships exist.

One such company is Qual-Care Inc., a Piscataway, N.J., PPO with about 250,000 members that is described by Tri-Con as a "client."

While Qual-Care was approached by Tri-Con officials, it never formed any business relationship with the company or any of its affiliates, said Concetta Kluscik, Qual-Care's director of marketing.

Ms. Kluscik described Tri-Con's use of the name as "unauthorized."

GHI, a New York-based PPO, similarly denies any connection with Tri-Con though it is listed as a TPA client.

William Mastro, GHI's senior vp and general counsel, said Tri-Con's Mr. Olifs and officials of Medical Integrated Systems and Medical Imaging Systems had an "extremely brief" meeting with GHI officials in May or June. The Tri-Con officials claimed to have arrangements with 42 New Jersey hospitals and offered to negotiate with hospitals on GHI's behalf, Mr. Mastro said.

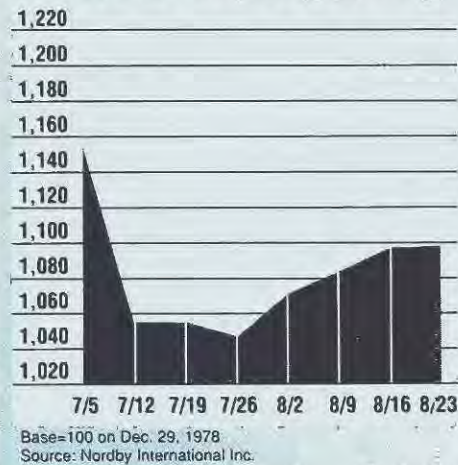
The hospital contracts, though, were not directly with Tri-Con but instead were with other companies, according to Mr. Mastro, who said GHI quickly decided not to do business with Tri-Con.

The Tri-Con material names several other companies it was purportedly doing business with, including Dun & Bradstreet, Empire Blue Cross & Blue Shield and Aetna Life & Casualty Co.

An Aetna spokeswoman said Tri-Con has never acted as a TPA for the insurer. Representatives of Dun & Bradstreet and Empire said they did not know of any relationship with Tri-Con.

The New Jersey Insurance Department is helping review Tri-Con documents and is looking for evidence of fraudulent claims, misrepresentations in coverage applications and operations of Tri-Con and its affiliates that would have required insurance licenses, the department spokeswoman said. **BI**

## BI Insurance Index



## British Issues

Aug. 22	Price	P/E	Div.	Yield	1 week
<b>Companies</b>	pence	pence	%	high—low	
Comml Union	601	11.5	35.3	5.9	611—593
Genl Accident	673	10.1	38.8	5.8	678—663
Gdn Royal Exch	255	9.4	11.3	4.4	256—249
Independent	556	10.4	14.1	2.5	556—537
Royal & Sun	403	9.6	21.6	5.4	403—398
<b>Brokers</b>					
Bradstock	71	11.8	7.1	10.0	71—71
Fenchurch	95	6.4	10.6	11.2	95—95
CE Health	91	10.7	6.3	6.9	92—91
JIB Group	104	10.3	9.4	9.0	104—104
Lloyd Thompson	180	11.0	11.3	6.3	182—180
Lowndes Lmbrt	122	8.0	10.5	8.6	123—122
Nelson Hurst	185	11.3	9.8	5.3	185—185
Sedgwick Grp	119	9.3	8.1	6.8	121—119
Steel Brl Jones	38	4.9	5.6	14.7	38—38
Willis Corroon	137	12.3	8.3	6.0	138—137

Base=100 on Dec. 29, 1978  
Source: Nordby International Inc.

## PCS catastrophe options

As of Aug. 23	Call spread	Price bid/ask	Call spread	Price bid/ask
<b>Eastern September 1996</b>			<b>California Annual</b>	
40/60	1/3		40/60	6/1.3
50/70	7/2		80/100	4/1.1
80/100	6/1.2			
<b>Southwest Sept. 1996</b>			<b>Western Annual</b>	
40/60	8/2.8		40/60	8/1.5
80/100	5/2.2		80/100	5/1.3
<b>Texas Sept. 1996</b>			<b>Northeast Sept. 1996</b>	
40/60	7/1.4		40/60	5/1.2
80/100	5/1.3			
<b>Total volume: 10</b>			<b>Total open interest: 3,729</b>	

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.  
Source: Chicago Board of Trade

# BI Industry Stock Report AUG. 19, 1996, THROUGH AUG. 23, 1996

### BROKERS

Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	
Accordia Inc.	NYS	30.75	-0.81	3.36	33.75	23.50	1
Alexander & Alexander	NYS	16	-1.54	-15.75	25.50	15.50	213
E.W. Blanch Holdings Inc.	NYS	19.25	-1.28	-17.65	25.50	17.75	36
Gallagher Arthur J. & Co.	NYS	32.875	2.33	-11.74	39.50	30.00	83
Hibb, Rogal & Hamilton	NYS	13.25	0.00	-0.93	14.38	11.38	37
Kaye Group Inc.	NDO	5.375	0.00	-32.81	8.75	4.63	0
Marsh & McLennan	NYS	93.625	0.27	5.49	101.63	78.63	713
Poe & Brown	NDO	24	-2.04	-3.52	25.50	22.75	20
<b>BROKERS AVERAGE</b>			-0.4	-9.2			

Top advancing issues: Sphere Drake Holdings, Tokio Marine & Fire, Wellpoint Health Networks. Leading decliners: HCC Insurance Holdings, United Fire & Casualty, Everest Reinsurance. Most active issue: Oxford Health Plans. The BI Index rose 0.04%; the Dow Jones 30 Industrials rose 0.6%; the S&P 500 increased 0.3% and the NYSE Composite gained 0.4%. Average P/E: Brokers, 14.8; Insurers/reinsurers, 39.9; HMOs, 29.3.

Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	
EMC Insurance Group Inc.	NDO	11.75	0.00	-14.55	15.25	10.13	4
Everest Reinsurance	NYS	24.5	-5.77	4.81	26.50	18.50	294
Executive Risk Inc.	NYS	34.375	-0.08	18.53	38.25	20.88	90
EXEL Ltd.	NYS	34.875	0.00	14.58	36.88	26.50	362
Fremont General Corp.	NYS	26.6875	0.71	8.93	27.00	17.75	208
Frontier Insurance Group	NYS	39.875	4.25	24.61	39.88	27.50	132
Gaisco Inc.	NYS	10.375	0.00	-8.79	12.38	8.31	100
GCE Holding Ltd.	NDO	23	-1.08	NA	27.25	19.75	236
General RE Corp.	NYS	149.25	-1.40	-3.71	158.25	138.75	627
Gryphon Holdings	NDO	12.5	-1.96	-35.06	20.25	12.00	82
Guaranty National Corp.	NYS	14	-3.45	-8.94	18.13	13.38	19
Harleysville Group	NDO	25.375	-2.40	-21.62	33.00	24.50	72
Hartford Steam Boiler	NYS	44.25	-3.28	-11.50	52.50	43.25	131
HCC Insurance Holdings	NYS	25.875	-6.33	39.86	31.25	12.00	105
IPC Holdings Ltd.	NDO	19.875	1.27	NA	22.25	19.00	74
ITT Hartford Group	NYS	54.25	1.17	12.14	55.00	44.50	1145
LaSalle Re Ltd.	NDO	22.75	-0.55	NA	23.63	19.50	43
Lincoln National	NYS	44.375	-0.84	-17.44	57.00	40.25	557
Markel Corp.	NDO	88	2.33	16.56	94.50	65.75	12
MBIA Insurance Group	NYS	81.375	0.93	8.50	82.38	66.25	815
Meadowbrook Insur. Group	NYS	28.875	-1.70	-13.81	34.13	24.00	39
Mid Ocean Ltd.	NYS	41.875	0.00	10.79	43.00	31.38	234
MMI Cos. Inc.	NYS	32.5	-1.52	35.42	33.38	20.25	39
Mutual Risk Mgmt. Ltd.	NYS	31.375	0.40	-8.56	34.88	26.88	150
NAC Re Corp.	NYS	36.5	-1.02	1.39	39.00	28.50	435
National Re Corp.	NYS	52.375	0.24	37.83	52.38	30.00	451
Navigator Group	NDO	19.625	2.61	11.35	20.25	13.50	27
Nobel Insurance Ltd.	NDO	12.4375	-0.50	9.34	12.75	10.88	52
NYMag Inc.	NYS	18.75	-1.32	10.29	22.00	15.38	18
Ohio Casualty Corp.	NDO	33.875	-0.37	-12.58	40.00	30.00	270
Old Republic Int'l	NYS	22.375	-1.65	-5.46	24.38	18.00	286
Orion Capital Corp.	NYS	50.25	1.26	15.85	51.00	39.88	61
Partner Re Ltd.	NDO	28.125	-0.88	2.27	31.88	23.75	584
Penn-America Group Inc.	NDO	15.25	0.33	7.02	16.75	10.25	24
Philadelphia Cons. Holding	NDO	18.5	0.58	13.85	22.50	16.25	40
PXRE Corp.	NDO	23.25	-2.32	-12.26	29.75	22.25	961
Reliance Group Holdings	NYS	8	0.00	-7.25	9.25	6.50	1207
Reliastar Financial Corp.	NYS	44.125	-1.12	-0.56	51.63	36.25	198
Renaissance Re Holdings Ltd.	NYS	29	-1.28	-4.53	33.13	22.88	16
Risk Capital Holdings	NDO	16.5	-5.71	-29.41	23.38	16.50	456

Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	
RLI Corp.	NYS	24.25	1.04	-3.00	25.88	21.75	48
St. Paul Companies	NYS	52	-0.72	-6.52	60.50	49.13	705
SAFECO Corp.	NDO	33.5625	-0.74	-2.72	39.75	29.13	1027
Seibels Bruce Group	NDO	2.0625	-2.94	37.50	4.25	0.44	188
Selective Ins. Group	NDO	32.25	-1.15	-9.15	38.75	31.00	230
Sphere Drake Holdings	NYS	9.25	12.12	-33.93	19.13	8.13	20
TIG Holdings	NYS	28.25	-2.59	-0.88	34.25	24.13	452
Titan Holdings, Inc.	NYS	15	0.00	4.35	16.63	12.50	39
Tokio Marine & Fire	NDO	60.5	5.68	-8.33	69.25	50.88	3
Torchmark Corp.	NYS	42.75	-1.72	-5.52	49.88	38.50	395
Transatlantic Holdings	NYS	71.5	-1.21	-2.56	75.25	62.38	27
Transnational Re Corp.	NDO	24.375	1.56	-0.51	27.25	20.88	139
Travelers Aetna Property	NYS	28	2.75	NA	28.50	23.13	331
Travelers Corp.	NYS	46	0.82	10.18	47.25	31.63	4000
Trenwick Group Inc.	NDO	53.625	1.42	-4.67	57.50	46.00	135
Unico American Corp.	NDO	7.5	0.00	20.00	7.75	5.50	12
Unionamerica Holdings	NYS	18.125	2.11	NA	18.13	14.75	20
United Fire & Casualty	NDO	32	-5.88	14.29	40.00	22.25	10
Unitrin	NDO	48.5	-0.51	1.04	51.75	44.25	123
UNUM Corp.	NYS	64.5	2.18	17.27	65.00	46.75	930
US Facilities Corp.	NDO	17	1.49	-20.47	23.38	14.88	177
USF&G Corp.	NYS	16.25	0.78	-3.70	19.50	14.25	1076
USLIFE Corp.	NYS	30.125	-1.23	0.84	33.25	26.88	176
Washington National	NYS	29	-0.43	-4.98	30.50	21.88	101
Zenith National Ins.	NYS	27.5	-2.22	28.65	28.88	20.00	15
Zurich Reinsurance Centr.	NYS	28.75	-2.54	-5.35	32.63	28.13	94
<b>INSURERS/REINSURERS AVERAGE</b>			-0.2	2.9			

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