

Business Insurance

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HMOs project rate cuts in 1995 with enrollment at record level

WASHINGTON—A record 50.5 million people are now enrolled in HMOs nationwide and annual premiums for large group and staff model HMOs are expected to decline for the first time in 1995, the Group Health Assn. of America says.

Health maintenance organization membership climbed nearly 12% in 1994—the biggest annual increase to date. The GHAA expects enrollment to reach 56 million by year-end 1995 as more people leave traditional fee-for-service plans.

Continued on next page

Insurers to benefit from smart money

Continental deal makes CNA largest commercial insurer

By JUDY GREENWALD

CHICAGO—CNA Financial Corp.'s stunning proposed buyout of Continental Corp. for \$1.1 billion is expected to significantly strengthen CNA and make it the nation's largest commercial insurer.

It is the "deal of the decade," said Michael Frinquelli, an analyst with Salomon Bros. Inc. in New York. "This is a deal that people have dreamed about in this business for 10 years because it makes so much sense, and finally it's happening."

Lingering questions do surround the deal, though, including how adequately the two companies are reserved and how well their corporate cultures will mesh.

Both boards have already approved the \$20-a-share cash offer, which was announced last week and is expected to be completed in second-quarter 1995, pending regulatory approval.

The acquisition would be one of the largest ever in the property/casualty industry and would make CNA the nation's largest commercial insurer, based on combined 1993 net premiums written of \$10.89 billion (BI, March 28). CNA also would become the nation's third-largest property/casualty insurer, trailing only State Farm Group and Allstate Corp.

The CNA proposal kills an earlier deal in which investor group Insurance Partners Ltd. was to pump \$200 million into Continental (BI, Oct. 17).

The combined company will be led by CNA Chairman and Chief Executive Officer Dennis H. Chookaszian. John P. Mascotte, Continental's current chairman and CEO, will stay in that post until the deal is done.

Richard M. Haverland, the highly regarded executive who was to have been

23 Brokers expect the deals to strengthen both companies

24 Risk managers encouraged by much-needed capital infusions

25 Rating agencies say the deals may prolong the soft market

25 CNA/Continental deal compared with other large buyouts

CNA



Continental's chairman and CEO under the Insurance Partners deal, has resigned. Continental would not comment on severance deals with Mr. Mascotte or Mr. Haverland.

Adrian M. Tocklin, Continental's president and chief operating officer, will have a "continuing role" that has yet to be determined, said Mr. Chookaszian.

Investors reacted quickly to the proposal, sending Continental shares up 34%, or \$4.75, to \$18.75 the day after it was announced. Continental shares closed Friday at \$18.75, and CNA's shares, which were virtually unchanged on the news, closed Friday at \$63.75, up 2.4% for the week.

Rating agencies are reviewing both companies (see story, page 25).

Continental's earlier proposed transaction with Insurance Partners was widely perceived to be a done deal, but the terms of that investment allowed Continental to continue looking for a larger deal.

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Byrne and capital infusion offer The Home new hope

By GAVIN SOUTER

NEW YORK—John J. Byrne is once again playing the role of white knight, riding in this time to lead the rescue of struggling Home Holdings Inc.

Credited with turning around GEICO Corp. in the 1970s and Fireman's Fund Corp. in the 1980s, the 62-year-old Mr. Byrne says the chairmanship of Home—which he plans to hold into the next century—will be the last big mission of his career.

Heading an investment group that accounts for \$420 million of a total package of \$630 million in new funds for Home Holdings, Mr. Byrne has helped stave off a crisis that appeared imminent after the major rating agencies dropped their A-grade ratings of the insurance holding company and its main operating subsidiary, The Home Insurance Cos.

But making The Home profitable again will be a tough battle, just like the other tough jobs Mr. Byrne has previously held.

John J. Byrne says turning around the fortunes of Home Holdings will be the swan song of his career.

It was the rating agencies' downgrades that spurred Home Holdings to search for new capital to return its ratings to a higher level. Most large brokers advise clients not to place business with an insurer that has less than an A- rating, and excess insurers are often reluctant to join programs in layers above lower-rated insurers.

"When we were put on watch by S&P, that is what triggered our capital plans,"

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David Lubarsky

Lawsuit charges DuPont and attorneys concealed problems with Benlate

By MICHAEL SCHACHNER

HOUSTON—Having largely succeeded in defending recent lawsuits related to its Benlate DF fungicide, E.I. Du Pont de Nemours & Co. Inc. may soon be back in court defending more than just product liability allegations.

A lawsuit filed Nov. 30 in Texas State Court in Houston charges Wilmington, Del.-based DuPont and one of its outside law firms, Alston & Bird of Atlanta, with conspiring to hide test results showing that Benlate was contaminated with a highly toxic herbicide that cripples plants.

The suit also details more than a decade of problems with the Benlate product and DuPont's alleged efforts to cover them up.

Included in the 67-page suit are recaps of alleged plant damage in greenhouses in Belgium in the early 1980s, two different reports of Benlate contamination in the late 1980s—one at a DuPont facility

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Liable to feel squeezed

Orange County officials, advisers may be sued in fund losses

By RODD ZOLKOS

Massive potential investment losses that pushed Orange County, Calif., into bankruptcy and rocked the municipal bond market are creating equally sizable liability exposures.

The county, its supervisors and Robert L. Citron, who ran the fund until he resigned last week as county treasurer, all have significant exposures to lawsuits by taxpayers or by jurisdictions with money in the investment pool Orange County ran.

Other probable targets include the securities firms that did business with Mr. Citron as he pursued the leveraged investment strategy that left the \$7.5 billion

pool with \$1.5 billion in potential losses. One firm in particular, Merrill Lynch & Co., did extensive business with the county, not only selling the investments but also underwriting the county's borrowings.

Orange County officials would not discuss any possible public officials liability coverage the county has. Government entities in California typically self-insure this exposure, although they may buy excess coverage. Even if Orange County has excess coverage, it may not help because investment losses are often excluded.

The losses of bond insurers that backed debt issued by Orange County and the 180 or so other pool participants probably will be

limited since the entities are expected over the long run to be able to make their debt payments.

Mr. Citron invested aggressively, achieving impressive returns for years and ultimately leveraging the \$7.5 billion fund into a portfolio valued at up to \$20 billion. Central to his strategy were reverse repurchase agreements, or "reverse repos," deals in which the pool simultaneously "sold" securities to Wall Street firms and agreed to "repurchase" them on a set date at a set price. The securities provided the collateral on the deals.

At the heart of the financial catastrophe was Mr. Citron's gamble that interest rates wouldn't rise.

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Updates

Record enrollment for HMOs

Continued from previous page

Customer satisfaction with HMOs' cost and quality is the primary reason, said Karen M. Ignagni, president and chief executive officer of the GHAA, an HMO trade group in Washington.

Mirroring the general decline in health care inflation, large HMO premiums will decrease 1.2% on average in 1995, compared with a 5.6% increase in 1994. Monthly premiums in large HMOs will decrease an average of 0.9% to \$145 for single coverage and 1.7% to \$392 for family coverage. But family premiums for HMOs with fewer than 70,000 members are expected to increase by about 1.1% in 1994, the GHAA says in a report based on a survey of 71 HMOs with 8.3 million members nationwide.

Projected premium cuts caused stock prices to dip last week for several big HMOs.

IRS to help PBGC collect debts

WASHINGTON—The Pension Benefit Guaranty Corp. soon will have a new weapon to collect unpaid insurance premiums and other debts employers owe the agency.

Effective Jan. 5, the Internal Revenue Service will be able to reduce any tax refund due to an employer by debts owed to the PBGC, and forward the tax refund offset to the PBGC.

Before a debt is referred to the IRS, the PBGC must notify the employer that payment is overdue. The employer then has 60 days to pay it or provide evidence that the debt is not past due. If that doesn't happen, the tax refund offset program kicks in.

Under a related rule, which takes effect Dec. 30, the PBGC also will be able to claim payments other agencies owe to employers that are overdue on PBGC payments. This process, known as an administrative offset, will be decided on a case-by-case basis.

Separately, President Clinton last week signed into law a bill that will require employers to accelerate contributions to underfunded pension plans and boost premiums they pay to the PBGC (*BI*, Dec. 5).

American Slip increases limits

EAST HARTFORD, Conn.—American Excess Insurance Assn. now offers excess liability insurance limits to \$100 million excess of \$25 million, up from \$75 million excess of \$25 million.

The increase, effective Dec. 1, was made possible largely by AEIA's addition of three new members: Fireman's Fund Insurance Co., St. Paul Fire & Marine Insurance Co. and North American Specialty Insurance Co., a unit of Swiss Reinsurance Co.

The new members provided \$17.4 million of the new capacity, while the balance was spread among the 11 existing members.

AEIA, also known as the American Slip, said the increased limits are available mid-term to existing policyholders, as well as on new and renewal business.

P/C industry income slips

NEW YORK—Property/casualty insurers' net income continued to slide in the third quarter, even as underwriting results improved slightly, according to a survey compiled by two insurer trade groups.

The Insurance Services Office Inc. and the National Assn. of Independent Insurers said that net aftertax income in the third quarter fell to \$2.2 billion from \$3.6 billion in that period in 1993 and \$3.5 billion in the second quarter of 1994. That decline came despite a drop in third-quarter underwriting losses to \$5.6 billion from \$6 billion in 1993.

Although third-quarter net investment income remained virtually unchanged at just under \$8 billion, realized capital gains plummeted to \$309 million from \$2.8 billion in 1993.

"The industry could soon be on the verge of consuming its own capital," said Sean F. Mooney, senior vp and economist for the Insurance Information Institute in New York.

Bankers Trust settlement

NEW YORK—Bankers Trust Co. has entered into an enforcement agreement with the Federal Reserve Bank of New York that requires Bankers Trust to take steps to ensure that its derivatives customers understand the instruments' risks.

Bankers Trust, which had been sued by Gibson Greetings Inc. and Procter & Gamble Co. over derivatives losses suffered by the two Cincinnati-based companies, neither admitted nor denied wrongdoing in the agreement.

Separately, Bankers Trust is negotiating consent decrees with the Securities and Exchange Commission and the Commodity Futures Trading Commission relating to its derivatives dealings with Gibson Greetings. In its suit, Gibson officials charged they were misled by Bankers Trust with regard to the risk involved in their derivative investments.

Bankers Trust reached a settlement with Gibson in November with the derivatives dealer reducing Gibson's liability to \$6.2 million from \$23 million.

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Errors & omissions

• The Dec. 5 Directory of International Property/Casualty Insurers inadvertently omitted Zurich Insurance Group's listing. The full text of the listing appears on page 21.

• A Dec. 5 Update incorrectly identified John Head as manager of Insurance Partners L.P. Mr. Head is actually manager of Head Insurance Investors L.P. and plays no role in the fund mentioned.

Lloyd's to encourage new settlement offer

By ADRIAN LADBURY

LONDON—Lloyd's of London hopes to jump-start a new market settlement initiative that could end all litigation by thousands of disgruntled members against scores of underwriting agents.

The effort, announced last week by Lloyd's executives after considerable media speculation, could result in a new offer by spring that would be more acceptable than the 900 million pound (\$1.41 billion) offer that failed

earlier this year (*BI*, Nov. 28; Feb. 21).

Members' groups representatives welcomed Lloyd's new attempt but pointed to major hurdles that could block a new deal or spoil its chances for success.

Lloyd's Chief Executive Peter Middleton said last week that there is a new "atmosphere of realism" among litigating members, agents and the agents' errors and omissions underwriters. During the last two or three weeks, Lloyd's reopened discussions with

these warring factions and secured assurances from all parties that they would talk, he said.

Lloyd's Chairman David Rowland last week also eliminated a major obstacle to new settlement negotiations by announcing that Lloyd's is postponing proposed changes to its rules on members' premium trust deeds. The changes were designed to give Lloyd's access to damages paid to litigating members to pay their outstanding Lloyd's debts before they pay

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Agent's license revoked

By DOUGLAS McLEOD

SAN FRANCISCO—California regulators have moved to revoke the licenses of an agent who allegedly helped bankrupt an offshore insurer he controlled.

After more than two years of skirmishes, regulators last month summarily revoked the licenses of Richard W. Peterson and the AAMB Insurance Agency Inc., a San Francisco agency he heads,

California agent cited in insolvency

citing his failure to resolve unpaid claims left by the now-defunct American Emerald Insurance Co. Ltd. of the Cayman Islands.

American Emerald, which was controlled by Mr. Peterson and wrote restaurant business generated by his companies, collapsed last year and is estimated to be insolvent by up to \$8.8 million.

In separate court filings, Ameri-

can Emerald's Cayman liquidator alleges that Mr. Peterson has failed to account for nearly \$900,000 of the insurer's premiums, that several of his companies have failed to repay unsecured loans from the insurer and that he used American Emerald to cover "extravagant" personal expenses.

The filings also note that in the

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Lighter dose of reform

Health care reform expected to be less ambitious in '95

By MARK A. HOFMANN

ARLINGTON, Va.—The 104th Congress will probably pass health care reform of some sort despite the failure of the Clinton administration's drive to enact sweeping reforms this year.

But the type of reform palatable to a Republican-controlled Congress will be far less ambitious than that proposed by the presi-

dent, said Mark W. Isakowitz, health care policy analyst for the National Federation of Independent Business in Washington.

"Anything that's controversial will immediately be thrown off the table," he said during a discussion of "Health Care and Workers Compensation: What Didn't Happen, What Could Have Happened—and Prospects for 1995" at UBA Inc.'s workers comp conference in Arlington, Va., on Nov. 30. UBA is a Washington-based business organization that

deals with workers comp and unemployment issues.

Mr. Isakowitz shared the podium with Rep. Earl Pomeroy, D-N.D., who also is a former president of the National Assn. of Insurance Commissioners.

Rep. Pomeroy said the "rejection of a government approach means that we will have to revisit" private approaches to health care reform. He said he was pleased that the private sector would get another chance to deal

Continued on page 14

NAIC looks at interstate regulatory proposals

Popularity of compacts grows

By MEG FLETCHER

NEW ORLEANS—Interstate compacts may become a hot regulatory tool in the nation's new political climate,

but state insurance regulators still have some sorting out to do before they become a reality.

State regulators discussed a dizzying array of proposals and approaches to interstate compacts

during the National Assn. of Insurance Commissioner's winter meeting in New Orleans last week.

Varying suggestions for interstate compacts have been put forth, including a proposal by a group of regulators from the NAIC's Midwest Zone and the National Conference of Insurance Legislators, and three compacts proposed by regulators in the NAIC's Western Zone, Illinois and Michigan.

An interstate compact is a voluntary agreement between two or more states to address multistate problems, though the concept can be expanded to deal with multinational problems, too.

There are more than 140 interstate compacts in effect today that allow states to efficiently coordinate their regulatory responsibilities. However, none addresses insurance-related problems.

The Republican election victo-

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Inside

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• An attorney will be charged with overbilling Lloyd's syndicates during his investigation of a claim. **PAGE 19**

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Managed care discord stalls labor talks at Disney World

By ROBERTO CENICEROS

LAKE BUENA VISTA, Fla.—Here in the shadow of Cinderella's Castle, Walt Disney Co. and its workers are waging a long, drawn-out fight over what is sure to be one of the most contentious labor issues in coming years: managed care.

So far, they're fighting to a draw.

In contract talks with six labor unions, Disney is trying to shift some of its self-insured health care costs to 18,800 of its approximately 22,000 workers at Walt Disney World.

Just as steadfastly, the workers are resisting changes by an employer that for years has fully

paid employee and dependent premiums for an indemnity plan that covers 90% of all medical costs until out-of-pocket expenses reach \$1,500. Above that, the company pays 100%.

Recently, the workers rejected—by 62% to 38%—a third contract offer that prominently featured managed care, even though union leaders had recommended they accept the latest offer.

The stalemate at Walt Disney World, where the current contract expired Oct. 29, reflects a growing labor/management discord over the national movement toward managed care.

"I think (the negotiations) are a preview of things to come and a vision of the past," said Claudia Bradbury, staff representative in Washington for the AFL-CIO's Department of Organization and Field Services.

At Walt Disney World, negotia-

tions are bottlenecked because employees fear change and scorn the company's attempt to pare benefits while its profits rise, local labor leaders said.

"The overall concern is being moved out of (health) plans they've been in for years and moved to managed care," said Frank DePirro, field representative for the Service Employees International Union, one of six labor groups comprising the Service Trades Council in talks with Disney. "Changes cause fear. But also, it's tied to the economics."

Bill Ward, vp of employee relations at Walt Disney World, attributed the workers' vote to employee misunderstanding of the contract terms. Both the unions and Disney probably failed to adequately explain the benefits offer to employees, he said.

"Don't assume just because you

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U.S. scrutiny of Lloyd's

Policyholders, regulators await trust fund examination report

By STACY SHAPIRO

NEW ORLEANS—Some policyholders think that Lloyd's of London's American Trust Fund will not pay their long-tail liability claims in full if Lloyd's members default on their debts.

They and others are waiting for the release of a New York Insurance Department report on the fund, which is to be published soon, to see if their concerns are valid.

"We've completed our investigation (but) I'm not at liberty to discuss the findings yet," Vincent Laurenzano, assistant deputy superintendent of the New York de-

partment, said earlier this month.

New York's examination is the first-ever review of the \$9.6 billion fund, which is composed of premiums paid on behalf of all risks denominated in U.S. dollars (BI, March 21).

"(It) was not an examination to determine the liabilities of Lloyd's or the valuation of the assets," Mr. Laurenzano told about 50 people at a seminar on foreign insurer insolvency sponsored by the American Bar Assn. in New Orleans Dec. 2-3.

"What we were after were the procedures in place for determining (Lloyd's) solvency filing with the (British) Department of Trade and Industry and the determination of each name's solvency. If a name is not solvent, then he's sup-

posed to top up his funds at Lloyd's to meet his liabilities," he said.

The department also wanted to know how the DTF's solvency rules for Lloyd's and each member funnels down into the American trust account, "which sits in New York for the benefit of policyholders here in the United States," said Mr. Laurenzano. "I suspect we'll make this report public in the very near future."

Some policyholders, though, worry that the LATF will not be around to pay 100% of their long-tail liability claims, according to lawyers at the ABA seminar.

They are worried about the solvency of a market plagued by a

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Record losses may harden 1995 satellite market

By ADRIAN LADBURY

LONDON—Satellite insurance rates are expected to harden in 1995, following the \$214 million loss of satellite launched on an Ariane rocket earlier this month.

Despite a spectacular Ariane loss in January, this year's satellite insurance prices generally remained steady, with only a few moderate rate increases reported (BI, Oct. 24).

However, two other losses in the third quarter and the most recent loss could push total satellite claims to a record \$760 million in 1994, which will send space insurers' overall 1994 results into a tailspin.

Gross premiums written in 1994, including launch premiums, total only about \$585 million, estimated Brian Spark, underwriter with the Marchant Space Consortium in London. The Marchant Consortium leads space business in London on behalf of 20 Lloyd's syndicates.

Roger Bathurst, associate director of Space Risks International in London, estimated total losses for the year at \$760 million. SRI—a unit of Aon Corp.—a month ago calculated that the year's three losses to date would cost insurers \$543.2 million.

In the latest loss, a PanAmsat-3 owned by PanAmsat of Greenwich, Conn., plummeted into the Atlantic Ocean off the coast of French Guiana on Dec. 1.

Its problems began during the launch from an Ariane V5 rocket, according to officials at Arianespace Ltd., the Evry, France-based manufacturer of the rocket. Pressure levels in the gas generator were insufficient to provide the normal level of thrust and about 12 minutes into the third stage of launch the satellite fell into the ocean.

The Dec. 1 loss and earlier satellite losses will put pressure on insurers to raise rates by one or two percentage points across the board, according to space underwriters and brokers. Launch rates currently range between 15% and 20% of the insured value of the

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AP/Wide World photo

The Dec. 1 loss of a satellite from an Ariane rocket will contribute to higher rates in 1995.

Pension plan underfunding increases 34% to \$71 billion

By MARK A. HOFMANN

WASHINGTON—Underfunding in single-employer pension plans continues to grow, according to a report by the U.S. Labor Department.

Labor Secretary Robert B. Reich said last week that underfunding in pension plans insured by the Pension Benefit Guaranty Corp. reached an estimated \$71 billion in 1993, an increase of nearly 34% from \$53 billion reported in 1992.

Pension actuaries point out, however, that the actual increase may not be as dramatic as those figures indicate because the PBGC changed the rules. The PBGC lowered its interest rate assumption to 5.65% in 1993 from 6.4% a year earlier.

Dick Jess, a resource actuary with The Wyatt Co. in Washington, said that the change in interest rate assumptions in calculating the underfunded plans' liabilities amount to a "big piece" of the reported increase.

"As a conservative rule of thumb, a 1% change in interest

results in a 15% change in liability," he said.

Mr. Reich acknowledged that the drop in interest rate assumptions played a role in the rise of underfunding but stressed that underfunding still would have

grown even if assumptions had remained the same.

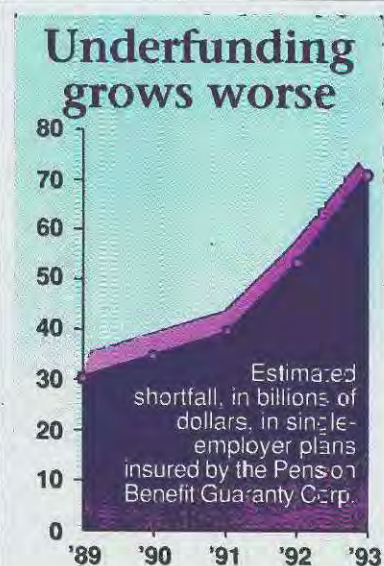
"The increase in underfunding in 1993 was due primarily to historically low interest rates, which affected pension assets and liabilities. But even if we held interest rates constant, there still would have been no significant improvement in the underfunding. I want to emphasize that this is during a recovery," Mr. Reich said.

According to the PBGC, underfunded pension plans had assets of \$316 billion and liabilities of \$387 billion in 1993. That compares with assets of \$182 billion and liabilities of \$235 billion in 1992.

Mr. Reich noted that underfunding remains a significant problem in a relatively small number of industries and companies. He cited steel making, automobile manufacturing, airlines and tire manufacturing as the industries in which underfunding is concentrated.

Mr. Reich added that the "vast majority" of PBGC-insured single-employer plans—about

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GRAPHIC BY KIM ROME

Lloyd's

Continued from page 2
other debts (BI, Oct. 24).

The postponement of the change in the trust deeds was warmly welcomed by the Assn. of Lloyd's Members and action group leaders, who were strongly opposed to the changes.

In contrast to the earlier settlement offer, this initiative would be taken "step by step" and no "grand slam" effort would be made to rush it through, Mr. Middleton said.

Mr. Middleton said he hopes to draw together three groups: leaders of the members action groups primarily facing losses from the LMX spiral; representatives of the steering group of the E&O underwriters; and leaders of the action groups primarily facing long-tail liability losses.

He wants an independent law

firm to assess how the agents' E&O underwriters are calculating the level of coverage available and show this to the action groups to help reach a compromise. Once agreement is reached on methodology, Mr. Middleton hopes the par-

It may be too early to tell if Lloyd's will contribute to any settlement this time around.

ties can start negotiating settlements.

No timetable has been set, but in a letter to the chairmen of the major action groups and the chairman of the E&O underwriters' steering group, Mr. Middleton said, "it

might be March 1995 before an outcome begins to take shape."

Mr. Middleton said that it is too early to say whether major obstacles to the earlier settlement—such as questions whether members' future liabilities would be capped—would be tackled this time around or whether Lloyd's could afford to contribute to any deal. He also was unable to say whether members' settlement monies would be paid in cash or into their premium trust funds.

Members' initial reactions reflected those uncertainties.

"We welcome settlement talks, provided Lloyd's realizes that the really busted names get something out of it. It is no good Lloyd's thinking it can have first call on the money, as names have many other creditors. Names want finality. If that cannot be delivered, then it would be difficult to strike a deal," explained Tom Benyon,

who is director of the Society of Names.

"The ALM has been pressing for such a move. Any offer must be better than last time. The amount must reflect the success of the litigation so far and the further losses names have suffered in the last two years," said Sir David Berriman, chairman of the Assn. of Lloyd's members.

Michael Payton, senior partner with Clyde & Co., the London law firm representing the agents' E&O underwriters, said it is "far too early" to outline what the E&O underwriters hope to achieve in any new talks but added that realistic goals are crucial.

"There was a lack of reality in the members' expectations last time. I hope it will be different this time. But if the members have any preconditions now, it's dead. One always has to enter such talks with an open mind."

ISO approves organizational restructuring

NEW YORK—Voting members of the Insurance Services Office Inc. last week overwhelmingly approved fundamental organizational changes to enhance its independence by decreasing insurers' influence and increasing outsiders' participation.

The organizational changes decrease the size of ISO's board, create a non-insurer majority on the board and transfer additional decision-making authority to ISO staff from insurance company committees.

In addition, "industry liaison panels" will be expanded to include more risk managers and regulators so they can advise ISO staff. Insurers will participate too, but only on "user advisory panels."

ISO's restructuring, which was approved by a better than nine-to-one margin, followed the recent antitrust suit settlement between a group of more than 30 insurance industry defendants and 20 state attorneys general over the development of standardized policy language for commercial general liability insurance (BI, Oct. 10).

The agreement makes ISO organizationally and operationally independent of insurance company control, though there was no court finding of wrongdoing by ISO or any other defendant in the antitrust action, said Carole J. Banfield, ISO senior vp.

Specifically, ISO will be governed by an 11-member board of directors that will include a majority of seven non-insurance company directors.

Three directors will be senior executives of insurers and ISO President Fred R. Marcon will serve as chairman.

ISO's current 21-member board is composed of 18 insurer executives and three non-insurer directors.

Each new board member will be elected to a one-year term. After the initial election, the board will elect future non-insurer directors and ISO's member-insurers will elect the three insurer directors. Insurer directors can serve up to three consecutive years, and non-insurer directors can serve up to seven consecutive years.

"It's a brave new world for us," Ms. Banfield told the National Assn. of Insurance Commissioner's Commercial Lines—Property & Casualty Insurance Committee.

The NAIC agreed to help select regulators to serve on the advisory panel, NAIC President Lee Douglass said.

The changes will go into effect no later than March 31 of next year.

The joint insurance industry conference in January is an early casualty of ISO's restructuring plans.

The American Insurance Assn., the Insurance Information Institute and ISO have jointly hosted the conference since 1988.

The withdrawal of ISO makes it impossible in 1995 to meet the conference goal of reflecting the broadest ranges of industry views, since ISO had the broadest membership base of the three groups, according to a spokesman for the III. Some sort of broad-based industry conference will probably be revived in 1996, he said.

—By Meg Fletcher
and Mark A. Hofmann

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Get Well

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A WORK-RELATED INJURY
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You shouldn't have to sacrifice quality health care to manage workers compensation medical costs. Wausau's return-to-work, medical management and rehabilitation programs help injured workers get back on their feet faster. What's more, Wausau developed ACCURESM, a computer system that automatically reduces medical bills to state fee schedules, PPO rates, or reasonable and customary charges. And our client-specific reports clearly show where money is being saved. Wausau also coordinates national accounts to provide consistent, high-quality service to your multiple locations. Top that with our A+ A.M. Best Rating and you'll know why our customers say, "Wausau is good medicine."



RISK MANAGEMENT SERVICES

WOOOONTEE

DuPont

Continued from page 1

ity in West Virginia and another at an independent contractor in Arkansas—and excerpts from several internal memos that the plaintiffs' contend indicate DuPont employees were aware of and concerned about Benlate's potential destructiveness.

What separates this complaint in Texas from scores of others alleging Benlate-related problems are charges of fraud and conspiracy against DuPont and the law firm that represented it in the first trial over Benlate contamination.

The suit alleges that three Alston & Bird lawyers, with DuPont's permission, pressured scientists at an agricultural testing laboratory into manipulating the results of tests for the presence of the sulfonylurea herbicide in soil containing Benlate.

Though growers in that first trial had sought damages of \$430 million, they ultimately settled for only \$4.25 million as the jury deliberated (*BI*, Aug. 16, 1993). Until 1993, DuPont had spent \$500 million settling Benlate contamination claims, an amount that was partially insured (*BI*, Oct. 25, 1993).

The allegation that DuPont's lawyers influenced Alta Analytical Laboratory Inc.'s test results in the first trial first surfaced during pretrial discovery in another current Benlate lawsuit in Hawaii.

News of a possible cover up has spread among plaintiffs lawyers like wildfire, primarily because DuPont, after settling in the first trial, has avoided any substantial jury verdicts in favor of growers.

In a statement, DuPont said that

the new Texas charge "presents nothing new." The chemical giant labeled the claims "merely a re-hash of the same charges that have been raised about Benlate during the last couple years," and said the company "stands behind its products, its employees and its attorneys."

Meanwhile, in the Hawaii case, lawyers representing growers who used Benlate are arguing that the fungicide is more contaminated and harmful to their crops than DuPont has let on and that DuPont knows it.

As evidence, lawyers at the Hilo, Hawaii, firm of Roehrig, Roehrig, Wilson, Hara, Schutte & De Silva have primarily cited memos and phone logs written by two Alta scientists just weeks before the first Georgia trial began.

According to court papers, one phone log details a conversation between the scientists and Alston & Bird lead attorney Elizabeth Gilley.

One of the scientists wrote that positive test results were relayed to Ms. Gilley by phone and that she responded with an order to "take out the spike results" and to "go back and try to confirm (defirm) suspected positives."

The scientist, Bob Peterson, also wrote that he and his colleague, Bob Bethem, were "comfortable" with an herbicide contamination threshold of 25 parts per trillion, the court papers show.

Lawyers in Hawaii have also been concentrating on a handwritten phone log written by Mr. Bethem that shows Alta's original 25 PPT threshold crossed out and raised to 50 PPT.

In the Hawaii trial and in other lawsuits, the two Alta scientists have said that Alta raised the posi-

tive threshold to 50 PPT on its own. Mr. Peterson has said that he recalled no conversation with Ms. Gilley about changing test results and insisted that the word "defirm" was his own and only applied to the retesting of a positive specimen, which he said is standard within the industry.

That version of events may have been undermined by Dec. 2 testimony by one of DuPont's co-defendants in the Hawaii case.

Inger-Lise Knutsen, who owns the land at issue in the trial, testified that after Mr. Bethem testified that the lawyers did not order test results or criteria changed, she overheard him tell another DuPont lawyer: "But you know, she really wanted me to change it."

Supportive testing data, including the Alta results, are one reason for DuPont's courtroom success in most Benlate suits.

But those test results have long made growers and their lawyers wonder why, if the evidence was in its favor, DuPont ever paid out \$500 million to settle Benlate-related complaints in 1991 and 1992. DuPont in 1992 abruptly stopped settling cases, and began a media and public relations campaign touting the safety of Benlate (*BI*, June 21, 1993).

The Houston lawyer who filed the Texas suit on behalf of growers that used Benlate says the fraud and conspiracy complaint provides the answers.

"I think we're opening Pandora's box here," said G.P. Hardy III, a partner with Hardy & Johns. "If DuPont and their counselors take a close look at this pleading, they will realize that we know where they're coming from."

The suit not only charges Alston & Bird with pressuring the testing

lab to suppress positive findings of the herbicide in Benlate, but it claims the lawyers required Alta to provide DuPont's key expert witness with a summary of the reworked data to interpret, as opposed to the original raw data.

Alston & Bird denied the charges made in the Texas lawsuit, saying it "ethically and vigorously" represented DuPont. "We have reviewed the allegations, and we are appalled by them. The action filed against us is baseless and represents the worst type of abuse of the litigation process. . . . Alta's testimony squarely states that all tests reported by Alta were conducted appropriately by its scientists and the results were based on judgments of Alta's scientists."

Alta, which is based in El Dorado Hills, Calif., declined to comment.

Lawyers bringing other Benlate suits criticized DuPont and its lawyers for not disclosing the original test results.

"It's very difficult for me to think what DuPont and their lawyers have done throughout this whole thing is appropriate, but I'm not sure they have engaged in civil fraudulent conspiracy," said one plaintiff's lawyer. "There are an awful lot of wild allegations flying around, some of which may ultimately be proved. But lawyers tend to stretch things from time to time. I know a lot about what DuPont and their attorneys have done, and I wouldn't bring a conspiracy suit based on what I know. But different lawyers do things in different ways."

Another plaintiff's lawyer, who also requested anonymity, said, "I have been given many false answers to interrogatories, and after they are presented with the cold,

hard facts, like the Alta situation, they admit a mistake. But I find it more than coincidental that these mistakes have all benefited DuPont's position."

The lawyer also suggested that some of DuPont's lawyers may have run afoul of ethics rules because DuPont has demanded very large legal teams from its various outside law firms. This, he said, has resulted in many young lawyers being assigned to Benlate cases, and "when young, aggressive, unsupervised lawyers get on a case, they do things an experienced lawyer might not do," the lawyer said.

Though no risk manager or general counsel should ever suggest lawyers commit fraud on their behalf, the pressure of high-profile product liability cases and working for an industry-leading industrial firm can create situations of impropriety, said a risk manager for a DuPont competitor.

DuPont's alleged situation "is the stuff of novels and movies, but very often, books and films of this genre are based on real life facts," said Richard M. Inserra, assistant treasurer with Union Carbide Corp. in Danbury, Conn.

Mr. Inserra said intense competition and pressure can conceivably push companies and law firms over the ethical edge. "Any firm wants to look good before a major client and corporations want to put their best foot forward when defending the first of a possible string of product liability claims. But manipulating data to defend yourself is not a good way to go. You always want to present things accurately. The problem comes when something is hidden in your closet. It could very well come out." **BI**

Peterson

Continued from page 2

months before it collapsed, American Emerald was pursuing a possible reinsurance deal involving the allegedly fraudulent First Assurance & Casualty Co. Ltd. of the Turks & Caicos Islands.

First Assurance filed for bankruptcy last year, leaving millions of dollars of unpaid claims from the 1992 Los Angeles riots (*BI*, March 7).

Joseph Hoffman, a Larkspur, Calif., lawyer representing Mr. Peterson, denied the liquidator's allegations. Mr. Peterson could not be reached.

Meanwhile, Mr. Peterson and his lawyers recently met with California Insurance Department officials to discuss the revocation order, which takes effect next week.

One of these lawyers, Robert Hogeboom, of Barger & Wolen in Los Angeles, said the department's action stemmed from Mr. Peterson's failure to file a report due in June on American Emerald claims. He has since filed the report, and Mr. Hogeboom said he believes the Insurance Department will withdraw the revocation order.

An Insurance Department official confirmed that the department is reviewing the information. A decision is expected soon.

For several years, Mr. Peterson has managed a property/casualty program for bars, restaurants and hotels through AAMB and Bay Area Hospitality Cooperative, an association he founded and controls.

Prospective policyholders pay a fee to join BAHC and then may buy property and liability coverage under master policies issued to the association, court papers say.

Mr. Peterson and his companies

have repeatedly run into legal trouble, though, including lawsuits charging that they misappropriated the names of well-known insurers.

American Emerald was incorporated in Cayman in 1989 by Mr. Peterson, San Francisco lawyer Raul V. Aguilar of the firm Aguilar & Sebastinelli, and others as "INA Co. Ltd." It soon changed its name to "INA Insurance Co. Ltd."

After CIGNA Corp., parent of Insurance Co. of North America, filed a trademark infringement suit, though, the Cayman insurer changed its name again in 1990 to American Emerald.

In 1991, American Emerald, BAHC, Mr. Peterson and others were also sued for trademark infringement by Fireman's Fund Insurance Co., which had agreed to reinsure American Emerald for \$4.75 million excess of a \$250,000 retention on the BAHC program.

While American Emerald had agreed not to use Fireman's Fund's name in marketing efforts, agents in fact promoted the program as being backed by Fireman's Fund, the insurer charged.

In one case, Mr. Peterson signed an insurance certificate naming Fireman's Fund as the direct insurer, court records show.

Fireman's Fund also claimed that it agreed to reinsure the program based on an opinion letter from Mr. Aguilar concluding that American Emerald could legally insure California policyholders without being regulated by the California department.

Lawyers for the insurer later concluded that Mr. Aguilar was wrong, and they sought to rescind the reinsurance on grounds of misrepresentation.

American Emerald, BAHC and Mr. Peterson settled the case in 1992, agreeing among other things

to a court-ordered rescission of the policy and an injunction barring them from using Fireman's Fund's name.

Troubles for Mr. Peterson and his companies were far from over, though. A few months after the Fireman's Fund settlement, the California department issued a cease and desist order barring BAHC, AAMB and Mr. Peterson from producing business for American Emerald.

Cayman regulators suspended the insurer's license in October 1993, and American Emerald entered voluntary liquidation shortly thereafter.

Actions by Mr. Peterson and his companies contributed heavily to American Emerald's failure, according to filings by the insurer's liquidator in an ancillary proceeding in U.S. Bankruptcy Court in San Francisco last month.

The filings allege that:

- American Emerald was insolvent virtually from inception. The insurer's first transaction was to assume a book of restaurant risks from another company. After paying \$135,135 in commissions to Mr. Peterson, though, the liabilities on the business exceeded the premiums by more than American Emerald's \$250,000 initial capital. In addition, that initial capital consisted of a check drawn on a California premium trust account, the filing says.

- Mr. Peterson has failed to account for \$892,549 in premiums written but never paid to American Emerald.

- American Emerald made about \$300,000 in unsecured loans to companies of which Mr. Peterson was an officer or shareholder, including AAMB, and more than \$500,000 more in loans to companies the liquidator says may be connected to Mr. Peterson.

All of the promissory notes tied to these loans are in default.

One of the loans was to D.H. Consultants Ltd., a Cayman firm that may have used American Emerald money to buy a Cayman condominium used by Mr. Peterson, the filing says.

- Between 1991 and 1992, Mr. Peterson billed American Emerald for \$632,626 in expenses, including \$166,808 for a "sales convention" that included a Las Vegas trip and Caribbean cruise.

The filing says the liquidator may pursue actions against Mr. Peterson for possible misappropriation of premiums, as well as for repayment of the loans to his companies and other expenses.

The liquidator reported that it may also pursue a claim against Mr. Aguilar for allegedly helping to operate American Emerald while it was insolvent. Mr. Aguilar was a director and corporate secretary of American Emerald from its incorporation until he resigned in October 1990 and continued to act as legal counsel for the insurer until shortly before it entered liquidation.

Mr. Aguilar denied the insurer was insolvent during the time he was a director and officer and noted that he resigned because Mr. Peterson refused to provide him information about the insurer's operations.

Asked why he continued to act as the insurer's lawyer, he said legal representation "is a totally different animal."

American Emerald paid legal fees of \$780,233 from 1989 to 1993, and the liquidator is trying to determine how much of this went to Mr. Aguilar's firm. Mr. Aguilar has also filed a claim in the liquidation for an additional \$399,410 in unpaid fees.

Mr. Aguilar said his fees were

"reasonable" and that the liquidator is leveling charges against him as a way of reducing the amount it owes.

The bankruptcy files also reveal that in May 1993, after the California department's cease and desist order against American Emerald, Mr. Peterson and Mr. Aguilar discussed a reinsurance deal involving another of Mr. Aguilar's clients, First Assurance.

In a May 21, 1993, letter to Mr. Peterson, Mr. Aguilar said he would forward American Emerald financial data and discuss the possible deal Jesse Maynard, First Assurance's president.

First Assurance had been banned by California regulators the previous month and later filed for bankruptcy.

Since the collapse of American Emerald, AAMB and Mr. Peterson have used several U.S. insurers to write the restaurant program, including Buckeye Union Insurance Co., a Continental Corp. unit, and units of American International Group Inc., sources familiar with the program confirm.

Continental officials confirmed that Buckeye wrote liability coverage for the program until last month, when the coverage expired and was not renewed. Continental is investigating the volume of business written through the program, one official said.

In January 1994, California regulators revoked the licenses of Mr. Peterson and AAMB and reissued them on a restricted basis that allows for revocation without a hearing if certain conditions are not met.

The Insurance Department issued its summary revocation order Nov. 18, saying that Mr. Peterson had not complied with an agreement to "review and resolve" unpaid American Emerald claims. **BI**

Wisconsin firms to create purchasing group

BROOKFIELD, Wis.—Employers in southeastern Wisconsin are attempting to reform the small group health care market by creating a purchasing organization for all businesses.

The Health Care Network of Wisconsin, an employer-sponsored health care purchasing organization, wants to form the Wisconsin Health Insurance Purchasing Program to provide small businesses wider access to more affordable, quality health insurance through a single, voluntary structure.

"It is easier for all of us to achieve the goal of getting more affordable health insurance for Wisconsin citizens through market-based reform rather than trying to achieve legislation agreeable to everyone," said Jim Wrockage, HCN's chief executive officer.

The organization recently sent out requests for proposals to brokers, agents and consultants in the state that can provide a health insurance program based on guaranteed issue, continuity of coverage, modified community rating and comparable premiums for all participants.

The new purchasing program will offer a standardized set of comprehensive medical services through multiple accountable health plans. The services will be provided through health maintenance, preferred provider and point-of-service options. An indemnity option may also be offered.

The program will be administered by one entity, KVI of Des Moines, Iowa.

The HCN hopes to have the new purchasing program up and running by July 1995 in 11 counties in southeastern Wisconsin.

—By Christine Woolsey

Pregnancy hot line

NEW YORK—Bristol-Myers Squibb Co. employees who are expectant parents now have access to a confidential, 24-hour telephone line they can call with questions about their pregnancy.

The New York-based drug manufacturer added the service, called Mother-Child Connection, to its self-insured indemnity plan in November.

As an incentive, employees and dependents enrolled in that plan who use the phone service in the first trimester of pregnancy will receive \$100 to apply toward health plan deductibles, said Anthony Mazzeo, director of group benefits programs at Bristol-Myers Squibb in New York. Deductibles vary and are pay-based.

Sponsored by United Health-Care Corp. of Minneapolis, the Mother-Child Connection program will manage the care for high-risk as well as clinically normal pregnancies. Registered nurses with experience in pediatrics, neonatology, labor and delivery will answer calls and may conduct up to six separate telephonic risk assessments throughout the course of an individual's pregnancy.

Educational materials, covering a variety of prenatal issues, will be sent after each assessment.

The new program "ties in well with the other wellness initiatives in our medical plan," Mr. Mazzeo said. "It's an investment in the health of the mothers and babies in our population."

He said the program is not designed to supplant the relationship between expectant mothers and their physicians. "We just want to

Benefit Beat

enhance that relationship." And, the nurses who staff the 24-hour phone line will be more available to answer questions than a woman's doctor may be. "It's difficult to contact a doctor in the middle of the night," Mr. Mazzeo noted.

Forty women have signed up for the program so far.

Bristol-Myers Squibb also hopes the program will improve the financial health of its benefit plans, but Mr. Mazzeo is quick to stress that is not the primary reason the company introduced the program. "We didn't do this because of saving money, and we never made any promises to management that (the

program) would save money, because I couldn't prove it. We did it because it's the right thing to do."

In fact, a Nov. 10 article in the New England Journal of Medicine criticized the accuracy of research that claims there is significant savings potential associated with prenatal care programs.

—By Christine Woolsey

Bank offers day care

NEW YORK—In an effort to help its employees balance their work and family needs, Chemical Bank will begin providing full-time day care for its employees' children in New York.

In February, the bank, a subsidiary of Chemical Banking Corp., will open a pilot center in Flat-

bush, Brooklyn, that will provide full day care year-round for about 100 children. The bank chose Flatbush because it has a high concentration of employees with children in that community.

The daycare center, called the Growing Assets Child Development Center, will take care of children from 2 months to 5 years of age. Chemical Bank contracted with Catholic Charities of the Diocese of Brooklyn and Queens to operate the center.

The center will be financed entirely with private funds, but employees will share the cost of the center with the bank. Fees will be based on family income, using bank subsidies on a sliding scale. If the initial pilot is successful, the bank will open additional neigh-

borhood-based daycare centers.

"Virtually every working parent has had to come to terms with the city's critical need for high-quality, affordable primary day care for pre-school children, especially infants," said Martin H. Zuckerman, Chemical Bank's director of human resources. The lack of adequate child care services often leads to lost productivity, he said. In fact, some surveys show "that 52% of absences are caused by family-related problems."

The bank hopes the new program will help it attract and retain qualified employees.

A limited number of daycare slots will be available for local children of parents not employed by the bank.

—By Christine Woolsey

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Opinions

Well-crafted reforms at last

WELL DONE.

Those are two words we rarely have used to describe employee benefit legislation enacted by Congress in recent years. But an important exception to that poor congressional track record is passage of legislation this month to improve pension funding and put the Pension Benefit Guaranty Corp. on a sound financial basis.

For years, we have crusaded for legislation to eliminate the loopholes and inadequacies of current rules that have allowed many employers to underfund their pension programs.

It would be difficult not to see the weaknesses in present funding rules. When Pan American World Airways Inc. failed, its pension plan had hundreds of millions of dollars in unfunded liabilities, a debt assumed by the PBGC and ultimately borne by other employers in the premiums they pay to the PBGC.

However, given the previous pension rules, the size of Pan Am's underfunding was hardly surprising. The airline had been in decline for a long time. Yet the company, like dozens of others, was able to maintain massively underfunded plans and do little, if anything, to improve funding.

The newly enacted Retirement Protection Act will reduce the likelihood of that happening in the future.

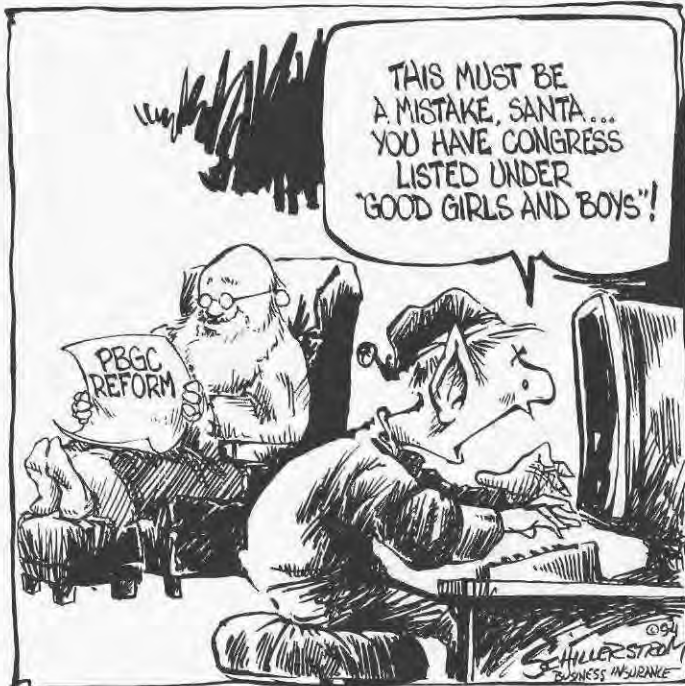
First, employers with underfunded plans will have to accelerate contributions to those plans. In general, the less funded a plan is, the faster the employer will have to make contributions to the plan to reduce those liabilities. Yes, that will cause some financial hardship, but it also will force companies to be more realistic in the benefits they promise employees.

In addition, underfunded plans will pay much higher premiums—generally premiums will double—to the PBGC. That is only fair since the poorly funded plans pose the greatest risk to the PBGC.

Other provisions in the legislation will end such abuses as companies significantly underestimating the life expectancies of employees to minimize liabilities and contributions to their plans. Employers now will have to use a uniform mortality table.

This is far more than a victory for the PBGC. It is a victory for the defined benefit plan system. If pension plans are better funded, participants will be much more likely to receive promised benefits. And, with better funded plans, the PBGC's exposure to big claims will be significantly reduced. That in turn will mean employers with well-funded plans will pay the agency more stable or even reduced premiums.

Certainly, there are lessons for the Clinton administration in why pension funding legislation passed and why



its health care reform efforts failed.

In contrast to the crisis-mongering that President Clinton and others used to drum up support for health care reform, administration officials were more circumspect and accurate in assessing the need for pension legislation. Pension funding was not a crisis but a serious problem and one that should be addressed while still manageable, officials were careful to point out.

While the administration established an unwieldy and often secretive 511-member task force to craft health care reforms, pension funding legislation was shaped by a 30-member task force that held dozens of meetings to get input from employers and others.

In addition, while the administration was foolishly rigid on health care reform—President Clinton said he would veto any bill that did not ensure universal coverage—the administration did not dig itself into a corner on pension legislation. When, for example, opposition mushroomed over a provision that could have killed a type of pension plan known as an age-weighted defined contribution plan, the administration jettisoned the provision rather than risk losing the entire funding package.

As important as the enactment of funding reforms is, it is only a first step—albeit an important one—in injecting more rationality into the pension system.

We hope that the administration and Congress next will work together in drafting legislation to cut back on the needless rules and regulations that have made pension plan administration so difficult and costly.

Letters

Historical comparisons are a better benchmark

To the editor: I read with interest the Nov. 14 article on the theory of total quality management as it applies to risk managers, "Risk Managers Learn to Gauge, Improve Quality."

As a former risk manager, and in my current role as a broker and consultant to both the private and public sector, I have found that comparisons with other companies for benchmarking purposes, particularly in the area of workers

compensation, are difficult at best.

When such comparisons are used, they should be used cautiously and then only as an indicator of where problem areas lie.

Rather, I have had more success with historical, internal benchmarking, which allows one to see past and current trends to determine where goals need to be set to move forward successfully in the future.

Total quality management and total cost of risk are intertwined. When someone tells me the cost of their program is too high or quality is poor, I usually ask, "As compared to what?"

I would hope they have a good answer based on facts. Certainly their company's senior management would.

Rosemary Andary-Rice
President
C.M. Althoff Co.
Royal Oak, Mich.

A telling statement of insurer strategy

To the editor: Note and remember the statement in the Oct. 10 Perspective article, "Preparing for a 'Mega-Loss,'" by Richard A. Archer of Jardine Insurance Brokers Inc.: "I have never been involved in a loss in excess of \$10 million where a lawsuit has not been filed."

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Figure A: a brick wall.

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Lloyd's fund

Continued from page 3

mountain of litigation between members and their underwriting agents, and the refusal of many members to pay their losses.

Lloyd's attempts to pursue members' debts are on hold following a U.K. Court of Appeal decision that makes it virtually impossible for Lloyd's to force members to pay for losses with assets not held by the market (*BI*, Nov. 14).

Last month, the appellate court put Lloyd's recovery efforts on hold while two members pursue their claim that Lloyd's membership agreement violates European Union competition law.

The litigation could delay, for perhaps up to three years, Lloyd's efforts to collect some \$1.2 billion to \$2 billion from members.

Lloyd's has set up a debt recovery department headed by Philip Holden to recover funds from members without resorting to litigation and is cajoling members to come talk to them voluntarily. Ms. Cory-Wright admitted that many members—even the angry, litigating ones—are honoring their debts.

Today, stock analysts also are questioning the future of the Lloyd's market, according to A. Michael Frinquelli, a Salomon Bros. Inc. analyst in New York.

In particular, he said, they have serious questions about the viability of Equitas Ltd., which is Lloyd's proposed runoff reinsurer. Corporate investors are concerned that if Equitas doesn't fly, they could be assessed to pay for the long-tail liabilities of 1986 and prior years.

Also, the rules for corporate capital "keep changing," he said.

"Lloyd's will survive, but mainly as a limited liability underwriter, and it will shrink," Mr. Frinquelli predicted.

Given the upheaval at Lloyd's, U.S. policyholders are concerned that their long-tail liability claims will not be paid in full when they become due, according to ABA seminar delegates.

And their worries focus on the \$9.6 billion Lloyd's American Trust Fund. All Lloyd's members have individual accounts, but if one member cannot pay his or her share of a claim, other members' funds cannot be tapped to cover the shortfall.

"There are many deficiencies in the terms of the Lloyd's American Trust from the perspective of U.S. policyholders," G. Larry Engel, a partner with Brobeck Phleger & Harrison in San Francisco, wrote in a paper distributed at the seminar.

"Unfortunately, there does not appear to be a functioning mechanism to assure that the net assets in the LATF are sufficient to cover net U.S. liabilities," added Robert M. Hall, senior vp of American Re-Insurance Co. in Princeton, N.J., in another paper.

The two men criticize loopholes in the trust fund that could affect payment of claims if Lloyd's members become insolvent, including:

- U.S. dollar premiums held on behalf of each Lloyd's member, which are held severally, not jointly.

"Policyholders may not have Lloyd's American Trust assets available to them because the names severally liable on the Lloyd's policies currently have no funds left on deposit in the trust," said Mr. Engel.

- The assets in the trust are net of reinsurance recoverables.

This is in apparent violation of the National Assn. of Insurance Commissioners Model Law on

Credit for Reinsurance, said Mr. Hall. "The revelation of this fact in mid-1994 has caused a good deal of consternation to both regulators and creditors who previously understood the trust to contain gross liabilities."

The LATF also fails in other ways to maintain the spirit of model act, he contends.

The act requires that the LATF be maintained "for the payment of the valid claims of its United States policyholders and ceding insurers" in amounts equal to that group's U.S.-domicile liabilities.

"The Model Act would seem to require that the (Lloyd's) names total their liabilities to U.S. policyholders and ceding companies and maintain that amount in the LATF. However, this is not how the assets placed in the LATF are calculated," said Mr. Hall.

The LATF includes all premiums paid in U.S. dollars regardless of

U.S. policyholders are concerned that their long-tail liability claims will not be paid in full when they become due.

whether the policy covers risks outside the United States, he noted.

Mr. Engel said he also is concerned that U.S. bankruptcy law might let Lloyd's members transfer their assets in the LATF to the new run-off reinsurer, Equitas, in the United Kingdom.

And if Equitas at any time becomes insolvent, U.S. policyholders would have to litigate against Lloyd's members directly—many of whom could be insolvent or, in the case of long-tail liability poli-

cies, dead.

"Cynical policyholders have little confidence in the practical ability of the U.S. insurance regulators to meaningfully audit the adequacy of the Lloyd's trust balances or even to match trust balances with the names who own the residual interest in those balances," said Mr. Engel.

New York's Mr. Laurenzano assured Mr. Engel and others at the ABA seminar that state insurance regulators would not allow assets in the LATF to be transferred to the U.K. to fund Equitas.

"I can tell you that with respect to the U.S. trust funds, we as regulators will not let the money leave this country," said Mr. Laurenzano. "It will stay in the United States. I had discussions with Lloyd's on how to structure this, but we don't intend to let that money seep out. It will stay here."

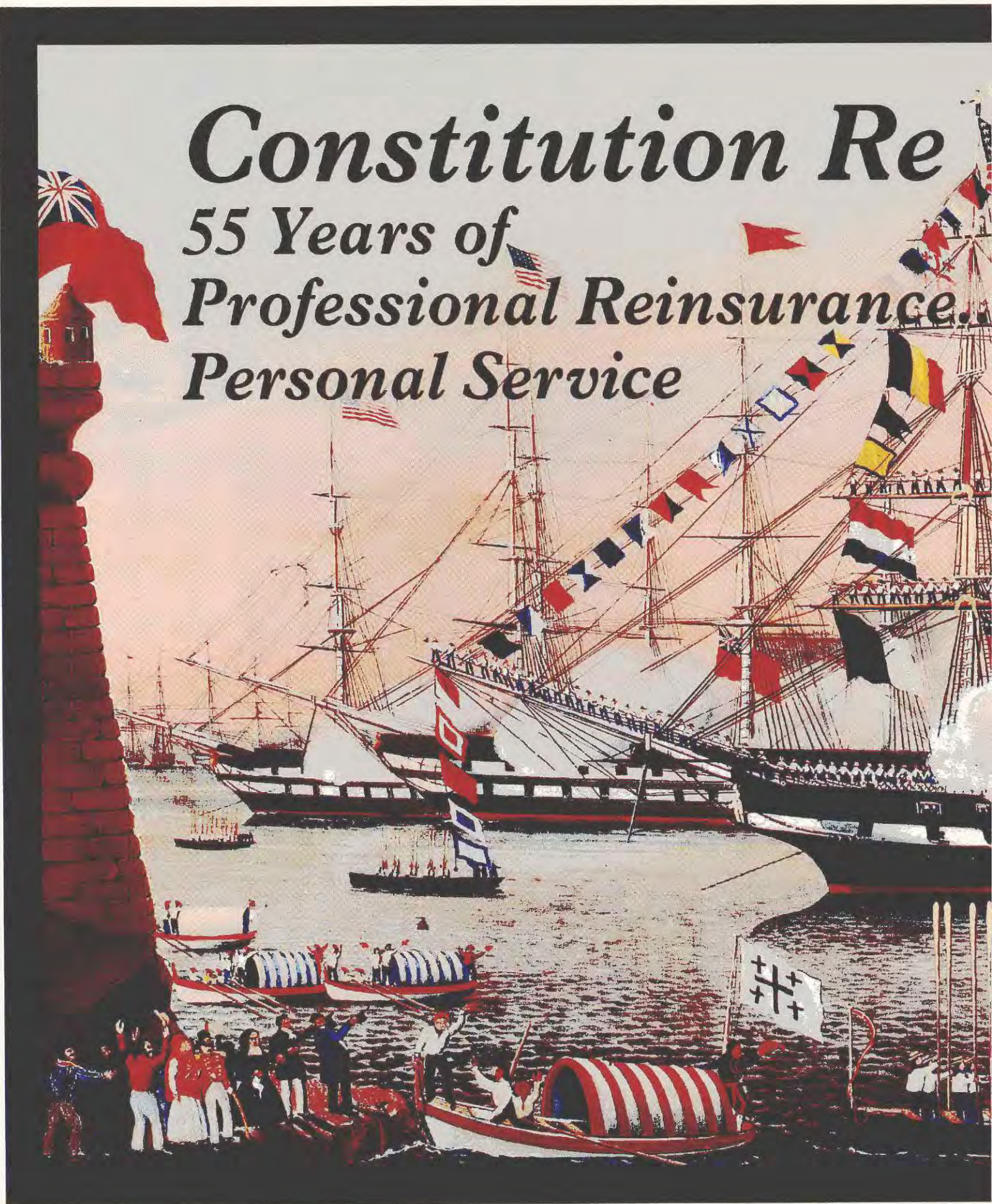
Mr. Laurenzano was asked

whether New York regulators could seize the trust assets if Lloyd's has insufficient money to pay policyholder claims because the members are bust.

"I don't believe so. Bummer," quipped Mr. Laurenzano.

However, he added, "Lloyd's has to date, as far as I know, paid every claim that's been presented to it. It's not behind in any claims payments. There is the possibility that we can exert a certain influence to protect those funds that are in trust. We'll do everything within our power to do that."

But there may be little within their power, said Robert D. Graham, vp and assistant general counsel of General Reinsurance Corp. in Stamford. "There is nothing in New York insurance laws currently which would give the superintendent the authority to seize the assets in that trust under the circumstances you describe." **BI**



Constitution Re 55 Years of Professional Reinsurance Personal Service

ABA proposes changing insurer liquidations

By STACY SHAPIRO

NEW ORLEANS—An American Bar Assn. task force proposal for federal insurance regulation aims to reform how insolvent insurers are liquidated.



The drafting subcommittee of the ABA Task Force on Insurance Insolvency introduced its "Insurance Reorganization and Liquidation Act" at an ABA insurance insolvency seminar Dec. 2-3 in New Orleans.

The task force plans to have a final draft of IRLA by the end of March that could then be introduced in Congress, said Steven C. Turner, a partner with Baird, Holm, McEachen, Pedersen, Hamann &

Strasheim in Omaha, Neb.

Speeding up insurance company liquidation proceedings would allow U.S. policyholder creditors to be paid dividends much sooner.

The IRLA proposal would change the forum for such proceedings to U.S. bankruptcy courts rather than district courts, because bankruptcy courts are more attuned to financial inadequacies.

All legal proceedings would be consolidated under the auspices of the insurance commissioner of the insolvent insurer's domiciliary state, with an independent accredited trustee appointed for each insolvency. The proposed federal legislation also would force trustees to set up creditor committees to protect policyholders' interests.

"In the last 10 years, there's been

a tremendous upsurge in the number of (insurance) insolvencies," said Robert M. Hall, senior vp and counsel for government relations of American Re-Insurance Co. in Princeton, N.J. "In some cases, there's been up to 100 insolvencies per year."

And some of these insolvencies have taken 20 to 30 years to run off, which has put "increasing pressure on the system—and the system has been certainly showing some strain," he said.

Taking into account the 70 or 80 different receivers and state guaranty funds involved in the process, there are "150, 200 or more semiautonomous entities interpreting law, which varies from state to state," Mr. Hall said. "It's a miracle that a system like this would work well."

"A few short years ago, it was blasphemy to suggest that there should be any receivership reform," added Debra J. Hall, vp and general counsel of the Reinsurance Assn. of America in Washington. Now, "people are openly talking about receivership reform, both industry and regulators alike. The debate's shifted from whether reform is necessary (to) the method which should be utilized in achieving that reform."

Various suggestions have been made to reform insurance insolvency proceedings.

One has been to "tinker" with the current system founded on the National Assn. of Insurance Commissioners' "Insurers Rehabilitation and Liquidation Model Act," which was last amended in 1991.

Another is to enact an interstate

compact designed to coordinate the receivership process for multistate insurers (see story, page 2). A final version of this proposal was unveiled in November (BI, Nov. 21).

Some people question, though, whether enough states would agree to the interstate compact to make it a viable means of reform, said American Re's Mr. Hall.

Another option is a federal receiver and guaranty fund, but "as we all know 'federal' is the 'F' word to be avoided generally," he said. "Nobody wants it."

IRLA "would try to avoid these particular pitfalls," Mr. Hall said.

The ABA's drafting subcommittee has been working on its proposal since the summer of 1992 and distributed its latest edition at the ABA seminar earlier this month. The proposal is still being worked on, "so if you see something offensive, let us know," said Robert F. Craig, partner with Kennedy, Holland, DeLacy & Svoboda in Omaha, Neb.

"IRLA is a statutory scheme put together by bankruptcy practitioners, insurance insolvency practitioners involved on the liquidators' side and those involved on the reinsurance side, creditors' side and others involved in the process," he said.

The framework for the proposed statute is mainly derived from the Federal Bankruptcy Code, he said.

IRLA would not usurp the insurance commissioner's authority, said Mr. Craig. Instead, it would provide a new legal and judicial framework for regulators to use when shutting down an insolvent insurer.

Under IRLA, the domiciliary regulator—or the commissioner in the state where the most premiums were written—would file liquidation proceedings in a federal district court. The court would grant jurisdiction over all assets of the insurer wherever they are located.

The law would provide an "automatic stay" so that all other litigation "comes to a screeching halt" against that insurer and gives control of the assets to one jurisdiction, Mr. Craig said.

Although filed in district court, the proposal calls for these cases to be administered by U.S. bankruptcy courts. Current law allows federal courts to move insurance insolvency proceedings into bankruptcy court.

Under IRLA, the relevant insurance commissioner would appoint a "trustee," or liquidator, who would be certified to perform such a role by a newly created Insurance Certification and Oversight Board.

The board would consist of seven members: the secretary of the treasury; two state insurance commissioners belonging to the NAIC; two insurance industry representatives, one from the property/casualty side and the other from the life/health side; and two public representatives.

IRLA would require the trustee to set up a creditors' committee. Powers the creditors committee would have include: authority to consult with the trustee on administering the case; investigating the assets/liabilities and conduct of the insolvent insurer; and participating in formulating a runoff plan.

With Republicans now controlling Congress, an interstate compact may have a better chance of passing than any form of federal regulation, including IRLA, said Stephen W. Schwab, a partner at Rudnick & Wolfe in Chicago. However, "there is a real opportunity for IRLA and the compact to work together," without going through Congress, he said.

Messrs. Schwab, Turner, Hall and Craig, and Ms. Hall are members of the drafting subcommittee. BI



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Constitution
Reinsurance
Corporation

Satellite

Continued from page 3
satellite.

But, they add that rate increases would fall heaviest on owners that use launch vehicles with poor records or have more expensive satellites.

Users of the Ariane V5 will certainly face a tougher renewal next time around, say underwriters and brokers.

"Rates will harden across the board but it is probable that underwriters will do what they have been promising to do for years and actually differentiate the risk in this case after two big losses in one year," said one London space broker who would not speak on the record.

After a run of 26 successful launches, Arianespace failed in January to launch two satellites with its V63 V5 launcher. That insured loss alone came to \$356 million (*BI*, Jan. 31).

Overall, seven of Arianespace's 70 launches to date have ended in losses. Four of those losses are attributed to failure in the third stage, as with the Dec. 1 loss, an Arianespace spokeswoman said last week.

The company will modify the design of its launcher, said Brigitte Vienne, head of finance and risk management for Arianespace. The company would incur no immediate loss as a result of the accident, but will incur research and development costs on the V5 model, she said.

Ms. Vienne refused to comment on whether she expects higher rates for users of Ariane rockets next year, but said she would be surprised if rates were lower.

"If, next year, the insurers view the Ariane launch vehicle as more risky than they previously thought, then they would collect higher premiums. Obviously this won't lead premiums down," said Ms. Vienne.

Ms. Vienne said late last week that an "inquiry" by an independent board of space-related experts had been launched into the crash, and its initial findings are expected to be announced Dec. 19.

In a statement released the day after the accident, Arianespace said: "All efforts are now being undertaken to understand the causes of the failure to decide corrective measures, and to resume our launch activities as soon as possible, always bearing in mind our responsibility vis-a-vis our customers and the international community of spacecraft operators."

Coverage for the satellite and launch was split between the London, U.S. and other markets.

The lead broker was Space Machine Advisors Inc. of Greenwich, Conn. The four-year-old specialty brokerage and risk management consulting firm placed about 70% of the coverage in U.S. and international markets.

The remaining 30% was placed in the London market on behalf of Space Machine and PanAmsat by Johnson & Higgins Ltd. in London.

The Marchant Consortium, which represents 20 Lloyd's syndicates and was the second-largest space underwriter worldwide last year with about \$60 million in capacity, led the London coverage with about 20% of the PanAmsat coverage, with the rest spread throughout the London market.

The latest loss will push the Marchant Consortium's loss ratio for 1994 to about 110%, said Mr. Spark.

The underwriter said coverage

for most 1995 launches has already been bound, so the immediate impact of the latest losses will be limited to only four or five cases, at most.

Underwriters may seek increases to cover this year's extraordinary level of losses but say that rates are not necessarily too low, said Mr. Sparks. He said that at current rate levels the market can easily absorb two losses and maybe even three per year, which is a more "normal" loss level.

For coverage that has not been placed yet, Mr. Bathurst at SRI predicted a trend that started earlier this year would continue with rates rising for higher-value satellites and staying lower for lower-value satellites as underwriters seek a better spread of business.

Other experts, though, predicted across-the-board increases. "After the first and second losses, the market generally

showed some admirable restraint in not doing anything with rates," said Alden M. Richards, president and chief executive of Space Machine. "But after this loss we will definitely see a rise in rates across the board I'm afraid. I hope the increases are not too extensive, but I'm afraid we will see increases regardless of product and design."

He, too, expected bigger increases for the users of launchers made by Arianespace. "They will need to regroup and do a review of the system at the very least to convince insurance underwriters and customers and potential customers," he said.

"But they are a very robust company and I am sure they will overcome any problems. Increases may be a couple of points up for Arianespace and maybe a little less for others," Mr. Richards said. **BI**

More disasters ahead, exec says

MUNICH, Germany—The Northridge earthquake and Hurricane Andrew set insured loss records but may foretell even greater disasters to come, a Munich Reinsurance Co. executive says.

"The frequency and intensity of natural catastrophes indicate we are not dealing with fluke accidents but rather a trend," warned Wolf Otto Bauer, a member of Munich Re's board of management. "Worse events are probable, even under less extreme conditions."

Among the reasons he cited are climate change and commercial and private construction in potential hazard zones.

More frequent and intense natural catastrophes create both pressure on policyholders to retain more risk and pressure on insurers to raise rates, Mr. Bauer said.

"Our past experience with natural catastrophes is no longer a basis for setting premiums," he said. "Insurers have to evaluate their loss potential under new conditions."

He strongly criticized the property catastrophe reinsurers set up last year in Bermuda. "This new formation is very profit-driven."

Munich Re changed its worldwide underwriting policy this year and is writing less catastrophe business. As a result, the reinsurer expects a 2% drop in premiums this year.

—By Don Lewis Kirk

WE'VE BECOME RATHER FOND OF THE OSTRICH. FAR FROM YOUR AVERAGE BIRD.

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BUT THE BIG BIRD CAN'T FLY. THAT'S WHERE WE PART COMPANY.

We are Hilb, Rogal and Hamilton Company, the unique American insurance agency system. People who raise ostriches are among our clients. Quite different than our typical business, commercial, industrial, and government clients. (Most of them can't fly either). But, not having our head in the sand, we heard opportunity knock.

We see some similarities between HRH and this running *rara avis*.

We're getting pretty big ourselves, and moving fairly fast. From virtual obscurity a decade ago to 15th largest in the world, from a handful of offices to some 50 locations here, plus HRH International. Revenues are up seven-fold, and we make money on every dollar.

Value? We've created a whole new future for 100 or so independent agents who have joined our system. Shareholders see their dividends increase each year. Clients benefit from our sophistication and access to major insurance markets, available through every HRH local, community-based agency and our national support organization. Once private, HRH moved first to over-the-counter, then in 1992, to the New York Stock Exchange. This year could be our best ever.

We keep spreading our wings and we start each day expecting that this is our day to fly.

Great companies have great expectations. Call or write on letterhead if you want to fly.

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GICs investing in safer derivatives

By JUDY GREENWALD

Sponsors of 401(k) plans are not expected to join the list of big losers in financial derivatives.

Plan sponsors have invested significant portions of their synthetic guaranteed investment contract assets in derivatives, but the type of vehicles they choose are overwhelmingly safe and conservative, according to both sponsors and their investment advisers.

Responding to widespread negative publicity, some sponsors are questioning the safety of the investments, though they have not made significant withdrawals.

Although data is sparse, highly leveraged derivatives—such as those that have stung Cincinnati-based Procter & Gamble Co. (BI,

May 9) and, most recently, Orange County, Calif. (see story, page 1)—are believed to be virtually unknown in the GIC world.

"I think most plan sponsors have been erring on the side of caution and have been very carefully planning their strategies for investment in derivatives to avoid problems," said Larry Mylnechuk, executive director of the GIC/Stable Value Assn. Inc. in Lake Oswego, Ore. "Some have experienced problems with traditional GIC issuers like Confederation Life and the last thing they want to do is change to a new vehicle and have problems there."

Synthetic GICs consist of a portfolio of underlying securities owned by the plan sponsor with a "wrapper" provided by a financial

institution. Another type of non-traditional GIC is a separate account GIC. In these GICs, the insurance company is the legal owner of the assets, though the plan's assets are segregated from the insurance company's general assets and the plan sponsor works with the insurer in developing investment guidelines.

Plan sponsors are much more likely to choose more conservative derivative investments, like collateralized mortgaged obligations, which are bonds backed by pools of mortgages. Rising interest rates have not spared CMO investors, but their losses have not approached the potentially huge hits from other types of investments.

Because GICs are pension investments, plan sponsors take a more

cautious approach than they do with the company's own money.

"Fundamentally, the nature of the constituency for GIC funds is conservative and the investment strategy should be conservative," said Murray Becker, of GIC consulting firm Becker & Rooney in Teaneck, N.J.

Plan sponsors turned to synthetic contracts to diversify away from insurers, so they generally are looking for conservative alternatives, said Bruce Vane, senior vp at Certus Financial Corp. in San Francisco, an investment adviser.

"That doesn't mean there aren't people out there trying to sell (more exotic investments). Everybody's looking for a little edge and everyone thinks their strategy is best, but I think the penetration

isn't real significant right now, and of course the publicity isn't helping it."

At U.S. West Inc., for example, an "extremely small" percentage of synthetic GIC funds is invested in CMOs, said Donald J. Butt, manager of trust investment management for the Englewood, Colo.-based telecommunications company.

Referring to the more exotic types of derivatives, Mr. Butt said, "I would never allow a risk like that to be taken." He added, "Any thing I have a hard time understanding I would never allow in the plan because if I don't understand it, there's no way in heck a participant would understand it."

Like U.S. West, most plan sponsors appear to favor more conservative derivative options. CMOs account for the biggest percentage of plan sponsors' derivative investments, observers say.

CMOs are a type of mortgage-backed bond that separates the cash flow from pools of mortgages into different maturity classes and prepayment characteristics called tranches. They are generally issued by federal agencies, including the Federal Home Loan Mortgage Corp., the Government National Mortgage Assn. and the Federal National Mortgage Assn.

Even though the bonds are extremely secure, investors face a cash flow risk. When interest rates decline, people are likely to refinance and maturities on the bonds shorten. And with rates rising, maturities today are lengthening.

GIC assets are rarely put into more leveraged transactions—those, for instance, where 10% declines in value of an underlying asset could cause the security to decline 40% in value.

For instance, said Mr. Becker, a plan with an actively managed portfolio that has 15% of its assets invested in derivatives might have only 1% of that amount in exotic securities.

Even as disclosures of large-scale derivative losses grow more frequent, plan sponsors do not seem to be changing their strategies.

"Derivatives is definitely a dirty word right now," said Kevin Maloney, vp and director of research at Fiduciary Capital Management in Woodbury, Conn. Still, no plan sponsors have requested that the GIC management firm—which does not invest in more exotic derivatives—change its approach, he said.

For their part, plan participants are apparently not terribly concerned about derivative investments.

Surprisingly few participants have inquired about their plan's exposure to derivative investments, said an investment manager at one large employer. This he attributed in part to press coverage. "I haven't seen it in the Star and all those other magazines in the supermarket checkout line, where it's next to the story about the woman who gives birth to the two-headed baby. Then you have to worry."

He added that he has made no effort to tell plan participants about their plan's exposure to derivatives. "There's really no reason to focus more on derivatives than anything else in the portfolio unless you believe there's a lot more risk to them, and I don't."

But, the investment manager added, "If these continue to be in the public eye as creating confusion and concern, then we'll have to step up to the plate and talk more about them."

Most people aren't interested in hearing a lot of details anyway, he said. "They just want to know their money's safe."



B I R D

Reform

Continued from page 2

with the issue, because the private sector is where health care reform should be handled.

But, the mere fact that the Clinton proposal was fatally flawed should not obscure the fact that health care cost increases mean that "the problem still festers and grows," Rep. Pomeroy warned. If the private sector can't get costs under control, future congressional proposals could make the failed Clinton plan "look like a walk in the park."

Mr. Isakowitz described the beginning of the health care debate as a struggle between the "UCONs"—or "Universal Coverage or Nothing"—and the "ROCS," whose philosophy was "Repair Our Current System." The UCONs lost and a third faction, the DANs—or "Do Absolutely Nothing"—entered the fray at the end.

As a result, "what used to be the floor is now the ceiling," he said, referring to a stripped-down package of insurance reforms, such as that offered by Reps. Roy Rowland, D-Ga., and Michael Bilirakis, R-Fla. In other words, what formerly were considered the minimum acceptable reforms are now the maximum, Mr. Isakowitz said. Employer mandates are dead and the idea of merging the medical component of workers comp with a larger health care system is dead, he noted.

But chances are "pretty good" for introduction of a health care reform bill next year, he said. Mr. Isakowitz's reasons for this forecast each begin with the same letter: problem, politics and pragmatism.

The problem—health care inflation—continues to rise at a much higher rate than the cost of living as whole, he said.

Politically, both parties have a reason to support health care reform legislation. The Republicans would like to take the lead on what had been perceived as a Democratic issue, while the Democrats would like to be able to say that a start had been made on reform. The question of the impact of Medicare and Medicaid on the budget deficit also make reform politically attractive, he said.

And, pragmatically, "it's doable," said Mr. Isakowitz. Reform bills sponsored by Sen. Robert J. Dole, R-Kan., and Rep. Robert Michel, R-Ill., enjoyed broad business support, he noted.

According to Mr. Isakowitz, a doable bill probably would provide, among other things: a 100% tax deduction for the health insurance costs of self-employed people; and insurance reforms that would encourage but not require the creation of private purchasing pools for small businesses and individuals. A successful bill would also probably have some sort of malpractice reform and impose federal pre-emption of some state insurance mandates, such as those directed against managed care.

Malpractice reform would probably run into the most opposition, he said. Ultimately, any section that proved to be too controversial would be removed to increase the chances of passage, he predicted.

Rep. Pomeroy said the Clinton proposal failed to pass in part because it was the product of an "academic, sterile, think-tank approach." A bad plan then ran into the "flawed structure of Congress," where multiple committees wrestled with it to no avail. As a result, "the preoccupation of the health care debate on a flawed

product" basically meant that the 103rd Congress accomplished little during its second year.

Rep. Pomeroy noted that the proposal to fold the medical portion of workers comp into a reformed national health care plan was made for a "pragmatic" reason. Advocates of the merger thought they could gain business support for sweeping change in the health care system as whole by providing some savings on the workers comp front, he said. But, under the plan, the workers comp costs didn't disappear. The only way to keep costs under control is to keep employers involved, and the Clinton plan would have stripped employers of any control over cost, he noted.

J. Michael Gwartney, chairman of UBA and vp-human resources of paper products maker Boise Cascade Corp. in Boise, Idaho, moderated the discussion. **B**

OSHA reviews its mission

Agency's chief says more targeted enforcement needed

By MARK A. HOFMANN

ARLINGTON, Va.—The Occupational Safety and Health Administration needs "reinventing."

UBA

That assessment comes not from a business critic of OSHA but from the federal agency's top official, Assistant Secretary of Labor Joseph A. Dear.

Rather than concentrate all of its efforts on enforcement, OSHA intends to more carefully target its inspections and will work more closely with employers to prevent accidents, Mr. Dear said during a Nov. 30 seminar in Arlington, Va.,

sponsored by UBA Inc. UBA is a Washington-based business organization that deals with workers comp and unemployment issues.

Mr. Dear made clear, though, that the Republican takeover of the House and Senate does not mean that OSHA will shrivel up and vanish. The elections did not change the fact that 17 workers die on the job every day and that thousands of other workers die each year of occupational diseases, he said.

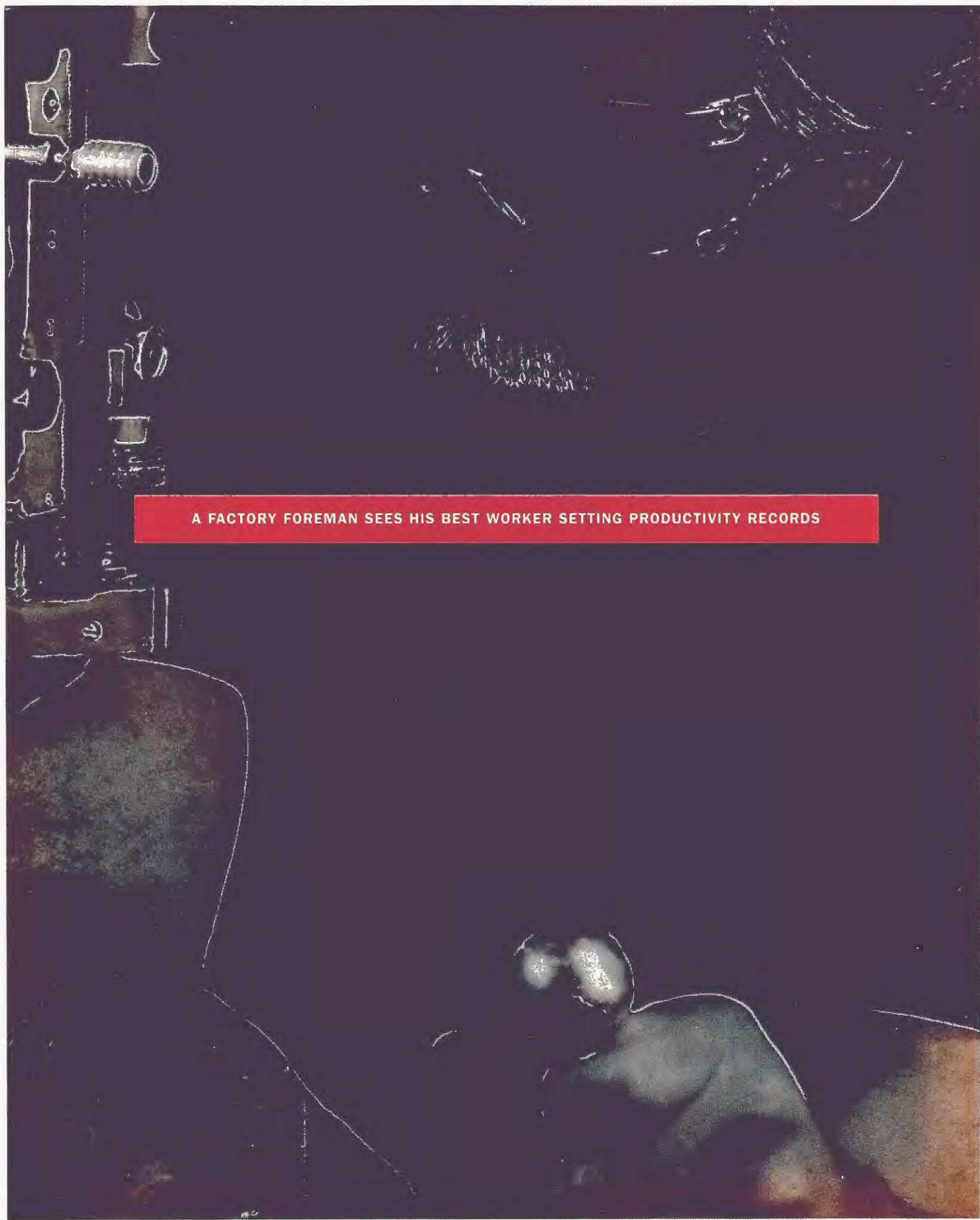
Mr. Dear said he has heard two consistent themes as he's traveled around the country. The first is that everybody supports safety and health. The second is that everybody is critical of OSHA.

"The need for reinvention of OSHA is compelling," said Mr. Dear, adding that there is a gap between the agency's resources and its mission. In an age of corporate change and retreat from a "command and control" management philosophy, government must follow suit, he said.

Reinvention means "you move from activity to impact," he added.

Mr. Dear said that he has "learned a funny thing" in his dealings with the various stakeholders in workplace safety issues: If he gets business, labor and OSHA representatives together, they tend to agree on many issues.

Continued on next page



A FACTORY FOREMAN SEES HIS BEST WORKER SETTING PRODUCTIVITY RECORDS

Continued from previous page

For example, they agree that the "bad actors" who deliberately permit unsafe conditions should be targeted, they support helping employers meet OSHA standards and they support safety education, he said.

"We want to encourage employers to take a high road," said Mr. Dear. Some employers already follow workplace safety standards that are more stringent than those required by law. Others respond only to penalties. Between those two extremes are employers that want to maintain safe workplaces and that want help from OSHA and other sources in doing so, he said.

As an example of how OSHA is following a new approach toward making workplaces safer, Mr. Dear noted that in the construction industry the agency is now focusing its inspection efforts on

four hazards: falls, electrocution, the possibility of being hit by falling or flying objects and entrenchment, or being buried.

Those were the four leading causes of deaths in that industry, but the most common citation issued to construction firms by OSHA before it adopted the new approach involved hazard communication, which is not a direct cause of death, he said.

In Maine, the agency required the 200 companies that reported the highest numbers of workers compensation claims to identify their primary workplace hazards, he said. They identified 95,000 and corrected the majority of them within two years, said Mr. Dear.

Mr. Dear told his audience that the shift in technique doesn't mean OSHA is dropping safety enforcement efforts; it will simply better target those efforts on what

he referred to as "low-road" employers.

During a question-and-answer period, an audience member asked Mr. Dear whether the agency would continue to push for a sweeping, union-backed OSHA reform bill introduced during the 103rd Congress by Sen. Edward M. Kennedy, D-Mass.

"Let's be realistic. That bill's dead," Mr. Dear replied, adding that he is "fairly pessimistic" about any legislative push in the 104th Congress on a major OSHA reform bill.

In response to another question, he declined to provide any timetable for OSHA's promulgation of an ergonomic standard, which was originally supposed to be issued on Sept. 30.

One day after Mr. Dear's speech, an OSHA advisory panel urged that the standard be published as soon as possible. **BI**

Retirement plan mergers call for simplification

By MICHAEL SCHACHNER

NEW YORK—When two major employers merge, new management must decide whether to implement a brand new retirement benefits program or to integrate elements of the two companies' existing plans.

Regardless of which option benefit executives pursue, they should settle on retirement benefit programs that attract and retain employees but won't break the bank, says an executive with a recently merged bank holding company.

Roger Noall, senior vp with Cleveland-based KeyCorp, which resulted from the March merger of Society Corp. and Key Corp., said that most merging concerns choose to inte-

grate benefit plans if they are relatively similar.

However, when integrating plans, management should seek to consolidate and simplify retirement benefit offerings rather than expand them, he recommended during a recent seminar in New York sponsored by Kwasha Lipton.

"If you can't start from scratch, approximate clean sheet program that attract and retain employees but also give you the most bang for the buck. It's easy to say, 'Let's give them everything,' but this is a bad idea," said Mr. Noall.

He suggested that the majority of employees appreciate benefits both during their active days and upon retirement, but strongly prefer compensation to benefits. Thus, the merged entity should remain committed to only providing benefit programs that are worth the costs.

"Very few people leave companies for benefits only. It's usually compensation or the working environment that causes people to leave. And, pension benefits don't attract people. I have yet to talk with someone who joined a company specifically for its pension benefits," said Mr. Noall.

Among the possible retirement benefit options available to a company, Mr. Noall recommended creating a "clean sheet" cash balance pension plan that provides employees with an opening balance based on the cash equivalent of the benefits they are bringing over from their previous plan.

After that, pension benefits should accumulate quarterly, with contributions from the company made to an individual's account based on a percentage of total compensation, including base salary and overtime, he recommended.

At KeyCorp, employees that had been with either the former Key Corp. or Society Corp. receive an opening balance plus quarterly credits to their cash balance account equal to 3% of the first \$30,000 of annual cash compensation and 6% on compensation in excess of \$30,000. Employees also receive "transition credits," which are based on age and service, he said.

"We've received zero negative comments on this cash balance idea," which takes effect Jan. 1, he said. "The reason why is that it only goes up in value, it accumulates quarterly and people take the whole value with them when they leave if they are vested."

Mr. Noall said employees also value 401(k) plans. "It's probably the most valuable choice benefit we offer. People view medical coverage as a right, but the 401(k), with flexible investment options, is a very good clean sheet program."

At KeyCorp, the 401(k) plan carries immediate eligibility and full vesting in only three years. The company matches employee contributions dollar-for-dollar up to 6% of salary, with 50% of the company's matching contribution in the form of KeyCorp stock.

"Immediate eligibility may sound like a footnote, but it's not. It's the feature that gets people in. It's very hard to come back to someone and tell them to take a cut in take-home pay to participate," he said.

Mr. Noall did, however, suggest that companies avoid matching employee contributions with stock.

"The logic is that stock will make people more interested in the company, but that can be good or bad. What if stock values drop? I prefer giving the employee total discretion on investments." **BI**

A HOME UNDERWRITER SEES 32 DAYS DISABILITY DUE TO A REPETITIVE MOTION INJURY

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NAIC

Continued from previous page
ries in Congress and the state houses have created "an unusually favorable" time for states to act on interstate compacts, said Robert Bailey, deputy commissioner of the Michigan Insurance Department. He chairs a working group of the NAIC's Special Committee on Interstate Compact. Republicans generally favor state-based solutions.

The diminished role of Rep. John Dingell, D-Mich., who will lose his powerful committee chairmanships, "will lead to decreased pressure (for federal solvency regulation) and creates an opportunity to deal with issues like the compact," said Robert Mackin, executive director of the National Conference of Insurance Legislators.

Congress will likely be receptive to interstate compact proposals during the next two years, agreed Robert Gordon, now-minority counsel to the U.S. Energy and Commerce Committee. He said June 1995 would be an opportune time to submit a compact proposal to Congress.

"I think it is absolutely a golden time for state officials—governors, state legislators and the NAIC—to go to Congress to get a simple consent resolution for interstate compact activity by states for insurance regulation," said James Jackson, vp and deputy general counsel of Transamerica Life Cos. in Los Angeles.

Retiring Rep. Alex McMillan, R-N.C., laid some ground work in September when he introduced a resolution encouraging states to study and adopt insurance-related compacts on a variety of issues, including "regulation of alien (non-U.S.) insurers and reinsurers, insurer solvency, rehabilitation and liquidation, guaranty fund protection and insurance agent licensing."

The concept of using interstate compacts was also suggested in the Republican's then-minority report attached to Democrat Mr. Dingell's recent report criticizing state insurance regulation (BI, Nov. 7).

"We believe that Congress should take the steps necessary to see that the states have whatever additional powers are necessary to regulate today's insurance industry. If the states choose the route of an interstate compact, then Congress should grant permission for them to do so," the minority report said.

Ideas on the most appropriate issues to be covered by interstate compacts range from covering interstate receiverships, which was proposed by regulators from the Midwest Zone and NCOIL, to a proposal using a pre-funded pooling arrangement in guaranty funds.

Mr. Bailey's NAIC working group also discussed at length a proposal from Acting Director James Schacht of Illinois to use the compact approach to authorize non-U.S. insurers and reinsurers. The proposal is based on an earlier federal law the NAIC suggested, though it was never introduced.

It calls for the federal government to authorize the NAIC to act as "a gatekeeper" for non-U.S. insurers and reinsurers, providing a single license to operate nationwide. Most offshore captive insurers would be excluded from the proposal.

A second, related compact may be needed to give U.S.-based companies the same access to multiple insurance markets and prevent them from being at a competitive disadvantage with non-U.S. companies, regulators acknowledged. Such a move may not require Congressional approval, Mr. Schacht said.

To increase NAIC members' understanding of interstate compacts, an NAIC special committee is reviewing individual states' potential

authority to regulate insurers affected by compact proposals.

The chairman of that committee, James Long of North Carolina, chided Mr. Schacht for moving ahead on his own to get NCOIL endorsement of the Midwest working group's proposed receivership compact. Mr. Schacht responded that he sought NCOIL's support because he has not found the same level of interest or support at the NAIC.

For example, regulators from Alaska, New Mexico and Tennessee all voiced concerns that a compact might pre-empt them.

Despite that opposition, Mr. Schacht said he expects legislators

in at least Illinois and Nebraska to introduce compact bills in their legislatures early next year.

In other action at the meeting, state insurance regulators:

- Gave interim approval to amending the NAIC's credit for reinsurance requirements to explicitly require that Lloyd's of London tally its liabilities on a gross basis—rather than net of reinsurance—to determine amounts it needs to put in trust in the United States (see related story, page 3).

Working Group Chairman Robert Solitro said the change was a clarification, though others considered it a strengthening of the rules.

"Clearly this is a tightening of regulation of Lloyd's," said Robert L. Zeman, assistant vp and assistant general counsel of the National Assn. of Independent Insurers in Des Plaines, Ill.

"I think it is a strengthening of the trust that applies to two or more different ceding insurers," said Robert M. Hall, senior vp of American Re-Insurance Co. in Princeton, N.J.

The change, when enacted, will require an undetermined increase in the amount Lloyd's has on deposit in the United States, said Lloyd's spokesman Peter K. Demmerle, an attorney with LeBoeuf, Lamb, Greene & MacRae in New York.

- Accredited insurance departments in: Connecticut, Indiana, Kentucky, Michigan, Mississippi and New Jersey. Only those in seven states are non-accredited: Alabama, Arkansas, Hawaii, Nevada, New Mexico, New York and Vermont.

- Heard an Alliance of American Insurers' request that an insurer domiciled in one state be allowed to write incidental coverages in other states without being licensed there.

- Elected Lee Douglass of Arkansas as president of the NAIC. Other elections included: Vice President Brian Atchinson of Maine and Recording Secretary Josephine Musser of Wisconsin. **BI**



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ASK A RISK MANAGER

Incentive program with TPA a good idea

A When we renewed our casualty insurance program this year, we discussed the possibility of having our third-party administrator participate in an incentive program. The intention would be to tie their compensation into our actual performance. What are your thoughts on this concept?

Q Your question only reinforces what many of us recognize as a "new age" in the risk management process.

As we strive to reduce costs in all areas, focus is placed on everyone involved in the administration and servicing of our business. Our objectives, therefore, become shared objectives that are intended to be of mutual benefit for everyone. And, since a third-party administrator fulfills a significant role in a risk management program, it is logical that a partnership be established with this vendor to develop and initiate the shared-objective concept.

As you begin to consider how to best implement such a program, I would recommend that it include the following characteristics:

- It must be capable of generating meaningful long-term savings.

Unfortunately, some rather important decisions are made with a shortsighted focus. This rationale is often based on emotion rather than good old common sense and planning.

I like to view risk management as a cornerstone in an organization's structure. Its purpose is to offer stability and direction regardless of circumstances that might produce a negative impact. Often, the actual financial benefits of a new program take months or years to develop. And, though immediate savings are certainly attractive, they can be short-lived if consideration is not given to how and

why the program works.

Let's be careful not to look only at the initial rate of return. We must also consider all costs that impact the numbers, such as labor hours and other administrative expenses that might be hidden at first glance. Keep in mind that the true cost of risk involves not only the actual claim statistics but all of the expenses associated with managing the loss prevention process.

- It must involve activities beyond the scope of normal account servicing.

The shared-objective concept is designed to promote a partnership between your personnel and the TPA and to encourage involvement in activities that are not considered standard operating procedures.

For example, you should expect your TPA to accept a new assignment immediately and make contact with the claimant very quickly. Likewise, you should expect the investigation to be handled in a prompt, professional manner.

However, if one of your risk management objectives is to implement a modified duty, early return-to-work program, your TPA will play a vital role in that process. Identify what your desired rate of return should be, both in terms of dollars saved and percentage of cases involved and establish these figures as benchmarks for success.

In other words, take time to consider those activities that can have the greatest impact on your costs and design the incentive program around them. Remember, they must also be realistic and attainable in order to be valid.

- It must offer a financial incentive to the TPA.

Although this statement might appear logical enough, let's reconsider why we're exploring the arrangement in the first place. Our purpose is to have an incentive program that will be of mutual benefit to both parties. And, in the process, a closer business relationship naturally evolves. Furthermore, since everyone reacts positively to financial rewards, you are providing an opportunity for your TPA to share in the savings.

I would recommend that compensation be based on a negotiated price for basic services with additional revenue available if objectives are met. You are creating opportunities to officially recognize

high-performing individuals and superior offices. But, with this concept there is always the possibility that the additional compensation will not be paid, so this money could remain in a "pool" for future use.

- It must support the business plan of your organization.

Ideally, the incentive program should strive to enhance the profitability of your organization. Although it is administered by the risk management department, the entire organization must commit to its ideals and will ultimately benefit from its success. The concept is dynamic in its approach as it reaches outward to encompass internal and external forces. The '90s have brought many new ideas and challenges to the business world. This new partnership approach between client and vendor leads us to a threshold of even more interesting service standards. I believe the "new age" of risk management is also the "enlightened age" when business relationships are valued for what they offer everyone in terms of overall performance.

A final word or two: go for it. If orchestrated properly, both you and your TPA will be winners. **BI**

Would you like advice from an experienced colleague on a risk management, benefit management or actuarial problem? Four quarterly features in the Perspective section of Business Insurance can give you some answers.

Ask A Risk Manager, Ask A Benefit Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefit management issues and actuarial problems.

This month's column on risk management issues is written by Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C. Dennis J. Nirtaut, managing director, compensation and benefits worldwide at Arthur Andersen & Co. in Chicago, answers benefit questions.

William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions on benefit issues. And, Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.



Ms. Werner

Injury sustained returning from doctor not compensable

In a case of first impression in Illinois, an appellate court ruled that an injury sustained by an employee going from a doctor's office for treatment of a previous work-related injury was not compensable under the workers compensation law.

Lucious Lee injured his thumb in a work-related accident. About one month later, Mr. Lee had an appointment at a clinic to have the cast removed from his thumb.

After Mr. Lee left the clinic, he started to cross the street but was hit by an oncoming vehicle and thrown to the ground.

Mr. Lee filed for an adjustment of his claim. He alleged that he had sustained accidental injuries which arose out of and in the course of his employment.

His claim was denied by the industrial commission. The trial court affirmed the denial.

On appeal, Mr. Lee argued that the injuries he sustained when he left the clinic were compensable because they resulted from an activity that was incidental to his employment.

Legal Briefs

He based his claim on the fact that he was referred to the clinic by his employer.

But the appellate court concluded that, while an employee injured en route to medical treatment immediately after an injury is entitled to compensation, an off-duty employee returning from the doctor is not.

To allow recovery in such cases, the court observed, would open up a completely new area of employer responsibility.

The trial court decision was affirmed.

Lee vs. Industrial Commission of Illinois, Appellate Court of Illinois, May 13, 1994, *Certificate of Importance Allowed* June 8, 1994 (BI/05/J.-\$10).

ERISA allows amendments

A trustee's amendment of a multiemployer welfare plan to reduce coverage for liver and other transplant procedures was not subject to review under the Employee Retirement Income

Security Act's fiduciary duty provision, according to the 6th U.S. Circuit Court of Appeals.

Arthur Pope was diagnosed with end-stage liver disease. He received a liver transplant and was eventually provided coverage under Central States' Joint Board of Trustees welfare benefits plan.

The plan suffered \$64 million in losses during the 1987 calendar year. As a result, the joint board enacted a \$50,000 lifetime coverage limit on benefits for liver transplants, effective Jan. 18, 1989, as one means of ensuring the plan's solvency.

On Jan. 18, 1989, Mr. Pope received a second liver transplant. Central States refused to pay benefits exceeding the amended coverage limits.

In June 1989, Mr. Pope received a third liver transplant. He sued, alleging wrongful refusal to provide medical benefits.

He died in October 1990 and the administrator of his estate pursued the suit. The trial court ruled against the claim.

On appeal, the administrator of Mr.

Pope's estate argued that the Joint Board did not comply with ERISA's fiduciary requirements in enacting the amendment.

The court said that Congress' policy of encouraging employers to establish welfare benefit plans is served by permitting trustees of multiemployer plans to amend such plans without fiduciary considerations. Also the court observed that imposition of fiduciary obligations in cases involving multiemployer plans would divide the trustees' loyalties and might keep them from pressing for generous welfare plan benefits.

The trial court decision was affirmed. *Pope vs. Central States Health & Welfare Fund*, 6th U.S. Circuit Court of Appeals, June 15, 1994 (BI/03/J.-\$10). **BI**

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available by sending a \$10 check payable to Mayo H. Stiegler, to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.

Ignorance not bliss with builders risk cover

By MICHAEL SCHACHNER

WASHINGTON—Neither building owners nor contractors should be content in thinking that the other party's builders risk insurance will cover them for all forms of risk and loss that can arise from a construction project, a broker says.

Each should review the other's program before starting a project to ensure that all exposures for all parties are addressed and that no unnecessary duplication of coverage exists, he recommends.

"Owners often have a false sense of security just because they have a contractor. They sit back fat, dumb and happy" thinking the contractor's coverage will also apply to them, said Thomas W. Duffy, a vp with Johnson & Higgins in Washington.

But owners carry the risk for everything that is outside the control of the contractor, he said recently at the annual Construction Insurance Conference in Washington, sponsored by the International Risk Management Institute last month.

And that list includes a delay in startup that results in lost rental income, offsite exposures, uninsured losses and risk of loss.

"One of the issues owners need to concern themselves with is uninsured losses. Who decides what will be left out? And who determines what the risk of loss will be for an uninsurable event? Maybe the owner can split this exposure with the contractor," said Mr. Duffy.

For the contractor, key coverage concerns include the contractor's equipment, employee tools, uninsured losses, and, if the project runs long, extra expenses and expediting expenses, which are costs in hurrying up repairs.

General contractors also need to be aware that they can sustain losses from subcontracted projects that they may not work on. For example, if road work or plumbing is being handled by a subcontractor, and a problem arises, extra expenses can be incurred by the "prime" contractor.

"Many contractors say, 'Look, there's several projects going on here and I'm not involved with them, so I'll let the subcontractors or the owner place the coverage.'" But that may be the wrong approach, said Mr. Duffy. "What about your equipment (which could be damaged)? It's yours regardless of who placed (and holds) the project's coverage."

However, if a contractor can get the site owner to insure his property, that, too, is acceptable, he said. "Maybe you can persuade the owner to cover your equipment, or coverage

may already exist under the owner's existing builders risk policy. You don't need duplication."

Once it is determined how equipment will be covered, the contractor must look at whether it will obtain replacement cost insurance or coverage that pays only the actual cash value of the equipment. "Insurers won't be thrilled assuming the replacement cost on a 10-year-old item," said Mr. Duffy. "ACV is more normal."

Mr. Duffy also suggested that contractors seek policies that cover damage to or loss of employee tools. "This could be a real perk for your

crew. The owner may already have it, but there could be a \$50,000 deductible."

The same situation could arise with uninsured losses for a contractor. The owner may have coverage for the contractor, but there could be an onerous deductible attached.

Suppliers are often third parties in construction projects, and they also should be insured for common exposures like losses in transit, offsite storage, extra expenses and expediting costs.

"The real concern of a supplier is the transit exposure, as well as some contingent coverages. Having some

coverage for offsite storage during delays doesn't hurt. But then the question is for how long are you covered," said Mr. Duffy.

Coverage for extra expenses and expediting expenses also applies to a supplier. "One of the big things is arranging to give yourself some lead time to get extra equipment. Maybe you can buy that extra turbine the minute it comes off the line, but what if it costs \$3 million?" said Mr. Duffy.

Of importance to all is managing time element exposures like soft costs, which are those unrelated to physical damage; debt service; busi-

ness interruption; and losses caused by delays.

"For losses caused by delay, there's probably no coverage for you unless you carry an extended period of indemnity rider. And no insurer will just give this away," he warned.

Finally, Mr. Duffy said, contractors and owners may look into coverage that responds to "hot testing," which is the first days of operation after a new project has been completed.

"If you get 30, or 60, or 90 days of hot testing coverage included in your policy, it could make all the difference," he said. **BI**

Safety program builds savings for contractor

By MICHAEL SCHACHNER

WASHINGTON—As simple as it may sound, industrial companies that make a commitment to a thorough safety and loss control program can reap savings they may never have thought were obtainable.

For example, take Baker Concrete Construction Inc. Immediately after the Monroe, Ohio-based contractor changed its attitude toward workers compensation injuries and safety, the number of employee injuries and related costs shrank and its bid status for contracts improved.

In its three years of aggressively pursuing safety, Baker cut worksite accidents to about 50 last year from 270 in 1990. And, overall workers comp and associated costs fell by about \$2 million.

"Until 1988, workers comp was virtually ignored. Our corporate attitude was that we had workers comp insurance and that's what it was there for," said Jeffrey C. Arnold, Baker's director of administration. "We had worked in all the worst states—Texas, Florida and Georgia—and we'd survived."

But, that attitude changed in 1990, when Baker changed workers compensation insurers and its new insurer demanded a high deductible based on poor loss experience.

"We didn't want them running our (entire workers comp) business—not with deductibles like that," Mr. Arnold said recently at the Construction Insurance Conference, sponsored by the Dallas-based International Risk Management Institute Inc. in Washington last month.

So the company employed a brand-new safety strategy. It set a clear policy on reducing lost-time injuries. It collected and organized injury data. Baker began training and testing workers and supervisors and revamped its relationships with in-

surers and adjusters.

That was no easy task for a company with 1,800 to 2,200 full-time employees and more than 7,000 employees that worked on at least one job during a given year.

Baker's first priority was making its accident reporting more complete.

"Because we hire a lot of people on site, there isn't much we know about them," said Mr. Arnold. "And reporting a location as Job S212 didn't tell us anything. We went to a much more detailed reporting system, including real information on the injured people and what was happening at a site."

Second was training employees, primarily supervisors, about preventing and responding to injuries. All safety directors and key personnel

were certified in the Occupational Safety and Health Administration's 10-hour basic course. Beyond that, Baker put all key people through first aid and CPR courses. "After these courses were completed, we'd add courses based on specific accidents that had occurred," said Mr. Arnold.

Next came changing insurer and adjuster relationships.

"We developed very high expectations of our adjusters, but they didn't all understand the line of work we're in. We pushed for adjusters familiar with construction. We felt they needed to know our business in order to properly handle the claims," he said.

Baker then pushed for improved timeliness in responding to claims,

both by its own staff and outside respondents.

"Our feeling became that if we don't have control over the claim within the first few hours then we have lost control," said Mr. Arnold. "Thus, we have a supervisor go with the injured employee to the hospital and we have the employee take a drug test there. We want assistance from our adjusters, but we don't want them guiding the claim. That's our job."

Key to getting supervisors on the track of wanting to prevent injuries was implementing an incentive-based system.

"There need to be real awards: golf shirts, lunch boxes, whatever. We even offer quarterly cash awards and annual awards to foremen who oversee jobs with good injury and safety records. Since we started this, we've put out about \$300,000 in bonuses, but our cash outlay for injuries is down \$2 million," Mr. Arnold said.

Part and parcel to safety at industrial worksites is a solid drug testing program, he suggested. "It has to be enforceable and consistent, so we went to random site testing, not random testing of individuals. We had up to 38% of people test positive, but they can come back in 30 days provided that they pass another test."

And like any other change in corporate culture, promoting safety and injury reduction will be fruitless unless the entire company is behind the move.

"Corporate culture is difficult to change. Leadership has to come from the top. For the first few years, I'd talk about our workers comp losses and management would listen. But it wasn't until we started to lose bid work that people started to pay attention. That's what changed us," Mr. Arnold said. **BI**

Construction conference draws 750

WASHINGTON—More than 750 construction industry risk managers, agents, brokers, insurers and consultants gathered in Washington Oct. 31 through Nov. 3 for the 14th annual Construction Insurance Conference sponsored by the International Risk Management Institute Inc.

The conference featured more than 60 speakers from around the country who shared their expertise and experiences in managing construction risks.

Topics regularly covered at the yearly meeting include construction risk allocation, workers compensation, environmental issues, wrap-ups, third-party claims, professional liability, government contracts, builders risk, alternative dispute resolution, job site safety and security, construction contract review, umbrella coverage, surety claims, loss control and unique exposures.

"As the only national symposium devoted exclusively to construction risk management issues, our conference provides unique opportunities to network with—and get valuable insights from—leading professionals from around the country," said IRMI President Jack P. Gibson.

The 1995 IRMI Construction Insurance Conference will be held Oct. 23-26 in San Antonio at the Marriott River Center. For more information, contact the International Risk Management Institute, 12222 Merit Drive, Suite 1660, Dallas, Texas 75251; 214-960-7693; fax: 214-960-6037.

L.A. risk manager designs wrap-up program

By JOANNE WOJCIC

LOS ANGELES—Small and minority contractors will have an easier time meeting Los Angeles' minimum insurance requirements under a new master liability insurance program effective this month.

Los Angeles Risk Manager Richard Welch said it took seven years of negotiations to assemble the coverage—called the Service Providers Artisans & Trade Activities, or "SPARTA," program—because few insurance companies were willing to write a wrap-up-style program for such a diverse group of contractors, he explained.

In addition, state law has severely restricted the ability of municipalities to provide insurance through a wrap-up or owner-controlled insurance program, he said. Only the Los

Angeles Harbor and the Los Angeles Metropolitan Transportation Authority have state-sanctioned wrap-ups, he added.

But without a city-sponsored insurance program, many minority-owned and small contractors were at a disadvantage with larger firms when bidding on contracts for city services, since all city contractors are required to carry at least \$1 million in general liability insurance, Mr. Welch said.

The risk manager convinced the Los Angeles City Council that sponsoring such an insurance program would put minority-owned and small businesses in a more competitive position.

"The premium is just a fraction of what the business would pay on a standalone basis," Mr. Welch said.

The council approved the pro-

gram Oct. 26, and it took effect Dec. 1.

SPARTA functions similarly to most wrap-up programs, except that it only is available to contractors with city contracts valued below \$350,000.

To circumvent statutory restrictions on municipal wrap-ups, the city is calling the program a "master liability program," Mr. Welch explained.

In addition, the city is not paying any of the premium for the contractors enrolled in the program. However, it has set aside \$100,000 in a trust fund to cover the \$25,000 deposit premium and to pay for any loss-control training expenses.

The SPARTA program is underwritten by Virginia-based Essex Insurance Co., which operates as a surplus lines insurer in California,

and is placed by the Los Angeles office of Orange, Calif.-based broker Akasaka, Ortiz & Varela.

The program is patterned after the city's special events program, which is underwritten by units of Aon Corp., in that all service providers and other contractors are divided into hazard levels and charged a rate based on the level of exposure they face.

For example, a Hazard 1-level contractor, like an office machine repair contractor, will pay a rate of 0.5% of the value of its city contract plus the 3.5% statutory surplus lines tax and 4% broker commission charge.

A Hazard 2 contractor, such as a plumbing contractor, will pay a rate of 0.7% of the contract value, plus the surplus lines tax and broker fee, Mr. Welch explained.

Hazard 3 contractors, or those that are not included under Hazard 1 and Hazard 2 descriptions, are individually underwritten.

Minimum premium for the program is \$250 plus the surplus lines tax and brokers fee, and coverage must be purchased for at least one month. But coverage can be continued for up to a year with an automatic one-year extension.

SPARTA member contractors also are required to pay a \$5,000 per-claim deductible.

No "paper" general contractors—those that subcontract all of the work—are eligible for coverage under the program, according to Mr. Welch.

However, subcontractors that do 25% or less of a general contractor's work can purchase coverage through the program, he said. **BI**

INTERNATIONAL

Germans improve fleet risk management

By DON LEWIS KIRK

BONN, Germany—German transportation companies are paying much closer attention to fleet risk management and accident prevention, following recent insurance rating and legislative changes.

Companies with accident-prone truck fleets will soon find that poor driving records translate to higher commercial auto insurance premiums at renewals, due to the adoption earlier this year of a new rating system tied more closely to less experience.

In addition, an expansion of

manufacturers' liability to harm caused during transportation of their products is prompting those companies to require transporters to improve safety and quality.

Horst Schlichtkrull, managing director of Hamburg-based Kravag-Versicherung, a leading German auto insurance mutual based in Hamburg, said the new rating system was introduced to comply with European Union guidelines, which recommend a 50% insurance premium rebate to customers who drive four years without an accident.

"Motor fleets with a poor record

will see their premiums increase by the same amount," Mr. Schlichtkrull added. "Companies with good records will benefit, those with a poor record will pay."

As a result, risk management is taking on new importance as German companies with large auto and truck fleets try to minimize their losses and commercial auto insurance costs.

"Our focus is accident prevention," said Werner Schomaker, risk manager for Hoyer Spedition, a large German transportation contractor that moves goods by truck, train and ship. "With new auditing

controls, we've improved our track record substantially. In 1994, we've reduced the number of accidents by 22%."

Hoyer had 2,200 accidents worldwide in 1993, a figure it has reduced by 400 this year. Hoyer attributes that decrease to its improved safety program.

"Many of our past problems occurred because of a misguided sense of responsibility," said Fritz Arp, Hoyer's quality manager. "A driver did a mechanic's job or a trouble-shooter's job when he should have been driving, loading or unloading. We have been able to

reduce problems by strictly defining tasks for each level of management."

E.U. safety guidelines have been a major incentive for enhanced quality control, said Mr. Arp.

German transportation companies doing business across Europe were anxious to obtain "ISO 9002" certification, which is provided by the International Standards Organization as an indicator of quality and safety. The ISO program is one way companies can meet the E.U. requirements.

ISO 9002 certification requires

Continued on page 21

Lawyer charged with massively overbilling Lloyd's

By GAVIN SOUTER

MIAMI—A Florida attorney denies charges that he overbilled Lloyd's of London syndicates for millions of dollars while investigating a claim on their behalf.

The attorney, James F. Dougherty, is scheduled to be arraigned this week in federal court in Miami on criminal charges that he billed Lloyd's for thousands of hours of work, amounting to millions of dollars, that he and his associates never performed while investigating a claim for stolen coffee.

Mr. Dougherty contends he actually underbilled the syndicates

and claims the real reason Lloyd's dismissed him was that he turned up evidence that a Lloyd's policyholder, accounting firm Price Waterhouse, was negligent in auditing the scandal-ridden Bank of Credit & Commerce International.

Jon W. Zeder, a partner at Adorno & Zeder in Miami, which represents Lloyd's underwriters in the coffee case, said Mr. Dougherty's dismissal was not related to any information involving Price Waterhouse.

In addition to the criminal charges, the Florida Bar also has brought a complaint against Mr. Dougherty in the Florida Supreme Court in Miami for overbilling. He

could face disciplinary action by the bar association if the court upholds the complaint.

If convicted on the criminal charges, Mr. Dougherty could face up to 50 years in prison, a maximum fine of \$250,000 and be ordered to make restitution to the syndicates.

The attorney claims that his fees are legitimate and that he underbilled the syndicates by \$1.5 million. He is suing the syndicates for the additional fees.

Mr. Dougherty said Lloyd's dismissed him not because of alleged overbilling but because his investigations into the coffee scam uncovered other potentially huge li-

abilities for the syndicates.

He said his investigation could be used to show that Price Waterhouse was negligent in its work for the Bank of Credit & Commerce International. BCCI allegedly supplied false letters of credit and cashier's checks to the coffee trader who filed the claim for stolen coffee.

In 1992, BCCI's liquidator filed an \$8 billion negligence suit against Price Waterhouse for its auditing of the failed bank (BI, Nov. 2, 1992).

Separately, an associate of Mr. Dougherty, who informed Lloyd's of the attorney's alleged overbilling, is facing charges of launder-

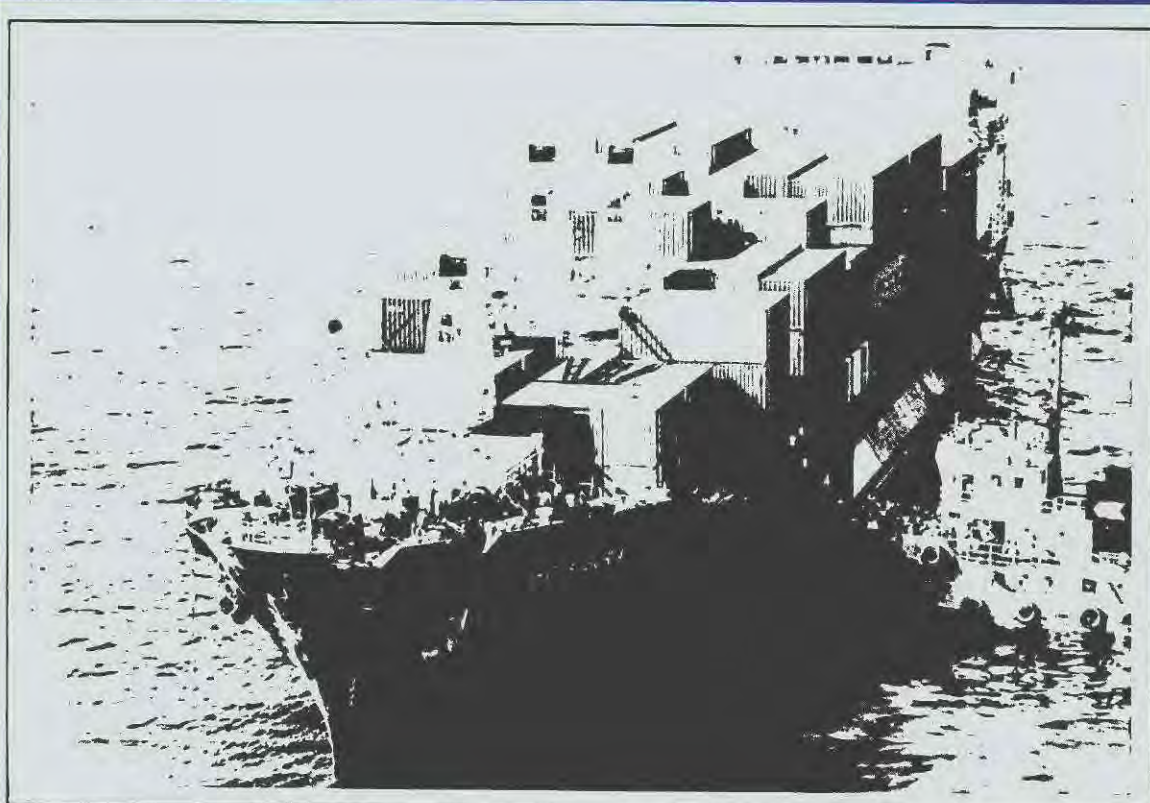
ing drug money and is expected to plead guilty.

Lloyd's underwriters, led by syndicates managed by Sturge Holdings P.L.C., hired the Florida attorney in 1987 to investigate a claim from Jordanian coffee trader Munther Bilbeisi (BI, July 29, 1991).

Mr. Bilbeisi filed an insurance claim for losses from the alleged theft of 12,000 bags of coffee valued at \$4 million and arts and antiques valued at \$2 million.

After Mr. Dougherty's investigation of the claim, the Lloyd's underwriters denied coverage, alleging that the coffee had not

Continued on page 21



AP/Wide World photo

A collision between the Kota Suria and the ferry Cebu City caused the ferry to sink, killing at least 45.

Ferry disaster adds to marine woes

LONDON—The Dec. 2 collision of two vessels in Manila Bay and the resulting loss of at least 45 lives add to the increasingly long list of marine disasters and lives lost this year.

This tragedy, caused by a collision in clear weather, involved a roll-on, roll-off ferry similar to the one that sank in September in bad weather in the Baltic Sea. More than 900 people died in that accident (BI, Oct. 3).

The Philippines ferry, the Cebu City, was rammed by the Kota Suria, a container vessel, and the ferry sank in 82 feet of water in Manila Bay. The Kota Suria was able to assist in the rescue operation, according to local reports.

As of last Wednesday, 454 ferry passengers had

been rescued, 45 were reported dead and 100 people were still missing. The search for survivors continued, but many are thought to be trapped in cabins on the sea floor.

Coverage details for the ferry were unavailable. The Kota Suria, managed by Pacific International Lines of Singapore, has hull coverage placed in the London market.

The Kota Suria's liability risks are covered by the Liverpool & London Steamship Protection & Indemnity Assn. Ltd., the P&I club that covered the Achille Lauro, which sank off the coast of Somalia two weeks ago (BI, Dec. 5), a club spokesman confirmed.

—By Adrian Ladbury

Sturge to establish new holding company to protect ventures

By ADRIAN LADBURY

LONDON—Sturge Holdings P.L.C., the holding company for the third-largest managing agent at Lloyd's of London this year, has announced plans to create a new holding company and expand the menu of financial services it offers.

Sturge, which sold its members agency business to management earlier this year, plans to create Ockham Holdings P.L.C., with High Court approval, to sit over the current holding company.

The company says it wants a new holding company to protect its new business ventures—which it will not detail until April—from potential losses or bad press arising from the threat of litigation by Sturge members facing losses.

The Sturge Names Action Group threatened last month that it would file suit against Sturge in January and seek up to 1 billion pounds (\$1.56 billion) in damages (BI, Nov. 21).

"We are apprehensive as to the motive behind these changes. We believe that the action group will be able to cut through the corporate veil into the holding company. We propose to thwart any attempt to stop proper restitution of assets that have been purloined from names. If necessary, we shall apply to the courts," the action group said in a statement responding to the restructuring plans.

Sturge Chief Executive David Poole, who joined the group this year from investment bank James Capel & Co., said he anticipated

disgruntled members' claims.

Lord Poole denied that the restructuring was anything but an effort to move ahead into new business areas without the "cloud" of litigation hanging over the company name and said that Sturge assets would remain available for any actions that may ensue against the original companies.

"This move changes nothing in the current Sturge group in any way. Even if we thought this was a cunning ruse to lose assets, the court would not allow it anyway," Lord Poole said.

In its accounts for the year ending Sept. 30—which show a pre-tax profit of 3.1 million pounds (\$4.8 million) for ongoing business compared with last year's pretax profit of 4.4 million pounds (\$6.9 million)—Sturge revealed that an extra 1.5 million pounds (\$2.3 million) has been set aside this year to fight litigation. Sturge has committed a total of 5 million pounds (\$7.8 million) to its litigation reserves.

Lord Poole said he could not give further details about his plans but said they would not detract from the group's commitment to its managing agency business—which has secured about 650 million pounds (\$1.01 billion) of capacity for its 12 syndicates for 1995—or its stock brokerage subsidiary Wise Speke.

Sturge Chairman David Coleridge, David Rowland's predecessor as chairman of Lloyd's, announced that he will not resign from the group in January as

Continued on next page

INTERNATIONAL

Sturge

Continued from previous page
planned but will stay on as non-executive chairman for up to another year, or until another chairman is found, to help Lord Poole with the restructuring at Sturge Holdings.

Mr. Coleridge said that next year's 650 million pounds of capacity, down slightly from 662 million pounds (\$979.4 million) this year, is a satisfactory level of capacity for Sturge considering his predictions of an overall 10% to 15% loss in capacity for Lloyd's next year.

Mr. Coleridge also said he was

Lord Poole would not rule out the possibility of forming a dedicated corporate capital vehicle for 1996.

particularly pleased with the continued level of support given to Sturge syndicates by the newly named and owned ex-Sturge members agency, Falcon Agencies Ltd.

The proportion of capital for 1995 provided by corporate capital will increase against individual members' capacity.

But, while Lord Poole said plans for a dedicated corporate capital vehicle for 1995 had been rejected at an early stage, Lord Poole would not rule out a launch for 1996.

Mr. Coleridge also predicted that Lloyd's would report another overall loss for the 1992 underwriting year. **BI**

The Professional Marketplace

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NOTICE INVITING PROPOSALS

The City of Los Angeles is seeking the services of a firm experienced in Third Party claims administration for its Workers' Compensation program.

Those firms interested in contracting with the City may obtain a copy of the Request for Proposal by contacting Debora Rainford at (213) 847-9043. Copies are also available in Room 210, 700 E. Temple Street, Los Angeles, CA 90012. All proposals submitted must conform to the Request for Proposal provided by the City. Proposals are due on **Monday, January 30, 1995, no later than 5:00 p.m.** Interested parties are also invited to attend a Proposer's Conference on **Wednesday, January 4, 1995, at 9:00 a.m., in Room 350**, at the address listed above.

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LEGAL NOTICE

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS, ex rel.,
JAMES W. SCHACHT, ACTING DIRECTOR OF
INSURANCE OF THE STATE OF ILLINOIS,

Plaintiffs,

v.

PRESTIGE CASUALTY COMPANY, an Illinois
Domestic Stock, Property and Casualty
Insurance Company

Defendant

NO. 94 CH 3504

NOTICE OF CLAIM FILING DEADLINE AND PROCEDURES

PLEASE TAKE NOTICE, that on July 26, 1994, the Circuit Court of Cook County, Illinois entered an Order of Liquidation With a Finding of Insolvency against Prestige Casualty Company ("Prestige"). James W. Schacht, Acting Director of Insurance of the State of Illinois, is the statutory and court affirmed Liquidator of Prestige ("Liquidator").

TAKE FURTHER NOTICE, that on September 7, 1994, the Circuit Court of Cook County, Illinois, entered an Order Fixing Rights and Liabilities and Providing for the Filing of Claims and Claim Filing Deadlines ("Fixing Order"). Pursuant to the Fixing Order, all rights and liabilities of Prestige and its policyholders, creditors and stockholders, and all other persons interested in its assets, are fixed as of July 26, 1994, unless otherwise provided in a subsequent order of the Court.

TAKE FURTHER NOTICE, that all persons and entities, who have or may have, claims against Prestige, or its property or assets, shall have the right to present and file with the Liquidator, proper proofs of claim on or before 4:30 p.m., C.S.T., on July 26, 1995.

TAKE FURTHER NOTICE, that any insured under an insurance policy issued by Prestige shall have the right to present and file with the Liquidator a proper proof of claim setting forth a contingent claim on or before 4:30 p.m., C.S.T., on July 26, 1995. No contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the third priority level, 215 ILCS 5/205(1)(c), unless such claim has been liquidated and the insured claimant has presented and filed evidence of payment of such claim to the Liquidator on or before 4:30 p.m., C.S.T., on July 26, 1996. Any contingent claim for which a proper proof of claim is filed on or before 4:30 p.m., C.S.T., on July 26, 1995, but which is not liquidated on or before 4:30 p.m., C.S.T., on July 26, 1996, may be estimated pursuant to 215 ILCS 5/209(4)(b) for purposes of participating in any distribution of estate assets that may be made at the fourth priority level, 215 ILCS 5/205(1)(d), unless otherwise directed by the court.

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

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIMS AGAINST PRESTIGE, OR ITS POLICYHOLDERS, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY, UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE JULY 26, 1995 AT 4:30 P.M., C.S.T.

James W. Schacht
Special Deputy Receiver

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT Southern District of New York Bk. No. 93-B-42685 (CB)

IN RE PETITION OF ANTHONY JAMES MCMAHON AND ROGER SMITH, AS JOINT PROVISIONAL LIQUIDATORS OF ENGLISH & AMERICAN INSURANCE COMPANY LIMITED

NOTICE IS HEREBY GIVEN that Anthony James McMahon and Roger Smith (collectively, the "Petitioners"), as Joint Provisional Liquidators of English and American Insurance Company Limited (the "Company"), have scheduled a hearing to be held in the United States Bankruptcy Court for the Southern District of New York (the "Court") in Room 601 of the Alexander Hamilton U.S. Custom House, One Bowling Green, New York, New York on January 31, 1995 at 10:00 a.m. (the "Hearing") on Petitioners' Application for an Order providing (1) for permanent injunctive relief and (2) that the proposed scheme of arrangement posted to the Company's creditors pursuant to section 425 of the Companies Act 1985 be given full force and effect and be binding on and enforceable against all Scheme Creditors in the United States (the "Application"). In connection with the Application, the Court has issued a Scheduling Order which provides that (a) the Application, together with all supporting papers, shall be filed with the Court with a copy to Chambers and shall be served by United States mail, first-class postage prepaid upon the parties in interest appearing in this case on the date of such service on or before December 23, 1994; (b) any and all objections or responses to the Application shall be filed with the Court with a copy to Chambers and delivered as to be received by Chadbourne & Parke, 30 Rockefeller Plaza, New York, New York 10012-0127 (attention: Kenneth P. Coleman, Esq.), Attorneys for Petitioners, on or before January 16, 1995 at 5:00 o'clock p.m., New York time; and (c) Petitioners' reply to any and all objections or responses to the Application shall be filed with the Court with a copy to Chambers and served by United States mail, first-class postage prepaid upon the objecting and responding parties on or before January 24, 1995. Copies of the Scheduling Order have been provided to the parties in interest appearing in this case. Any party who has not received the Scheduling Order may obtain one by contacting counsel for the Petitioners at the following address:

**Chadbourne & Parke
30 Rockefeller Plaza • New York, New York 10012
Attn: Margaret Groarke, Esq.**

Business Insurance Circulation Breakdown

Commercial Consumers

Administrative:

CEO's, Presidents, and Owners, ...2,528
Vice Presidents, General Managers and Other
Administrative Personnel 4,118

Financial:

Chief Financial Officers and Vice Presidents of
Finance 2,171
Secretaries, Treasurers, controllers and other
Financial Personnel 3,335

Risk/Employee Benefits:

Vice Presidents, Directors, Managers, and
other related department personnel of: insurance,
compensation, pension, safety, security, industrial
relations, human resources and employee/labor relations 16,157

Sub-total

Associations 369
Government, Unions and
Educational Institutions 974

Commercial Consumers

Sub-total

Insurance Agents and Brokers 8,408
Insurance Companies 8,181
Accountants, Actuaries,
Attorneys & Consultants 3,611
Managers & Health Care Providers 1,903
Others Allied to the Field 849

TOTAL

.....52,604

★ Source Business/Occupational
breakdown of qualified circulation,
May 30, 1994 Issue, as submitted
to BPA for June 1994 BPA Publisher's
Statement

INTERNATIONAL

Fleets

Continued from page 19

a company to submit its operations to independent safety checks.

"In effect, this certification says this company can be trusted to have the best quality control around," Mr. Arp said.

"It became even more important as countries like Germany moved to meet E.U. directives, which placed greater liability on manufacturers for accidents their hauling contractors made," he said.

E.U. directives adopted in 1985 called for an expansion of corporate liability for the transportation of hazardous goods. Germany reformed its product liability laws in 1990 to meet the directive's criteria. As a result, manufacturers can be held strictly liable for any damage or injury caused by the goods during delivery.

"A company like Shell Oil wants to eliminate as much risk as possible during transport," explained Mr. Arp. "As a result, they require certification" of the transportation companies they use to haul their petroleum products, he said.

To win certification for their safety and quality programs, transportation companies like Hoyer must employ a quality manager, who oversees the safety efforts of the company.

Mr. Arp, for instance, makes decisions about how drivers are trained and what kinds of technical changes need to be made to trucks. He also determines what steps should be taken when an accident does happen.

Under new pressures from insurers, companies like Hoyer say they are moving from mere quality control to quality management.

By compiling loss statistics, Hoyer was able to pin-point weak areas. For example, by changing driver requirements and rules for backing up vehicles, especially at loading docks, it lowered its most frequent source of accidents.

In the last 10 months, Hoyer has had no serious accidents.

"We only use professional drivers, who are instructed several times a year by our own instructors. Together with technical inspection it plays a central role in loss control," said Mr. Schomaker.

Quality management enabled Hoyer to raise its safety standards for its vehicles. "We found the better the brakes the fewer accidents. That may sound self-evident, but sometimes you need to see the correlation before you change," he said.

The company also made changes to its vehicles. For instance, by installing safer steps, it improved driver access to their cabs, removing a major hazard. The company also installed new mirrors to eliminate blind spots, which helped prevent mishaps caused by backing up and parking errors.

"Risk management is more than training a driver," said Kravag's Mr. Schlichtkrull. "Three-fourths of all losses are small and middle-sized claims of 5,000 deutsche marks (\$3,180) or less," he said.

"These are not only losses to the insurer, they are also losses to the client of the transport company," said Paul Grothaus, a partner with German insurance broker Jauch & Huebener.

"It costs a company time and money. It's not transporting goods it could be transporting," he explained.

Mr. Schlichtkrull recommends adoption of an "accident response system" to control losses.

Under such a system, drivers could be required to report accidents and complete extensive accident reports. A follow-up meeting with the fleet manager could focus on how similar accidents can be avoided. The manager would record the data in a personal file, which would be used to determine the most common causes of accidents.

Company executives also should get a monthly report and yearly loss statistics showing the times of the accidents and the corrective measures that were taken.

The insurer would receive the same information, which it could use to determine the extent of claims, the loss ratio, the driver and the cause of the accidents, Mr. Schlichtkrull said. "In most cases, we've determined human error to be the cause of accidents," he added.

Mr. Schlichtkrull also recommends a bonus point system. Each driver starts the year with a number of points. Any accidents or

misconduct reduce the driver's number of points. At the end of the year, the driver gets a financial award for every point left over.

Several German insurance companies, including Kravag, Allianz A.G. Holding and Nordstern Allgemeine Versicherungs-A.G., have developed fleet risk management programs for their commercial clients.

Allianz, for instance, uses a "fleet and claims analysis," which considers factors like the driver's ability, whether it is the driver's own vehicle or a company vehicle, how often drivers are changed, the condition of the car or truck and how it is serviced. The kind of job involved and how the accident happened are also considered.

In Germany, safety standards for large vehicles are enforced from several sides.

Two safety inspection organizations, Dekra—Deutsche Kraftfahrzeug Ueberwachungsverein,—and TÜV—Technische Ueberwachungsverein—check technical standards, train and certify drivers for transporting hazardous freight.

In addition, German trade cooperatives—Berufsgenossenschaft fuer Fahrzeughaltung, or BGF—conduct regular safety inspections to check working conditions.

"Safe working conditions are just as important as technical safety," said Christian Boerner, vice-director of BGF's work safety division in Hamburg.

In Germany, the BGF investigates workplace accidents and provides accident insurance. It also will train employees in work safety and advise employers about on-the-job safety regulations.

To encourage companies to meet work safety standards, the BGF gives companies with a good safety record a 10% reduction in rates for accident coverage.

"Work safety is cost effective," said Mr. Boerner. "Everyone wins if it's effective."

The BGF also advises manufacturers about installing safety features of their vehicles. "In Europe, this in particular has become a problem of standards," said Mr. Boerner. "Companies tend to buy vehicles where they get the best price, but they often don't meet specification. Our job is to determine that."

BI

PBGC

Continued from page 3

three-quarters of these plans—are fully funded. These plans have assets of about \$603 billion to cover liabilities of \$518 billion.

Both Mr. Reich and Martin Slate, the PBGC's executive director, stressed their belief that the pension reform legislation contained in the General Agreement on Tariffs and Trade will slash underfunding and eliminate the

agency's \$2.9 billion deficit in its single-employer insurance program within a decade (BI, Dec. 5).

"Pension underfunding has been chronic and persistent and will not go away by itself. At long last we have reforms that promise to address the problem and make underfunding go away," said Mr. Slate.

The PBGC later this month is expected to release its annual list of the 50 largest employer-sponsored underfunded pension plans (BI, Nov. 29, 1993).

BI

Zurich omitted from P/C listings

The following listing was inadvertently omitted from the Dec. 5 Directory of International Property/Casualty Insurers. Zurich Insurance Group was, however, included in the geographic index that accompanied that directory.

Zurich Insurance Group

Zurich Towers, 1400 American Lane, Schaumburg, Ill. 60196; 708-605-6372; fax: 708-605-3436

	1993	1992
Employees	36,000	NA
U.S.	8,000	NA
Non-U.S.	28,000	NA
Foreign countries ..	90	NA
Owned offices	40	NA

Intl. P/C operations began: 1872.

Parent: Zurich Insurance Co.

Specialties: Specialty manufacturing teams for chemical/pharmaceutical industry, machinery and equipment manufacturing industry and computer industries.

Services: Captive programs; loss control services for property, business interruption, general liability, products, auto fleet, workers comp; retrospectively rated programs; statistics in support of international programs.

Licensed or accepted insurer in: Argentina, Australia, Austria, Belgium, Bermuda, Brazil, Canada, Chile, Denmark, France, Germany, Guam, Hong Kong, Indonesia, Ireland, Italy, Ivory Coast, Japan, Lichtenstein, Luxembourg, Malaysia, Netherlands, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, United Kingdom, United States.

Affiliates/fronting arrangements: Bahamas (General Brokers & Agents Ltd.), Bahrain (Zurich Insurance Services), Barbados (Insurance Corp. of Barbados), Bolivia (La Boliviana de Seguros y Riesgos), Brazil (Zurich-Anglo Seguradora S.A.), China (The People's Insurance Co. of China), Czech Republic (Zurich Pojistovna), Dominican Republic (Compania Nacional de Seguros C. Por A.), Ecuador (Amazonas C.A. de Seguros), Egypt (Arab International Insurance Co.), El Salvador (Aseg-

uradora Suiza Salvadorena S.A.), Finland (SAMPO Insurance Co. Ltd.), Greece (Astir Insurance Co. S.A.), Guatemala (Seguros Granai & Townson S.A.), Haiti (La Generale d'Assurance S.A.), Honduras (Aseguradora Hondurena S.A.), Hungary (Zurich Biztosito), Iceland (Vatryggingafelag Islands HF), Iran (Asian Insurance Co.), Iraq (National Insurance Co.), Jamaica (Insurance Co. of the West Indies Ltd.), Jordan (Arabia Seas Insurance Co. Ltd.), Kenya (African International Insurances Ltd.), Kuwait (Kuwait Insurance Co. S.A.K.), Libya (Libya Insurance Co.), Mexico (Zurich Chapultepec), Morocco (La Garantie Generale Marocaine), New Zealand (National Insurance Co. of New Zealand Ltd.), Nigeria (The United Nigeria Insurance Co. Ltd.), Oman (Oman National Insurance Co.), Pakistan (New Jubilee Insurance Co. Ltd.), Panama (Administracion de Seguros S.A.), Peru (Compania de Seguros "Rimac"), Philippines (Malayan Zurich Insurance Co. Inc.), Qatar (Qatar Insurance Co. S.A.Q.), Russia (Garant Eurasco), St. Lucia (West Indies General Insurance Co. Ltd.), Saudi Arabia (National Insurance Co. S.A.), Slovak Republic (Zurich Poistovna), South Korea (Hyundai Marine & Fire Insurance Co. Ltd.), Sri Lanka (Insurance Corp. of Sri Lanka), Sudan (The Blue Nile Insurance Co. Ltd.), Taiwan (Malayan Overseas Insurance Corp.), Thailand (Muang Thai Life Assurance Co. Ltd.), Trinidad & Tobago (Trinidad & Tobago Insurance Ltd.), Tunisia (Compagnie D'Assurances et de Re-assurances), Turkey (Gunes Sigorta A.S.), United Arab Emirates, (Abu Dhabi National Insurance Co. Dubai Insurance Co. psc), Venezuela (Zurich Internacional de Venezuela).

Officers: Rolf Hueppi, president/CEO; Rolf Hanggi, deputy CEO; H.P. Karlen, G. Gose, P. Eckert, H. Wirth, D. Steiner, senior executive vps; F. Schneuwlin, executive vp.

U.S. contact: Tom Hite, president-Zurich International U.S., 708-605-6156, or John Ormerod, vp/director-marketing, 708-605-6531.

Overbilling

Continued from page 19

been stolen and in fact had been exported to the United States using fraudulent letters of credit and cashier's checks issued by BCCI and then sold for a massive profit.

Lloyd's won a legal challenge filed by Mr. Bilbeisi when he failed to appear in court (BI, Dec. 9, 1991).

In March 1992, Richard Lehrman, an attorney who worked for Mr. Dougherty on the case, and Vicente Valls, an investigator employed by Mr. Dougherty, informed Lloyd's underwriters that they had been overbilled for the investigation, said Mr. Zeder.

On April 1, 1992, Mr. Dougherty was dismissed as Lloyd's attorney.

Up until his dismissal, Lloyd's had paid Mr. Dougherty up to \$9 million, said Mr. Zeder.

According to the state bar's investigation, Mr. Dougherty overbilled the underwriters by \$1.2 million in fees and \$750,000 in costs.

"The associates reported that they had not worked on the case at times when Mr. Dougherty had billed Lloyd's for thousands of hours for their work. His billing for

his own work for Lloyd's meant that he would have virtually been employed full-time on the case," Mr. Zeder said.

At the outset of the investigation, there was an oral agreement between Mr. Dougherty and Lloyd's that his bills would be based on an hourly fee, said Mr. Zeder.

Mr. Dougherty, though, contends that the fee was based on an hourly rate and other factors that reflected the complexity of the case and the personal risks he took in tracking down the evidence to reject the fraudulent claim.

He claims that of the \$9 million Lloyd's paid him, \$6 million was spent in court costs. In fact, as fair payment for his services, Lloyd's should pay him at least another \$1.5 million, he said.

By winning the fraudulent claim case, he argued that Lloyd's not only avoided paying the \$6 million fraudulent claim but also \$25 million in punitive damages that Mr. Bilbeisi had sought.

Mr. Dougherty contends that evidence his investigation uncovered could be used against Price Waterhouse in the negligence case brought against it by the liquidator of BCCI. And, the syndicates involved in the coffee claim are also

professional liability insurers for Price Waterhouse and could be liable for any award against the accounting firm, he said.

If the BCCI liquidator's \$8 billion claim against Price Waterhouse is successful, it would trigger the firm's insurance coverage and likely bankrupt the partners of Price Waterhouse.

Sturge Group P.L.C. officials would not comment on Price Waterhouse's directors and officers liability coverage.

Meanwhile, Mr. Valls, who tipped off Lloyd's about the alleged overbilling, is charged in a separate case with laundering \$225,000 in drug money.

The charges result from an undercover operation conducted by federal investigators.

The charges were brought in Louisiana but are due to be transferred to Miami, where Mr. Valls will likely plead guilty to the charges, said his attorney, Joel Hirschhorn of Miami.

Louisiana officials refused to take into account Mr. Valls' cooperation in the Lloyd's case. Florida authorities have not ruled out taking the cooperation into consideration, "but they have made no promises," Mr. Hirschhorn said.

BI

We are pleased to announce that

IMPERIAL
PREMIUM FINANCE, INC.

has been acquired by



SunAmerica

and will

continue to operate
as



IMPERIAL
PREMIUM FINANCE, INC.

A SunAmerica Company

December 1, 1994

Datebook

JANUARY 1995

JAN. 3. Essentials of Risk Control course in New York, sponsored by the New York Chapter of the Risk & Insurance Management Society; \$250 for RIMS members, \$300 for non-members. Albert Capozzelli, RIMS New York Chapter, 655 Third Ave., Second Floor, New York, N.Y. 10017; 212-286-9292.

JAN. 9-10. Implementing EDI in Healthcare Organizations conference in San Francisco, sponsored by the International Quality & Productivity Center; \$1,095. International Quality & Productivity Center, P.O. Box 43155, Upper Montclair, N.J. 07043-7155; 1-800-882-8684.

JAN. 13. Forming and Using Limited Liability Companies and Limited Liability Partnerships seminar in San Francisco, sponsored by the Practising Law Institute; \$695. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 1-800-260-4754.

JAN. 16-18. Intro to Financial Analysis-Life/Health Insurance seminar in New York, sponsored by A.M. Best Co. and The College of Insurance; \$950. Also Feb. 13-15 in Chicago and March 13-15 in San Francisco. The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

JAN. 16-18. Intro to Financial Analysis-Property/Casualty Insurance seminar in New York, sponsored by A.M. Best Co. and The College of Insurance; \$950. Also Feb. 13-15 in Chicago and March 13-15 in San Francisco. The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

JAN. 23-24. Behavioral Healthcare Outcomes conference in San Francisco, sponsored by the Institute for International Research; \$1,295. Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 212-661-8740.

JAN. 25-26. Mergers and Acquisitions: From A to Z seminar in New York, sponsored by the Practising Law Institute; \$995. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 1-800-260-4754.

JAN. 26-27. Outsourcing Employee Benefits and Human Resource Functions conference in Orlando, Fla., sponsored by the International Quality & Productivity Center; \$795 for employee benefit or human resource managers, \$1,095 for others. International Quality & Productivity Center, P.O. Box 43155, Upper Montclair, N.J. 07043-7155; 1-800-882-8684.

JAN. 26-27. Atlanta Chapter of RIMS Education Conference in Atlanta; \$125 for RIMS members, \$150 for non-members. Karmen Bittick, 404-668-3670.

JAN. 30.-FEB. 1. Financial Analysis-Life/Health Insurance seminar in New York, sponsored by A.M. Best Co. and The College of Insurance; \$950. Also Feb. 27-March 1 in Chicago and

March 27-29 in San Francisco. The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

JAN. 30.-FEB. 1. Financial Analysis-Property/Casualty Insurance seminar in New York, sponsored by A.M. Best Co. and The College of Insurance; \$950. Also Feb. 27-March 1 in Chicago and March 27-29 in San Francisco. The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111.

JAN. 31-FEB. 1. Designing and Managing Specialty Niche Insurance Programs conference in San Francisco, sponsored by the International Quality & Productivity Center; \$1,195. International Quality & Productivity Center, P.O. Box 43155, Upper Montclair, N.J. 07043-7155; 1-800-882-8684.

FEBRUARY

FEB. 2-3. Mealey's Insurance Fraud and Bad Faith Conference in Phoenix, sponsored by Mealey Publications Inc.; \$595. Mealey Publications Inc., P.O. Box 446, Wayne, Pa. 19087-0446; 1-800-632-5397.

FEB. 3-4. Joint Technology Conference in Kansas City, Mo., sponsored by the National Assn. of Insurance Commissioners and ACORD; \$125 for regulators, \$450 for non-regulators. NAIC Meetings Department, 12 Wyandotte Plaza, 120 W. 12th St., Suite 1100, Kansas City, Mo. 64105; 816-889-4400.

FEB. 9-10. Products Liability Seminar in San Francisco, sponsored by Defense Research Institute; \$445 for DRI members, \$495 for non-members. Defense Research Institute: Products Liability Seminar, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

FEB. 20-24. Government Risk Management Seminars in San Diego, sponsored by the Public Risk Management Assn.; \$595 for basic certificate program for PRIMA members, \$725 for non-members; \$490 for continuing education program and schools risk management program for PRIMA members, \$620 for non-members. PRIMA, 1815 N. Fort Myer Drive, Suite 1020, Arlington, Va. 22209; 703-528-7701.

FEB. 27-28. Insurance, Excess and Reinsurance Coverage Disputes seminar in New York, sponsored by the Practising Law Institute; \$695. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 1-800-260-4754.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the cost, if any, to attend the meeting and information on registration. Business Insurance reserves the right to select meetings and cannot guarantee that notices will be printed.

For the Record

1993 workplace deaths cost \$112 billion: III

Workplace deaths and injuries in 1993 resulted in an estimated \$111.9 billion in costs even though the number of reported fatalities—9,100—was the lowest on record, according to the Insurance Information Institute.

Citing statistics provided by the National Safety Council, the III said costs related to workplace accidents and fatalities increased only slightly in 1993 compared to 1992, when costs were \$111.7 billion. The number of workplace deaths, meanwhile, fell by 1% from 9,200 the previous year.

Productivity losses accounted for the largest portion of costs—\$59.9 billion. Medical costs were \$20.7 billion, while administrative expenses were \$14.4 billion.

Direct costs to employers, including the value of time lost by uninjured workers involved in an accident and accident investigations, were \$9.7 billion.

Fire losses of \$3.1 billion and motor vehicle damage costs of \$4.1 billion were included in the total.

New ADA guidelines under way: EEOC chief

WASHINGTON—Employers can expect new guidelines very soon about how to comply with the Americans with Disabilities Act, pledges Gilbert F. Casellas, the new head of the federal Equal Employment Opportunity Commission.

Detailed guidance is expected on issues, including defining disability, clarifying pre-employment inquiries and overlaps with state-based workers compensation programs, said an EEOC spokesman.

Last year, the EEOC issued interim guidelines on how the ADA applies to disability-based distinctions in employer health plans (BI, June 14, 1993).

South Carolina to end insurance commission

COLUMBIA, S.C.—On July 1, 1995, South Carolina will dissolve its seven-member insurance commission.

The unpaid commission, composed of a representative from each of the state's congressional districts, was responsible for

naming the chief insurance commissioner.

John G. Richards has held the post since 1988 but is unsure what will happen next year when the insurance department becomes a cabinet office and Gov.-elect David Beasley names a director of insurance.

Angus Robinson fund raises scholarship money

The Angus Robinson Jr. Memorial Foundation, which awards scholarships to academically qualified students of insurance and reinsurance requiring financial aid, now has assets exceeding \$300,000 following two 1994 fund-raising events.

The annual golf tournament, held Sept. 15 at Burning Tree Country Club in Connecticut, netted \$28,000 for the foundation.

The winning foursome with a low gross score was sponsored by Aon Re Inc. and included Michael O'Halleran, chairman of Aon Risk Services Inc.

The winning foursome with a low net, which includes handicaps, was sponsored by Peglar & Associates of Darien, Conn., and included President Robb Peglar.

Last spring, a St. Patrick's Day raffle raised \$27,545 for the foundation.

In three years, the foundation has granted scholarships totaling \$43,650 to 27 students. The foundation is reviewing applications now to award scholarships for the current academic year.

The foundation was founded in 1990 in memory of the late Angus Robinson Jr., who was president of Chartwell Reinsurance Co. at the time of his death.

For more information, contact the foundation at 1690 Fairfield Beach Road, Fairfield, Conn. 06430.

Settlement ordered repaid amid jury-rigging charges

SALYERSVILLE, Ky.—Alleged fraud artists must pay back \$1.2 million to two insurers after investigators uncovered a trial-rigging scheme, a state court has ruled.

The case started in 1988 when a delivery van owned by Johnston Coca-Cola Bottling Group Inc. of Lexington, Ky., collided with a car. The driver of the car sued the bottling company and was awarded \$3.8 million by a Magoffin County jury.

The principal auto fleet liability insurer for Johnston, Kemper National Insurance Cos. of Long Grove, Ill., negotiated a settlement of the case for \$1.2 million and paid out \$1 million while General Star National Insurance Co. paid \$200,000.

Shortly after the trial, federal investigators discovered the trial had been rigged. The judge then overturned the settlement and ordered the plaintiff and his lawyers to return the award.

Federal investigators say a key witness in the trial had been paid to give false testimony and several jurors were bribed. Nine people, including the plaintiff, have since been indicted on fraud charges.

The case is on appeal in state court.

Information in brief

The National Assn. of Manufacturers is coordinating the new Co-

alition on Ergonomics, a group of 187 companies planning a \$600,000 budget so it can respond to OSHA's now overdue proposed standards on ergonomics...The Wisconsin Supreme Court has refused to reconsider its June 16 **pollution coverage decision** that neither a cleanup order nor a request for waste site information by the U.S. Environmental Protection Agency constitute a lawsuit that comprehensive general liability insurers are obligated to defend (BI, June 27)...A search committee is seeking a replacement for **Paul A. Synnott Jr.**, whose contract as executive vp of the CPCU Society was not renewed recently due to "sincere differences in philosophy," said J. Wesley Ooms, the group's president...A Texas state court judge ordered an **unlicensed health insurance firm** in Arlington, Texas, to shut down its operations. The injunction was issued against Lawrence D. Kenemore Jr., ATG Assn. of Trust & Guarantee, National Employees Trade Alliance, Affiliated Guilds of America and National Employees Trade Assn. Local 101...The U.S. Coast Guard has approved the **First Line** insurance program, which enables shipowners to meet new financial responsibility requirements for **oil spill cleanup**. First Line was established by brokerage Johnson & Higgins and is underwritten by Stockton Reinsurance Ltd. in Bermuda (BI, Oct. 3; July 18)...Under a consent order signed last month by North Dakota Insurance Commissioner Glenn Pomeroy, **Blue Cross & Blue Shield of North Dakota** will send refunds to about 54,000 policyholders and will now calculate copayments to reflect discounts the plan receives from hospitals. The refunds will total \$4 million...Minnesota Department of Health Commissioner **Mary Jo O'Brien**, who played a major role in developing and implementing the Minnesota health care reform initiatives, will resign Jan. 20, 1995. A successor to Ms. O'Brien has not been named...Widening its examination of pharmaceutical manufacturers and **drug benefit management companies**, the Federal Trade Commission is requesting information from several pharmaceutical companies that are involved in alliances with Caremark International of Northbrook, Ill. **BI**

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The Home

Continued from page 1

said Lars-Goran Nilsson, president and chief executive officer of Home Holdings and The Home Insurance Cos.

In Mr. Byrne, The Home has found an investor who had been waiting four years for an opportunity to invest much of the proceeds from Fund American's 1990 sale of Fireman's Fund to Allianz A.G. Holding. During that time, Mr. Byrne has held discussions with six other major insurers but could not agree on terms.

For example, in 1991, Mr. Byrne and Fund American were in discussions to buy troubled Executive Life Insurance Co., which was eventually bought by a group of French investors.

The Home deal meets his investment requirements, he said.

"We think we will make a fair return on our capital," Mr. Byrne said.

The Home has three main attractions, the new chairman said:

- Its current insurance operations.
- Its \$3.5 billion investment portfolio.

The restructuring and new capital that has been injected in the company by Trygg-Hansa SPP Holding A.B., which has been Home Holdings' majority shareholder since 1991.

The company's investment portfolio is pristine, Mr. Byrne said.

The bonds it holds are mainly fixed-income instruments, including A, AA and AAA government bonds of short duration, he said.

"If this bond portfolio had had an

eight- or nine-year duration on Jan. 1, 1994, I can almost guarantee you that we would not be here," Mr. Byrne said.

The company's current insurance operations are also attractive, said Philip F. Petronis, managing director of Marsh & McLennan Risk Capital Corp., which along with J.P. Morgan & Co. sponsors Trident Partnership L.P., one of Mr. Byrne's co-investors.

The Home has restructured its insurance business over the past several years to concentrate on specialty lines and large commercial-account business, Mr. Petronis said.

The combination of the two lines of business gives The Home both a stable book of business through the large accounts and the opportunity to obtain a large underwriting profit from the specialty-line business, he said.

However, The Home still has its problems, Mr. Byrne acknowledges.

The insurer was downgraded by A.M. Best Co., Standard & Poor's Corp. and Moody's Investor Services recently because of its potential losses from long-tail liability business, and the poor performance of its current professional liability business (BI, Nov. 14).

In its nine-month results, The Home reported a net loss of \$131 million after an addition of \$135 million to its reserves.

The professional liability losses were due to a "one-time mistake," Mr. Byrne said. "The business was mispriced, and it has all been repriced now. There's a new management team there and a new pricing team there, so hopefully a problem like that will never happen

'Tis the year for dealmaking

Month	Deal
June	AIG agrees to invest \$200 million in ailing Alexander & Alexander. In complex deal, Gen Re agrees to acquire control of Cologne Re.
September	Swiss Re plans to sell direct insurance units for up to \$4.4 billion. AIG agrees to invest \$200 million in quake-burdened 20th Century.
October	Insurance Partners L.P. proposes investing \$200 million in Continental Corp.
November	Sears announces plans to spin off remaining 80% stake in Allstate Corp.
December	U.S. investors put up majority of \$137.5 million for Charman corporate capital venture at Lloyd's. Home Holdings gets a \$630 million boost to capital. CNA plans to acquire Continental Corp. for \$1.1 billion.

GRAPHIC BY KIM ROME

again," he said.

Regarding the long-tail liability problems, The Home has stated what the problems are, but those problems could still develop over the next 20 years, Mr. Byrne said.

"That is one of the reasons why we are putting in a great deal more money than the company originally asked," to allay any concerns, he said.

When Home Holdings originally announced it was seeking more capital, it said it was looking for \$250 million (BI, Nov. 14).

"The investor group is much more comfortable with \$630 million going in. The company came to the same conclusion, and, of course, the rating agencies will be much more impressed," Mr. Byrne said.

The extra cash should help take care of The Home's long-tail liability problems, he said.

"We think the combination of the \$3.5 billion bond portfolio and its earnings potential, together with our \$630 million of new money gives us ample resources to cover what ever may emerge in the future," he said.

The \$630 million in new capital comes from several sources and will give the investors varying stakes in Home Holdings (see related story).

None of the new money will immediately be added to loss reserves, Mr. Byrne noted.

M&M's involvement in the deal is primarily for the investment opportunity rather than as a bid to save one of its clients' markets, said Mr. Petronis of Marsh & McLennan Risk Capital.

"Our investment in The Home is largely a fiduciary responsibility to our investors in the partnership. We think it is a good investment. It's

also good for the industry and good for the customers, but it is in that order that it comes," he said.

The future strategy of The Home will not change much from that implemented by the current management team led by Mr. Nilsson. The company will continue to maintain its mix of commercial and specialty lines, Mr. Byrne said.

"We don't expect the insurance operations of the company will be much different in five years than they are now, but we would like them to be 50% bigger than they are now," he said.

He projects strong results by the end of the decade.

In the year 2000, the company will have a 70% loss ratio on current business, a 26% expense ratio, he predicted.

The book value of Home Holdings' stock will be \$14.26 per share and it will be selling for \$18 a share, according to Mr. Byrne's projections.

The share price last Friday was \$7.13.

"We are thinking of the company as two separate companies. Those numbers are for the current operations, and we have provided the resources to cover the past," Mr. Byrne said.

Investment strategies may change somewhat, however.

"Now that interest rates have gone up this might be a good time to take a third of the bond portfolio out somewhat longer," Mr. Byrne said.

There will be few executive changes. Mr. Nilsson will remain president and chief executive officer, and the recently recruited Executive Vp Frank Patalano will re-

main chief underwriting officer and head of specialty lines.

Mr. Patalano joined The Home in June from National Union Fire Insurance Co. of Pittsburgh, where he was president of its professional liability division.

"Frank Patalano was one of the reasons why we bought this company," Mr. Byrne said.

The Home is looking to fill the already vacant positions of chief actuary and a head for the corporate claims department.

The new investment group will have five of the 11 seats on the board, and Mr. Byrne anticipates devoting 25% of his time to The Home.

It will be his last major position in the insurance industry, he said.

"This is the last one that I will ever do. This is my swan song. I expect to be chairman of the board until I'm 80 years old or more."

An actuary by training, Mr. Byrne started work at his father's insurance agency. Later, he worked for Travelers for 10 years but was passed over for the job of president.

He then moved to GEICO in 1973. The company was near insolvency, and Mr. Byrne and his management team prevented an insolvency through cost-cutting and other measures.

"When I came in, the GEICO stock was at \$4 a share, close to Home, the stock sunk to \$2 and then went to \$300—so who knows what can happen here," Mr. Byrne said.

In 1986, he moved to Fireman's Fund to turn that around and take it public.

The company was eventually bought by Allianz, and Mr. Byrne

Continued on next page

Where Home's new money comes from

Home Holdings Inc. will be more than half a billion dollars richer under terms of an investment deal reached early this month.

Home Holdings will realize \$630 million in new capital under the terms of the deal. It will come from several sources: The group of investors led by John Byrne's Fund American Enterprises Holdings Inc. will bring \$420 million to the company in exchange for common stock and warrants; Trygg-Hansa SPP Holding A.B., the majority shareholder in Home Holdings, will forgive a \$170 million loan, which in turn will allow Home Holdings to secure a \$170 million bank loan; and a new issue of common stock to existing investors should raise another \$60 million. Around \$20 million will be expended in transaction costs.

The investor group consists of Fund American, which is investing 50% of the \$420 million; Trident Partnership L.P., an investment vehicle made up of Marsh & McLennan Risk Capital Corp. and J.P. Morgan & Co. that is investing 25%; and partnerships associated with Hellman & Friedman, a San Francisco merchant bank, that will make up the remaining 25%.

The \$420 million investment will buy the investment group a variety of holdings in the holding company:

- \$14 million for 2.8 million shares of newly issued Home Holdings Series A Common Stock.
- \$320 million for 3.2 million shares of 13% cumulative-preferred stock with a 15-year term.
- \$73.6 million for 80 million A warrants on a new Home Holdings' non-voting Series C common stock.
- \$12.5 million for 16 million 15-year B warrants which can be exercised into non-voting stock

• \$80,859 will purchase from Trygg-Hansa at the closing 8,085,876 C warrants on Home Holdings' series A common stock.

• \$64,100 will purchase stock appreciation rights with respect to 6,409,960 shares of series B convertible stock of Home Holdings held by Trygg-Hansa.

The final outcome once all of the options have been taken will give the investor group 82% of Home Holdings stock; Trygg-Hansa will hold 6%, down from its current 66% stake; and the remainder of the Home Holdings stock will be held by private shareholders.

—By Gavin Souter

Risk managers winners in Home, CNA deals: Brokers

By SALLY ROBERTS

CNA Financial Corp.'s proposed buyout of Continental Corp. and Home Holdings Inc.'s capital infusion are good news for insurance buyers, brokers say.

Risk managers will likely find The Home Insurance Co. more financially viable in the near future.

The Home received a virtual death sentence when Standard & Poor's Corp. downgraded its claims-paying ability to BBB- from A- and Home Holdings' senior debt to BB- from BBB (BI Nov. 14).

Brokers also foresee better pricing and services as the Continental deal makes CNA a more formidable competitor. However, the buyout would also mean one less insurer to compete for business.

"Continental is a fine company for us, and I hate to see another alternative go away," said Mike Cancelliere, chief executive officer of Acordia of Ohio in Cleveland.

However, "anytime someone ends up strengthened, it affects everyone else around by adding more competition to offer better services and increased efficiencies," he said.

"We're pleased with (the deals) because improved financial conditions mean offering better products," said John O'Sullivan, managing director of Marsh & McLennan Cos. Inc. in New York.

"Broadly, both (deals) provide more capacity, but what's extremely positive is that they will increase competition," agreed Larry Sorensen, executive vp of corporate marketing for Rollins Hudig Hall Co. Inc. in Chicago.

The Home's \$630 million capital infusion will help improve its claims-paying ability and senior debt ratings, brokers say. But until that happens, they add, risk managers will not be comfortable.

"We've moved a chunk of business out of The Home, because clients said to move it," said J. Hyatt Brown, chairman and CEO of Poe & Brown Inc.

The Home will most likely lose even more business during January renewals, said Mr. Cancelliere of Acordia.

But by July, "they may be back together enough" to regain some clients, he added.

The financial changes have made at least one major broker more secure about The Home. With the new capital, The Home has a better chance of keeping the large professional-liability program that Willis Corroon America Inc. places, said CEO Ken Pinkston.

"We were very concerned, but now we feel much better," he said.

"This puts things in a different perspective. We can't say it will definitely stay with them, but their position is much improved."

One thing is for sure, brokers say: Neither deal will affect pricing for January renewals.

"These deals are not going to drive the market," said James M. Herrmann, president of Sedgwick James of Illinois Inc. in Chicago. There is still too much capacity,

he said.

"We have to have a whole lot of companies vomiting blood" before the market turns, said Mr. Brown.

Brokers also say that while the recent developments are more examples of the unpredictable nature of the marketplace, they will cause many risk managers to turn to alternative market strategies.

For the last two years, it has been a "major play" for risk managers to take on more of their own risk, Sedgwick's Mr. Herrmann said.

But, until there is a shortage of investors to help shore up financially strapped insurers, "it's probably going to delay the process" of a major expansion of alternative markets, he said.

While risk managers may not give up on the insurers, the recent deals may leave them pondering.

"The (Continental) Soldier has been there a long time," Mr. Cancelliere said. "From that perspective, some may be wondering whose paper is really going to stand the test of time?"

Insurance DEALS

The Home

Continued from previous page
was left to manage the proceeds at Fund America.

At The Home, Mr. Byrne will not be the principal manager of the business, he said.

"I'm not going to be the manager. But I do find it difficult to not speak up, so I will be somewhere between an intelligent owner and a manager," Mr. Byrne said.

But any cost cutting at The Home has largely been completed since Trygg-Hansa took its majority stake in the insurer in 1991.

"We are not going to be introducing a new cost-cutting program," Mr. Byrne said.

Instead, the company will focus on managing its exposures, he said.

"The most important element is managing the loss ratio."

However, some outsiders think Mr. Byrne will likely continue to trim costs.

"If you look at his track record

with GEICO, you see that GEICO is the ultimate low-cost producer and The Home is not. So expense control could be a big area," said John L. Ward, chief executive officer of Ward Financial Group in Cincinnati.

Mr. Byrne's reputation as a shrewd investor should help improve the reputation of The Home, other observers agree.

Although several analysts are still skeptical about how large the insurer's long-tail liability problems will grow, they trust that Mr. Byrne has analyzed the numbers thoroughly.

"The Home is not an easy problem, but I give Jack Byrne the benefit of the doubt. He's not stupid, and he would have gone in there and turned over all of the stones," said John C. Head, general partner at John Head & Partners L.P. in New York.

The increase in capital and the addition of Mr. Byrne came just in time for The Home, said Charles Ruoff, senior vp at Sedgwick James Inc. in New York.

Most brokers place business with companies that have grades below A- only if the client specifically wants to be placed with the company and is aware of the risk, he said. In the runup to renewal, several Sedgwick clients had indicated that they did not want to renew with The Home, Mr. Ruoff said.

Additionally, excess liability underwriters were unwilling to insure layers above The Home on a program, he said.

Mr. Byrne will likely keep the insurer focused on successful strategies, and the new capital should improve the insurer's rating, Mr. Ruoff said.

"On the basis of what has been done, it should not take long before people are more relaxed about doing business with The Home," he said.

Simply having Mr. Byrne's name on the board will be a significant boost to The Home, said Mr. Ward.

"He should instill confidence in the markets just by his reputation," Mr. Ward said. **BI**

CNA deal

Continued from page 1

CNA independently approached Continental before the Insurance Partners deal was announced, and talks between the two insurers continued for three months, said Mr. Chookaszian. Continental had advised Insurance Partners it was continuing to allow other companies to proceed with due diligence.

Insurance Partners, a fund backed by Robert Bass, Chase Manhattan Corp. and others, will receive a breakup fee of about \$20 million, a fund spokesman said.

What attracted CNA to Continental, said Mr. Chookaszian, were potential operating and marketing efficiencies. "We believe the combined companies can operate at or below the current CNA expense ratio. And that will create very specific expense savings across the two companies."

From 1989 to 1993, CNA's expense ratio was 25.9%, while Conti-

mental's was 32%.

"In addition to that, there are some significant marketing advantages of putting the two companies together, because the overlap within the two agency systems of the two companies are very significant," he said.

CNA has about 2,700 agents and Continental 2,600. Only about 600 are jointly licensed, of which 200 are major producers for both companies. About half of CNA's volume generated by independent agents and half by brokers. Mr. Chookaszian said the company intends to continue to operate within both distribution systems.

The companies' three primary business segments—specialty, commercial and personal—will be integrated in slightly different ways based on their operations, Mr. Chookaszian said.

For instance, while Continental has a strong marine operation through its Marine Office of America Corp. subsidiary, CNA is not particularly strong in that area.

In the professional liability and specialty areas, however, the two companies complement one another. Continental is strong in managed care errors and omissions and the health and professional liability area, while CNA is strong in accountants, lawyers, architects, engineers and dental liability.

And, CNA's strength in the workers comp and general liability area should blend well with Continental's strength in property and package business, Mr. Chookaszian said.

Both companies have been hit hard by environmental liabilities.

In October, Continental said it would strengthen its reserves by \$400 million on a pretax basis by establishing for the first time loss reserves for incurred-but-not reported asbestos, pollution and other toxic tort claims.

And last year CNA announced a \$1.5 billion pretax charge for boosting 1992 loss reserves, primarily related to asbestos claims against Fibreboard Corp. (BI, Feb. 15, 1993).

"I think that every company that has prior commercial insurance reserves has to be concerned about the environmental liabilities," which is why both CNA and Continental have been active in Superfund reform efforts, said Mr. Chookaszian.

Extensive additions to Continental's environmental reserves this year have given it nine years of payout, said the CNA chairman. "I think relative to our peer companies, we are in the ballpark."

CNA has already set goals for cuts in the combined 21,000-person workforce, but will not release the figures until the due diligence team confirms they can be achieved, said Mr. Chookaszian. Both insurers had already been cutting staff.

Headquarters operations will be combined, though the location has not yet been determined, Mr. Chookaszian said.

Financing arrangements are not yet complete.

"We expect it to be some amount of debt and potentially some equity," said Peter Jokiel, CNA's chief financial officer. "We need to finalize the plan, which we'll be working on over the next several weeks."

Mr. Jokiel said the rating agencies, the cost of capital and shareholder's benefit will all be factors in determining how the deal is finally structured. CNA said it intends to invest the total of \$275 million committed as part of the Insurance Partners deal, which included a transaction involving a Continental subsidiary and a stock option, plus the capital infusion.

The Loews Corp., controlled by *Continued on next page*

Deals bolster risk managers' confidence

By SARA MARLEY

Risk managers who were concerned by the deteriorating finances of The Home Insurance Co. and Continental Corp. generally are encouraged by capital infusions the insurers would receive in deals unveiled last week.

For some, though, the changes came too late. Gibson Greetings Inc. is replacing The Home as an excess insurer on its umbrella program, because another insurer refused to continue writing excess of The Home layer, said Carol Fox, corporate risk manager for the Cincinnati-based company.

Gibson had already been reconsidering using The Home in response to its broker's concerns. "The excess carrier made our decision easier," Ms. Fox said.

Although the decision came only a few weeks before Gibson's Jan. 1 renewal, filling the gap will not be difficult.

"Capacity has not been a problem," said Ms. Fox, adding that one of the insurers that had quoted on the account would likely step in to replace The Home.

O'Brien-Kreitzberg & Associates Inc. still has confidence in The Home as its property/casualty insurer but may have trouble convincing its clients that they should, too, said risk manager Lauren Ladd.

The San Francisco-based construction management firm works on several public sector projects.

"For us, it means an added administrative burden to negotiate with our clients' attorneys and risk managers who are reticent to accept anything below an A.M. Best A rating," Ms. Ladd said.

She criticized The Home's parent, Trygg-Hansa, for letting its rating slip below A level. "It's a little disturbing that they don't recognize the kind of scrutiny risk managers and their clients give to the A.M. Best rating," O'Brien-Kreitzberg has a multiyear policy with The Home that expires in July.

The downgrade could also affect the future insurance of O'Brien-Kreitzberg, which is in the process of being acquired by Dames & Moore, a Los Angeles diversified engineering firm. Dames & Moore is primarily self-insured, with reinsurance from Lexington Insurance Co., an A++ rated unit of American International Group Inc.

O'Brien-Kreitzberg is to remain an autonomous entity and keeping

The Home policy would give needed stability during the transition. However, the current rating could make that difficult.

"We like The Home and we like working with them," Ms. Ladd said. "We'd like to retain our relationship with The Home for six months or a year or longer. It would be sad indeed if that pivoted on a change in rating."

While the change in rating to B+ from A- may appear minor, its implications can be devastating.

"An insurer's financial condition is absolutely primary, before coverage," said William J. Kelly, senior vp of Morgan Guaranty Trust Corp. in New York. "You can buy the broadest coverage in the world, but if it's from a weak company, it might not be worth anything."

"One of the things that definitely sends business fleeing is a reduction in rating," Mr. Kelly said. "I'm a great advocate of long-term relationships, but when a downgrade occurs, the insurance can be moved. It's a fiduciary issue. It's one of the few things that can affect a long-term relationship."

Now, several risk managers are optimistic about The Home's future.

"I am extremely excited to see the infusion into The Home," said David Adler of The Portman Cos. in Atlanta. "We are hoping to see a reversal of the downgrade (when the deal is done)."

The Home's claims-paying and debt ratings were lowered on news of poor third-quarter results (BI, Nov. 14). Those ratings are now being reviewed (see story, page 25).

"I am warmed by the fact that the money came from investors close to the industry, capable of doing the due diligence to know how deep the hole is," he said.

Home Holding's ability to raise so much capital—nearly double what it sought—so quickly is also encouraging, Mr. Adler said.

A 15-year client of The Home, Portman renewed a three-year general liability and primary property policy in August. The package covers more than \$1 billion in insured property (BI, April 26, 1993).

The downgrade was bad news for Portman, a real estate development and management company, because many lenders, particularly mortgage companies, require the properties to be insured by highly rated companies.

"I had some concerns," Mr. Adler said. "I put management on notice

that they had been downgraded by S&P and Best. Our preliminary response was a limited wait and see."

Mr. Adler said he bases his insurance decisions on the ratings of at least two agencies as well as the advice of the company's brokers.

Portman's program was re-marketed this year, but Mr. Adler opted to remain with The Home.

"The real estate industry has gone through some challenging times financially, and The Home stuck it out with us," Mr. Adler said. "They didn't knee-jerk with us, and we're not going to knee-jerk with them."

With a Best rating of B+, Home's policies are no longer considered accepted insurance for non-New York contractors bidding on some construction projects in New York City, said Lindsay Newland Bowker, risk manager for the New York Department of Environmental Protection.

The agency oversees \$1.2 billion in construction projects annually for New York City—primarily related to the sewer and water authority—and ensures that contractors have proper insurance and bonding where appropriate.

Generally, insurers of out-of-state contractors are required to have a Best rating of A or above. Insurance from companies rated A-, though, will be approved conditionally.

New York contractors are not subject to the requirement, since they must buy insurance from companies licensed by the New York Insurance Department, Ms. Bowker said. In Ms. Bowker's eight-year tenure, this is the first time an insurer has been acceptable for in-state contractors but not for out-of-state, a situation which will remain until The Home's rating changes.

"It's not practical for any risk manager to second-guess a responsible regulatory authority," Ms. Bowker said. "There's no way any risk manager can take the time to do a proper analysis of the adequacy of a capital infusion."

Last week's other major deal, CNA Financial Corp.'s acquisition of Continental, is of less concern to Ms. Bowker.

She views CNA as a leader in the architects and engineers professional liability area, even citing the insurer's form as the standard of cover.

"It's a coincidence that two fine companies happen to be in the news for related situations," Ms. Bowker said of The Home and CNA. "It will not shake our confidence in the

long-term quality of their underwriting or products they provide."

Both The Home and CNA participate in Bankers Trust New York Corp.'s insurance program, but the company will not take immediate action on either insurer, said Doug Hoffman, managing director. Neither insurer is a major player on policies that renew in January, he added.

Three years ago, Bankers Trust implemented an internal review process based on three ratings, financial ratios, capitalization, surplus and whether an insurer is quoting on a long-tail or short-tail risk.

"Rather than make a black and white decision on ratings alone, we look at the trends of insurers' soundness," Mr. Hoffman said. "I don't think a risk manager can rely entirely on ratings. That's a lesson learned in the last several years by observing the speed at which ratings changed or the slowness with which they did not change."

Bankers Trust applies its formula to 50 to 60 insurers per year, including the reinsurers of its captive and Lloyd's of London syndicates.

"I can't deny that it's labor intensive, but it's an important investment," Mr. Hoffman said.

Risk managers agree that last week's transactions will not impact rates.

"Competition is so strong that it will take a lot more than this" for prices to rise, said Morgan Guaranty's Mr. Kelly. "There is a tremendous amount of capital out there."

"There is still rampant enough competition that some markets combine, but other markets emerge," said Jeffrey Pettegrew, director-risk management for Western Temporary Services in Walnut Creek, Calif.

"It's just another acquisition and another capital infusion," said Scott Lange, risk manager for Microsoft Corp. in Redmond, Wash. "I don't think a combination of CNA and Continental would significantly change the landscape of the domestic insurance marketplace."

"There are probably more in the works as insurers have to fess up on their services," he said. "The industry has successfully put off long-term, significant problems, particularly in the environmental area."

The Home writes a portion of Microsoft's excess liability coverage, but "they are far enough from the action in my case that (the downgrade) was fairly ho-hum." **BI**

Insurance DEALS

CNA deal

Continued from previous page
the Tisch family, owns 84% of CNA's stock and is expected to own about more than 80% of the combined company.

CNA's offer of \$20 a share represents a steep discount to Continental's \$24.75 a share book value as of September.

Analysts generally reacted favorably to the news, though with some reservations.

"It's a very bold plan," said Peter M. Mahon Jr. of Piper Jaffray Inc. in Minneapolis. "I think each company has challenges in their past books of business and a question mark that applies to future earnings given the future of reserves. Putting them together doesn't cure either of their issues, but it does put them in a stronger position if they streamline and consolidate."

"I think it's got to be rated an even chance," said Mr. Mahon, evaluating the likely success of the acquisition. "I don't think it's an insurmountable task."

Execution will be the key, said Ron Frank of Smith Barney Inc. in New York. "On the surface, it seems sound, but they haven't shared numbers on projected expense savings and, of course, it hinges on whether they got to the right answer vis-a-vis the reserves. So I would say the concept strategically makes sense and whether it makes financial sense rests solely on the execution."

The corporate culture issue is a "potential drawback," said Salomon Bros.' Mr. Frinquelli, who is enthusiastic about the deal.

Since Loews Corp. bought CNA in 1974, "it's been a very tightly run organization." On the other hand, he added, Continental can be described as "much more employee friendly."

"There might be some awkwardness," said Mr. Frinquelli, though he added: "I don't think that'll be a massive issue."

"I think it's a very smart move by CNA," said Russell Miller, of Rus-

sell Miller Inc. in San Francisco, an investment banking firm specializing in the insurance industry.

"Embedded in Continental are some very valuable businesses as well as some high-quality technology that, if exploited properly in a new low-cost environment, will create substantially new value to CNA," he said.

Because these businesses had been "glued together by an entity called Continental, they aren't functioning as well as they could," Mr. Miller added. "Now that CNA will go in and rationalize each business and see how it fits within the present CNA structure, those values will be enhanced."

"It's like digging a carrot patch. You've got to pull the carrots. You can't just look at the patch," he said.

Mr. Miller noted also that the Tisch family had successfully turned around CNA, buying it cheaply and winning back its stake in a relatively short period of time.

"You're dealing with people who know what they're doing" and have

experience in taking over a new company, bringing in management to change an existing culture and making a profit at it, Mr. Miller said. "Now at least that they have all that talent arrayed, they know how to do it."

As for Continental, "A lot of the fixes that needed to be made at Continental were in the process of being made, so I think it's a very timely acquisition," said James Ramenda, an analyst with Northington Partners Inc. in Avon, Conn.

"I think there are tremendous unlimited potential benefits of combining the two companies from a franchise value perspective," said John L. Ward, chief executive officer of the Ward Financial Group in Cincinnati.

"You have very complementary geographic markets, lines of business and distribution systems, and the Continental acquisition would have more value to a company like CNA" than it would to an investor group because of the potential value in the economies of scale resulting from consolidation.

"I would expect that there will be significant consolidation of operations over time as the deal is completed and the merger is integrated," Mr. Ward said.

There are potential downsides to the deal for Continental, though, said one analyst.

The Insurance Partners deal would have let Continental develop as a specialty underwriter, rather than part of a broad-based national organization, said Robert Branche of Branche Research Group in Morrisville, Pa.

Because the insurance industry has changed, "investors should be more in the specialty companies and not in the broad line companies, such as the Hartford companies," said Mr. Branche. "There's no reason for investors to be looking at that kind of company when there are other, better alternatives."

In still other quarters, there was talk of CNA-Continental being a landmark deal.

"We've been saying for several years that the insurance industry does need to consolidate and focus

on getting its cost base under control," said Alan Levin, managing director at Standard & Poor's Corp. in New York. "This is really the first illustration of it happening and, more importantly, the companies that have not done this yet who we believe still suffer from an inappropriate cost structure are at a competitive disadvantage."

Others focused on the caliber of the people involved in the recent deals, such as Insurance Partners, Robert Spass, Laurence Tisch and John J. Byrne, who has just invested in Home Holdings Inc. and become its chairman.

"I think we're seeing the dawning of a new era here where smart money is coming into the insurance business," said Gloria Vogel, senior insurance analyst at Ladenburg, Thalmann Inc. in New York.

"These traditionally have been smart buyers, and I think what they're seeing is attractive valuations in the industry and the franchise values of these companies, and I would suggest we may be seeing the beginning of the long-awaited consolidation trend," Ms. Vogel said.

Mr. Miller, however, cautioned against viewing the current deals too broadly. "None of these things moves like waves through an industry as much as people would like to envision it. It's a company-by-company reform. It doesn't flow through like a tsunami."

The Continental and Home deals, though, are good for policyholders, said Barbara Stewart of Atlanta consulting firm Stewart Economics.

"The rescues of those two companies, Continental and The Home, are wonderful news for policyholders because the capacity that they have will now stay in the market and it will be much better capitalized capacity—there will be more certainty regarding the ability of those companies to pay claims."

"On the other hand, that also means that those rescues are bad news for competitors, simply because the capacity is going to stay there... It will prolong the soft market."

BI

Big buyouts

B.A.T Industries ♦ Farmers	in 1988	valued at \$5.2 bil.
Primerica ♦ Travelers	in 1993	valued at \$4.0 bil.
Kohlberg, Kravis, Roberts ♦ American Re	in 1992	valued at \$1.4 bil.
Xerox Corp. ♦ Crum & Forster	in 1983	valued at \$1.3 bil.
Allianz ♦ Fireman's Fund	in 1990	valued at \$1.1 bil.
CNA ♦ Continental Corp.	in 1994	valued at \$1.1 bil.
General Re ♦ Cologne Re*	in 1994	valued at \$935 mil.
Trygg-Hansa ♦ Home*	in 1991	valued at \$740 mil.
Zurich ♦ Maryland Casualty**	in 1989	valued at \$740 mil.
St. Paul ♦ Economy Fire & Casualty	in 1993	valued at \$420 mil.

*Acquired majority stake or control, not entire company.

**Included other American General Corp. units.

GRAPHIC BY JERRY PARKS

Better ratings likely for Home, Continental

By DAVE LENCKUS

An extended soft property/casualty insurance market will be a likely byproduct of CNA Financial Corp.'s acquisition of Continental Corp. and Home Holdings Inc.'s cash infusion plan, say executives at several insurer rating agencies.

The increased profitability that the deals should bring CNA and The Home is likely to give them greater flexibility to win more business with lower rates. Other insurers would be forced to fend off that competition or lose market share, the rating agency executives say.

However, at least one analyst says he does not believe the deals were made to throw good money after questionable underwriting.

Instead, he predicts the two insurer groups, which together wrote more than 8% of the industry's \$119.84 billion of net commercial premiums in 1993, will raise rates and lead insurers out of the soft market.

In the short term, rating agencies say the CNA/Continental deal poses potential debt problems for CNA. But they like the immediate impact of the two deals on Continental and The Home.

A.M. Best Co. of Oldwick, N.J., placed CNA's A rating "under review with developing implications." Continental's A- rating, which Best

first placed under review in June with negative implications, now is under review with developing implications.

Standard & Poor's Corp. of New York placed CNA's A+ senior debt rating and the claims-paying ability ratings for CNA property/casualty and life/health subsidiaries' intercompany pools on CreditWatch with negative implications. S&P placed Continental's BBB- senior debt rating and A- claims-paying ability rating on CreditWatch with positive implications.

Moody's Investors Service of New York similarly is reviewing its ratings for CNA and Continental.

Meanwhile, Best placed Home's B+ rating "under review with positive implications."

Moody's placed Home's Ba2 senior debt rating and the Baa3 financial strength ratings of its subsidiaries on review for possible upgrades.

Under the CNA deal, the Chicago-based company would acquire New York-based Continental for \$1.1 billion, or about \$20 a share. CNA also would invest \$275 million more in Continental to replace the cash infusion that Insurance Partners L.P. had committed in a previous deal that now has been scratched. The Home's plan would raise about \$630 million of new capital (see stories, page 1).

Several rating agency executives

say that those two deals, as well as other significant insurer deals within the past 15 months, show that insurers are trying to drum up more profits without raising rates.

Other significant deals include Primerica Corp.'s acquisition of Travelers Corp. (BI, Sept. 27, 1993) and American International Group Inc.'s \$200 million bailout of 20th Century Industries (BI, Oct. 3).

"This industry is attempting to enhance its profit margins every way possible except by increasing rates," observed Jack Snyder, senior vp of Best's property/casualty division. Those approaches include strengthening balance sheets, paring expenses and shedding unprofitable lines of business, he said.

Referring to the CNA deal, Mr. Snyder said, "It's got to get the peripheral players scared and the other market leaders concerned because you're putting together big teams here."

In 1993, CNA wrote nearly \$4.65 billion in net commercial lines premiums and Continental wrote almost \$3.37 billion, which merged would be the largest U.S. writer of commercial lines business, according to Best's figures. Indeed, their combined commercial writings last year were 19.6% larger than the \$6.69 billion written by market leader AIG.

The deal not only would give

CNA a size advantage but also would likely help it shrink its already diminutive cost structure, giving it an even greater competitive advantage, rating agency executives said.

CNA's 1993 overhead expenses, which exclude loss adjustment expenses and commissions, represented 8.4% of its net written premiums, compared with 12.7% for the industry, according to S&P. Continental's cost structure is much more bloated at 13.7%.

Underwriting expense ratio comparisons are comparable. Over the five-year period from 1989 through 1993, CNA's ratio was 25.9%, Continental's was 32% and the ratio for a peer group of companies was 28.4%, according to insurer analyst Ward Financial Group in Cincinnati.

Rating agency executives believe that the synergies in the insurers' books of business mean there are numerous redundant operations that could be shed, which could even further pare expenses at the merged company.

Insurance buyers as well as the insurance industry could benefit if more insurers made similar deals, according to Alan Levin, a managing director at S&P in New York. "Too many companies are competing with irrational cost structures," he said.

Mr. Levin believes the CNA deal

could spark similar deals among insurers that now find themselves at a competitive disadvantage.

Keith M. Buckley, a vp in Chicago with Duff & Phelps Credit Rating Co., concurs. He points to financial pressure on insurers from the continued soft market, large catastrophe losses and reserving provisions for environmental liabilities.

The resulting leaner industry could give insurers more flexibility to compete for business, Messrs. Buckley and Levin said.

But at least one insurer analyst expects that CNA and The Home will use their market-share muscle and new financial strength to pull the insurance industry out of the soft market.

"I think pricing will ricochet upwards," said John L. Ward, chief executive officer of Ward Financial.

Management at both companies will likely "impose more pricing discipline" to ensure that their new investments do not go for naught, Mr. Ward said. "These guys are not out to lose money. Neither would be making these moves if they planned to continue cost cutting," he said.

Noting that CNA's commercial market share would jump to almost 6.7% from less than 3.9%, he observed, "When market share goes up, sometimes prices do, too." Insurers then will likely follow CNA's and The Home's lead, he said.

BI

Fund loss

Continued from page 1

When they did, the securities backing the reverse repos dropped in value and the county's counterparties in the deals demanded additional collateral.

Meanwhile, the fund started taking a beating on investments—as much as \$7 billion—worth by some estimates—in “inverse floaters,” exotic securities whose value declines as interest rates rise.

The potential losses may leave Mr. Citron and other county officials with greater liability exposure than officers of Procter & Gamble Co., who were sued by shareholders after the company lost \$157 million last year in derivative investments (*BI*, May 9).

Because Procter & Gamble's derivatives exposure was part of a balanced investment portfolio, the directors and officers can probably mount a successful “business judgment rule” defense, said Philip Norton, head of the national directors and officers practice at The Wyatt Co. in Chicago. Courts will generally not hold directors and officers liable for making ordinary business decisions.

“In the case of Orange County, we don't have that same situation,” he said. “You don't have a business judgment rule, I don't think, so you're definitely looking at some potential liability there and probably some government official having to kick in some money.”

“Because of the difference in magnitude—bankrupt—vs. what is basically a minor loss to Procter & Gamble, Orange County probably had way too much invested and the courts may not feel it is defensible using the business judgment rule,” Mr. Norton said.

Still, the pool's long record of successes—returns better than 10% for 15 years under Mr. Citron before rising interest rates reversed fortunes—may provide the basis for a defense against claims.

“Orange County's going to be able to show that they've made so much money off of that fund, far more than any loss, so I don't see how anybody could sustain a taxpayer suit,” said Thomas L. Vance, risk manager for Anaheim, Calif., which has \$169 million in the investment pool.

Either way, the situation might prompt many public entities to examine how they cover public officials liability, said D&O liability specialist Dan Bailey, a partner with the Columbus, Ohio, law firm of Arter & Hadden.

Public officials liability policies typically have lower limits than the D&O policies of large publicly held companies, Mr. Bailey said. “The reason for that is that typically the exposures are lower.”

But, in a case like this one, “where there is a catastrophic loss, you have the potential for huge, huge personal exposures,” he said. “When you have that kind of loss, regardless of what the immunities are, you've got to believe there is the potential for some high levels of exposure.”

Orange County officials contacted had no information about the county's coverages.

It is likely that the county self-insures its public officials liability exposure, though it may have excess coverage from a commercial insurer.

“Very few public entities in California have commercial insurance any more,” Anaheim's Mr. Vance said. “They're either self-insured or they're in pools.”

Orange County does not buy ex-

cess coverage from a pool administered by the California State Assn. of Counties, said Steve Swendiman, executive director of the association.

Even if the county has public officials liability coverage, its policy may well not apply to the type of liability it potentially faces.

Typically, public officials liability policies exclude errors and omissions for a bad investment, explained Sal M. Bianchi, executive director of the Intergovernmental Risk Management Agency, Oakbrook Terrace, Ill. “Those are standard exclusions. They just don't want to insure for investment results.”

But, he added, “it's possible to say they did not live up to recognized, standard investment practices. That's a horse of a different color. They might be covered for that.”

While greater in magnitude, the Orange County debacle is not unlike other major investment losses in the past decade that prompted government entities to sue investment firms and win settlements from them. Many corporations that sustained losses in derivative investments recently also have sued securities firms.

The Memphis Housing Authority, for example, sued three securities firms in the mid-1980s over losses in investments the authority charged were improper. Ultimately, the authority settled with two of the firms, before winning a jury verdict against the third and settling that case as well.

Martin H. Aussenberg, the Memphis, Tenn., securities lawyer who represented the housing authority in that suit, said Orange County might fare similarly.

“There's no question that Merrill is in hot water on this one,” he contends. Merrill Lynch had no involvement with the Memphis dispute.

The potential liability for Merrill Lynch and other advisers for the Orange County losses revolves around the suitability of the investments and whether they are in keeping with the jurisdiction's investment guidelines.

“The issue becomes whose responsibility is that,” Mr. Aussenberg said. “Clearly it's the (jurisdiction's) money manager's. However, there have been a number of cases over the past several years that have indicated it is also the broker's.”

“People buy securities basically because securities dealers sell them to them,” said George A. Nielsen, president of American Money Management Associates Inc., a Denver-based government cash management firm. “You don't come in in the morning and say, ‘I need to buy an inverse floater. I'm a little light on inverse floaters.’”

Dealers' expertise brings with it an extra layer of legal responsibility, Mr. Aussenberg suggests. He said he'd expect to see settlements with securities firms, “although a loss of the kind Orange County is exposed to might not be settleable because it's so high.”

Merrill Lynch officials deny any wrongdoing in the firm's dealings with Orange County, and cite their 20-year relationship as evidence of their knowledge of their client.

In a statement sent Dec. 8 to all Merrill Lynch employees, Daniel P. Tully, the company's chairman and CEO, said he's confident the company acted “properly and professionally at all times” in its dealings with Orange County.

“At no time did Merrill Lynch act as Orange County's investment adviser,” Mr. Tully wrote.

“In fact, Orange County has substantial access to research and analysis as well as sophisticated and professional financial managers, and has the resources to develop its own research strategies and make its own highly informed investment decisions.”

Mr. Tully's statement also contends that the reverse repurchase agreements and other financial instruments Merrill Lynch sold the county fund all fit within California and Orange County investment guidelines.

And Mr. Tully discounted suggestions that both underwriting Orange County note sales and selling investments to the county was an unusual relationship between a Wall Street firm and a governmental entity.

Merrill Lynch would not discuss its coverage.

Recently, though, Carolyn Simpson, vp and director of risk management and insurance for the firm, said it has been moving away from traditional insurance, and “using a lot of self-insurance.”

Officials at the company's Vermont captive, Investor Protection Insurance Co., would not comment.

All-risk errors and omissions coverage would protect the firm, its employees, and its directors against claims from services they performed for a fee.

But few major financial institutions—less than 30%—carry such coverage, said Steve Schluter, vp at Minet Financial Services Group in New York.

Orange County was preparing Dec. 8 to sue the Wall Street counterparties in its reverse repurchase deals to block them from selling securities involved in those deals. Several firms had already moved to sell billions of dollars worth of those securities after its bankruptcy filing.

Preventing that liquidation was one of the county's two objectives in filing for Chapter 9 bankruptcy, “because that's what's really causing the losses,” said Timothy T. Brock, partner and head of the creditors' rights, bankruptcy and restructuring practice group at Mudge Rose Guthrie Alexander & Ferdon in New York.

The second objective was to allow the county to arrange for an equitable and orderly payment to investment pool participants.

“I don't think they're going to achieve much with respect to that first objective,” Mr. Brock said.

Until funds are distributed to pool participants, some jurisdictions may be unable to meet scheduled debt service payments, which could cause losses for municipal bond insurers.

Those losses will be limited, however, according to Richard P. Smith, managing director at Standard & Poor's Corp. in New York.

“We're comfortable that all the insurers have limited enough exposures that if they would have to pay any claims it wouldn't jeopardize their ratings,” he said.

While it's likely some will end up paying claims, “from the bond insurers' perspective the biggest problem is a very short-term problem,” Mr. Smith said.

While a lack of access to funds placed with the Orange County pool might cause some jurisdiction problems making bond payments in the next month, new revenue coming in will provide them the cash needed to make future debt service payments.

“If (the bond insurers) do pay any claims, they will be small in number,” he said. “They won't have to pay claims over the next 15 years on these issues.” **B**

Updates

Deferred compensation ruling

SAN FRANCISCO—Employers cannot take tax deductions on contributions to non-qualified deferred compensation plans until the benefits are paid out, the 9th U.S. Circuit Court of Appeals has ruled.

Under an agreement between J. Albertson's Inc., a Boise, Idaho-based grocery store chain, and its top executives and others, the company deferred payment of certain compensation, including salaries and bonuses. It also credited participants with additional amounts—called a time-value of money component. Participants could receive the entire amount at the end of employment or their retirement.

In 1983, the Internal Revenue Service allowed Albertson's to take current year tax deductions for the plan's time-value of money component. In 1987, though, the IRS reversed itself, allowing deductions only when employees actually received the money.

Albertson's lost in U.S. Tax Court but won before the 9th Circuit in 1993. The IRS asked for a rehearing, arguing that in setting different tax treatments for qualified and non-qualified plans, Congress wanted to encourage the establishment of qualified plans that do not favor highly compensated employees.

On Dec. 5, the appeals court reversed. “The extensive regulations Congress has imposed upon qualified plans would serve little purpose unless employers had an incentive to adopt such plans,” wrote Judge Stephen Reinhardt. “(That incentive is) significantly more favorable tax treatment of qualified plans than of non-qualified ones.”

Mid Ocean results improve

HAMILTON, Bermuda—Gross written premiums rose 39%—to \$358.6 million from \$257.5 million—at catastrophe reinsurer Mid Ocean Reinsurance Co. Ltd. for the year ended Oct. 31.

Net operating income for its second year of operations soared 96%—to \$109.2 million from \$55.7 million—despite loss provisions of \$95 million for the Northridge earthquake. Vp and Treasurer John M. Wadson attributed that increase partly to increased business and partly to increased earned premium as the company matures.

In the quarter ended Oct. 31, Mid Ocean added \$22.6 million to the \$72.4 million it had already set aside for earthquake losses.

Hunter's future job uncertain

AUSTIN, Texas—Former Texas Insurance Commissioner J. Robert Hunter will be considering at least “seven or eight” options for future employment after he returns to the Washington area this week.

Mr. Hunter, an outspoken insurance industry critic who founded the Washington-based National Insurance Consumer Organization, resigned from the commissioner's post effective yesterday after Democratic Gov. Ann Richards' defeat in the Nov. 8 election (*BI*, Dec. 5). When asked whether he will return to NICO, which is now headed by Kathleen O'Reilly, Mr. Hunter said, “I haven't really gotten that far.” “I'd like to reflect on what I want to do with the rest of my life. I took two weeks 20 years ago and came up with NICO,” said Mr. Hunter, who served as acting federal insurance administrator during the Ford and early Carter administrations in the mid-1970s. He said he remains interested in mediating tribal disputes in Africa, a volunteer mission in which he has had success, but added that he still has college tuition to pay for his children.

Hospitals settle charges

NEW YORK—Eight Long Island hospitals, organized as Classic Care Network Inc., are pledging not to obstruct hospital discounts as part of a settlement of price-fixing charges brought by the U.S. Department of Justice.

In a suit filed in federal district court in Brooklyn, N.Y., the department accused the hospitals of setting up the network as a way to resist cost-cutting efforts by managed care plans. The network ensured that all HMO agreements were approved by all group members, the suit alleged.

“This is an extremely important settlement for health care consumers. It promotes competition between hospitals on Long Island that seek to provide care for patients enrolled in HMOs and managed care plans,” said Anne K. Bingaman, the assistant attorney general who heads the department's antitrust division.

Briefly noted

Self-managed captives and other insurance operations can be established under the 10% corporate tax in the International Financial Services Centre of Dublin, Ireland, for another six years under an extension granted by the European Commission. . . . U.S. District Court Judge Kimba Wood on Dec. 2 increased an earlier patent infringement award against Nintendo of America Inc. to \$250 million from \$208 million (*BI*, Aug. 22). Lawyers for Nintendo said they will appeal the award, which favors bankrupt Alpex Computer Corp. . . . The U.S. Supreme Court last week declined to hear an appeal by W.R. Grace & Co. of a May ruling by the 2nd U.S. Circuit Court of Appeals that asbestos makers facing property damage claims can only tap coverage that was in place at the time of installation (*BI*, May 23). . . . A motion seeking to rescind the sale of bonds from the Executive Life Insurance Co. portfolio will be heard Wednesday by a California appellate court. The motion was filed by the underwriters of the junk bonds after they learned that the portfolio's value had appreciated by more than \$2 billion (*BI*, March 21). . . . Alexander & Alexander Services Inc. has completed the \$20.9 million transaction ending certain indemnity obligations to Sphere Drake Insurance Group (*BI*, Nov. 14). . . . Maryland's Health Services Cost Review Commission, which sets hospital rates there, has ordered reductions in the annual rate increases permitted Maryland hospitals. The move is expected to save patients and insurers at least \$132 million over the next two years.

Disney

Continued from page 3

understand it your employees understand it," he advised other employers that may be introducing managed care for the first time.

If and when there is another vote, Disney will place less emphasis on written explanation of its proposed benefits package and instead hold small group discussions, Mr. Ward said.

While Disney is a profitable company, the park in Florida has spent about \$103 million on health benefits in 1994, up from \$93 million a year earlier, Mr. Ward said.

Disney posted \$1.1 billion in net income for fiscal 1994, compared with \$890 million a year earlier. However, the company reports that much of that growth is attributed to its film division. The theme park division reported flat revenue and an 18% decline in operating profits, according to Disney.

Profitability "is not an excuse for not controlling your labor and health costs," Mr. Ward said. "It's the same problem everyone has and that is controlling labor costs and health costs specifically."

Benefit consultants say employers are watching the continuing Disney negotiations to see what they might bode for their firms.

"Just from a practical sense every large employer looks at what Disney is doing," said Barney Chepenik, president of Orlando consulting firm Chepenik & Associates.

However, that does not mean every employer follows suit.

"Most employers in this town don't pay 100% (of the health care premium)," Mr. Chepenik said.

Disney workers are carrying their campaign for a new contract to an unprecedented level. They distributed leaflets to tourists and hired a plane that flew over the amusement park trailing a banner reading "High prices, low wages. Why Disney?"

From the beginning, rank-and-file members have sat at the negotiation table with Disney and labor leaders, said Mr. DePirro of Service Employees International Union. During the early stages the negotiation room even had a "peanut gallery" where any union member could watch the process.

Mr. DePirro said it is a new strategy, key to bolstering the union movement by increasing worker participation and eliminat-

ing their suspicion of top-down decision making.

Mr. Ward called it an annoying tactic.

Before members rejected Disney's third offer, union leaders said they felt they were successful in negotiations because they persuaded Disney to pay 100% of the premium for employees that enroll in either a health maintenance organization or point-of-service plan, both of which would be administered by Prudential Health Care Plan Inc.

But 62% of the voting union members rejected that most recent offer.

"We're in this delicate situation where we're trying to be realistic about what we can achieve," Mr. DePirro said. "We're trying to get across to (the workers) there is a power relationship. A lot of people don't understand that."

The vote gave union leaders the right to call a strike, but so far it has only sent negotiators back to the bargaining table. It also pushed the union leadership into uncharted waters and forced them to apologize to members for miscalculating their position.

Under the contract offer, Disney is offering employees a choice between an HMO, for which no premium contribution would be required for dependents, or a POS plan that would be free to employees, but require a contribution for dependent coverage. For example, under the POS plan, employees with one dependent would contribute \$1.42 per month, while those with two or more dependents would pay \$2.48 per month.

Disney also offered to make three other indemnity plans available, but employees would make premium contributions, copayments and be subject to deductibles.

Disney is self-insured and Newport Beach, Calif.-based PPO CAPP CARE Inc. would act as a third-party administrator.

Additionally, Disney offered a 3% annual salary increase for the next two years followed by a 4% yearly raise in the following two years.

Union leaders said they liked a four-year contract instead of a usual three-year agreement because it allowed them to soften the impact of annual increases in employee contributions.

For example, in the fourth year of the contract, employees enrolled in the POS plan would contribute \$5.65 per month for employee-plus-one dependent coverage and \$9.90 for two or more dependents.

Among the workers covered in the negotiations are those who play the famous Disney characters, as well as food servers and kitchen workers, laundry employees, makeup specialists and grounds workers.

Mr. DePirro said the workers—many of whom earn less than \$9 an hour—feel the raises they are being offered are insufficient if they must pay more for their health care.

They are also angered because many cannot afford to live near the park and instead live in outlying areas where PruCare facilities are few and far between, he said.

PruCare declined to comment, citing Disney's continuing negotiations.

With managed care firms growing so rapidly, access to the providers is a common concern among employees, said Robert Krinsky, chairman of Segal Co. in New York.

"It doesn't have to be in (labor) negotiations," he added. "It can be a sticking point for executives accepting an HMO."

Other labor leaders said employees nationwide could find themselves facing similar conflicts over health benefits as workers become increasingly insecure.

That is why labor pushed for health care reform at the federal level, they said.

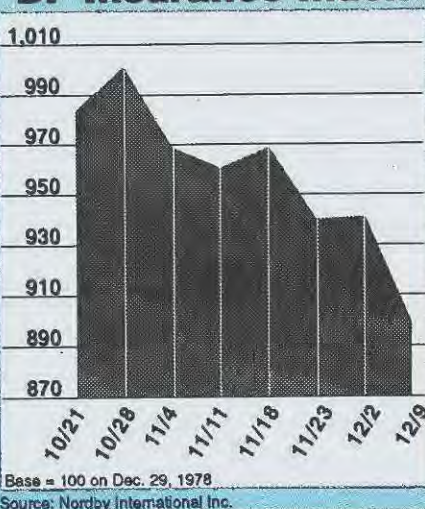
"It's a quagmire," said Bud Fisher, director of the Construction and Maintenance Department of the International Brotherhood of Electrical Workers in Washington. "It's something that is on the front burner at every conference we have. It's health care, health care, health care. Workers are scared."

"We're at a point where people really can't give anymore, especially for people at the lower end of the pay scale," said a spokeswoman for the 1.1 million-member Service Employees International Union in Washington. "I think more and more workers are going to be drawing the line, especially on companies that are paying for benefits and are doing fine."

A 1993 survey of the union's members found that 80% on average contribute toward the cost of their family's health care coverage, the spokeswoman said.

The percentage of large businesses offering fully paid health benefits for employees dropped to 41% in 1991 from 51% in 1988, according to the U.S. Department of Labor. Employer-paid first-dollar family coverage dropped from 32% to 26% during the same period.

BI Insurance Index



Insurance stocks tumbled last week, as the *Business Insurance Index* fell 42.6 points to 899.1 Dec. 9 from 941.7 on Dec. 2. Advancing issues for the week were led by: Continental Corp., up 31.6%; Home Holdings Inc., up 7.6%; and HCC Insurance Holdings, up 6.7%. Declining issues for the week followed: Humana Inc., down 11.6%; United HealthCare Corp., down 11.4%; and U.S. Healthcare, down 11.2%. The most active issue was U.S. Healthcare, 14.3 million shares traded. The *BI Index* fell 4.5%; the Dow Jones 30 Industrials lost 1.5%; the NYSE Composite fell 1.6%; and the Standard & Poor's 500 fell 1.4%.

British Issues

Dec. 8 Companies	Price pence	P/E	Div. pence	Yield %	1 week high-low
Comm Union	502	16.0	31.0	6.2	520-502
Genl Accident	512	10.2	34.4	6.7	525-512
Gdn Royal Exch	79	11.5	9.5	5.3	179-176
Independent	244	8.0	10.4	4.3	244-241
Royal	286	12.4	9.4	3.3	289-283
Sun Alliance	305	13.7	13.4	6.0	310-305
Brokers					
Bradstock	91	10.2	6.9	7.6	91-91
Fenchurch	160	11.2	10.0	6.2	160-159
CE Heath	244	8.7	20.0	8.2	245-244
JIB Group	120	10.5	9.4	7.8	120-120
Lloyd Thompson	164	11.4	9.8	6.0	165-164
Lowndes Hmbrt	172	10.9	9.4	5.5	174-172
Nelson Hurst	175	17.1	7.0	4.0	175-175
PWS Holdings	36	N/M	1.9	5.3	36-36
Sedgwick Grp	149	16.6	7.5	5.0	149-149
Steel Brl Jones	120	N/M	11.3	9.5	120-120
Willis Corroon	139	12.7	8.3	6.0	140-139

Source: Philip Olsen, London * Latest actual year

BI Industry Stock Report DEC. 5, 1994, THROUGH DEC. 9, 1994

BROKERS																																	
	Price	Weekly % change	Year to date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value		Price	Weekly % change	Year to date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value										
Accordia Inc.	NYS	29.75	1.71	20.81	30.00	23.00	10	0.60	2.02	15	13.24	2.25	NAC Re Corp.	NDQ	25.75	0.98	-11.59	32.00	24.00	340	0.16	0.62	13	19.75	1.30								
Alexander & Alexander	NYS	19.00	1.33	-4.40	22.75	14.00	141	0.10	0.53	-146	6.08	3.13	National Re Corp.	NYS	24.00	0.00	-21.63	32.88	22.25	42	0.16	0.67	10	17.31	1.39								
E.W. Blanch Holdings Inc.	NYS	18.63	-3.25	7.19	23.00	15.75	24	0.32	1.72	16	4.55	4.09	Navigator's Group	NDQ	14.50	0.00	-58.57	36.00	14.25	13	0.00	0.00	-4	10.21	1.42								
Gallagher Arthur J. & Co.	NYS	31.00	-1.98	-13.29	37.13	28.13	84	0.88	2.84	16	6.48	4.78	Nobel Insurance Ltd.	NDQ	8.13	0.00	6.56	8.75	7.63	33	0.20	2.46	4	6.84	1.19								
Hibb, Rogal & Hamilton	NYS	11.25	-2.17	-14.29	13.63	11.13	43	0.56	4.98	14	4.72	2.38	NWNL Companies	NYS	27.13	-1.81	-16.54	34.50	27.00	143	0.90	3.32	9	24.81	1.09								
Marsh & McLennan	NYS	75.25	2.91	-7.53	88.75	71.25	455	2.90	3.85	15	19.40	3.88	Ohio Casualty Corp.	NDQ	29.00	0.00	-9.02	33.75	26.50	250	1.46	5.03	10	24.68	1.18								
Poe & Brown	NDQ	19.75	-3.07	9.72	22.75	16.88	3	0.48	2.43	13	4.49	4.40	Old Republic Int'l	NYS	18.88	-0.66	-16.11	24.50	18.88	395	0.48	2.54	7	24.60	0.77								
BROKERS AVERAGE		-0.6	-0.3					2.6	-8				Orion Capital Corp.	NYS	31.38	-3.83	1.62	34.75	28.13	127	0.80	2.55	8	25.86	1.21								
INSURERS/REINSURERS																																	
ACE Ltd.	NYS	22.25	-0.56	-27.05	31.25	20.75	220	0.44	1.98	-21	22.45	0.99	Partner Re Holdings Ltd.	NDQ	19.00	1.33	-12.64	22.25	18.50	783	0.40	2.11	9	N.A.	N.A.								
Acceptance Insurance Cos.	NYS	13.50	-1.82	16.13	18.00	11.13	86	0.00	0.00	10	9.83	1.37	Penn-America Group Inc.	NDQ	6.50	-10.34	-15.45	8.50	6.50	14	0.00	0.00	8	6.21	1.05								
AEGON N.V.	NYS	62.50	1.01	14.16	64.00	49.38	11	2.94	4.70	11	43.84	1.43	Phoenix RE Corp.	NDQ	26.50	0.95	-3.64	29.25	18.50	239	0.60	2.26	6	22.86	1.16								
Aetna Life & Casualty	NYS	45.00	0.28	-25.31	65.75	42.25	862	2.76	6.13	-6	57.21	0.79	Provident Life	NYS	22.25	0.00	-29.64	31.88	21.63	144	1.04	4.67	6	27.09	0.82								
Allied Group Inc.	NDQ	23.50	-6.00	-6.00	31.00	22.75	337	0.60	2.55	5	23.43	1.00	Re Capital Corp.	NDQ	12.75	4.08	-6.42	14.75	12.25	19	3.32	2.51	10	17.63	0.72								
Allmerica Prop. & Casualty	NYS	15.00	-0.83	-30.37	22.16	14.25	170	0.16	1.07	9	19.45	0.77	Reliance Group Holdings	NYS	5.00	-6.98	-35.48	8.13	4.88	582	3.32	6.40	12	3.48	1.44								
Allstate Corp.	NYS	23.00	-2.13	-22.69	30.13	22.63	1691	0.72	3.13	18	19.60	1.17	RLI Corp.	NYS	20.25	0.62	-24.30	27.75	20.15	8	2.60	2.96	-27	20.51	0.99								
American General	NYS	26.75	-0.47	-6.14	30.50	24.88	1729	1.16	4.34	18	20.39	1.31	St. Paul Companies	NYS	41.63	0.00	-7.24	45.38	37.69	732	1.50	3.60	9	31.88	1.31								
American Heritage Life Ins.	NYS	17.50	-2.10	-6.04	20.13	16.50	29	0.66	3.77	10	12.42	1.41	SAFECO Corp.	NDQ	49.63	0.25	-9.15	59.75	46.75	1272	1.96	3.95	10	46.94	1.06								
American Indemnity/Fin'l	NDQ	10.25	-1.20	-21.15	14.75	10.00	2	0.24	2.34	4	15.92	0.64	SCOR U.S. Corp.	NYS	8.83	-4.17	-31.68	13.75	8.63	111	3.36	4.17	-39	13.60	0.63								
American International	NYS	95.25	2.01	8.09	96.88	81.75	2551	0.46	0.48	14	49.75	1.91	Seibels Bruce Group	NDQ	2.81	0.00	-60.71	3.50	0.94	173	0.00	0.00	11	1.05	2.68								
American Re Corp.	NYS	27.38	3.30	-3.10	35.75	23.50	191	0.00	0.00	14	16.85	1.62	Selective Ins. Group	NDQ	24.00	-0.52	-20.66	30.75	23.00	83	1.12	4.67	10	23.36	1.03								
Aon Corp.	NYS	31.13	-2.73	-3.24	35.75	29.25	416	1.28	4.11	10	21.96	1.42	Sphere Drake Holdings	NYS	11.25	-2.17	-31.82	18.25	11.00	179	2.16	1.42	5	13.15	0.86								
Argonaut Group	NDQ	27.75	-0.45	-9.02	32.75	26.25	215	1.16	4.18	8	29.80	0.93	TIG Holdings	NYS	17.25	0.00	-23.76	23.25	17.13	398	3.20	1.16	21	17.25	1.00								
AVEMCO Corp.	NYS	14.00	-0.88	-25.33	20.25	13.75	13	0.44	3.14	12	6.30	2.22	Titan Holdings, Inc.	NYS	9.75	-1.27	-10.34	11.75	7.75	27	2.28	2.87	8	9.31	1.05								
Baldwin & Lyons Inc.	NDQ	15.00	-3.23	0.84	16.25	13.75	3	0.24	1.60	9	13.56	1.11	Tokio Marine & Fire	NDQ	56.88	-2.57	5.32	66.00	51.38	16	3.41	0.71	50	57.72	0.99								
Berkley W.R. Corp.	NDQ	33.38	0.38	1.91	42.00	32.50	55	0.44	1.32	20	36.47	0.92	Torchmark Corp.	NYS	34.13	0.00	-23.74	49.50	32.38	785	1.12	3.28	9	17.49	1.95								
Berkshire Hathaway Inc.	NYS	19550.00	-3.69	19.75	20800.00	15150.00	0	0.00	0.00	25	9157.79	2.13	Transatlantic Holdings	NYS	51.88	-1.66	-2.81	56.38	45.38	366	0.40	0.77	12	32.43	1.60								
Capital RE Corporation	NYS	20.63	-8.33	-19.90	25.75	18.50	78	0.20	0.97	8	21.48	0.96	Transnational Re Corp.	NDQ	19.50	-1.27	-27.78	27.00	17.25	121	0.00	0.00	9	N.A.	N.A.								
Capsure Holdings Corp.	NYS	12.63	-5.61	-6.48	16.13	12.13	47	0.00	0.00	13	13.72	0.92	Travelers Corp.	NYS	31.25	-6.02	-19.61	43.13	31.00	4212	0.60	1.92	8	24.26	1.29								
Chubb Corp.	NYS	72.25	0.87	-8.11	83.13	68.63	995	1.84	2.55	12	48.40	1.49	Trenwick Group Inc.	NDQ	37.25	0.68	-3.87	43.75	33.25	49	1.00	2.68	13	29.20	1.28								
CIGNA Corp.	NYS	63.88	-0.20	0.99	74.00	57.00	767	3.04	4.76	8	80.98	0.79	United Fire & Casualty	NDQ	43.00	4.88	19.44	44.00	36.00	3	1.20	2.79	10	28.96	1.48								
CNA Financial Corp.	NYS	63.75	2.41	-19.05	82.25	60.00	114	0.00	0.00	168	73.83	0.86	Unitrin	NDQ	42.00	-2.89	-1.18	51.50	38.50	124	1.60	3.81	20	38.64	1.09								
Continental Corp.	NYS	18.75	31.58	-32.13	29.00	12.00	5062	0.00	0.00	-3	29.69	0.63	UNUM Corp.	NYS	37.75	-1.63	-28.10	58.00	35.13	938	0.96	2.54	16	27.78	1.36								
EMC Insurance Group Inc.	NDQ	10.25	2.50	7.89	10.75	8.50	2	0.52	5.07	8	10.77	N.A.	US Facilities Corp.	NDQ	10.13	1.25	-14.74	14.63	8.25	915	0.00	0.00	12	11.07	0.91								
Emphysis Financial Gr. Inc.	NYS	27.88	-8.61	NA	38.50	21.25	174	0.60	2.15	8	N.A.	N.A.	USF&G Corp.	NYS	12.88	-4.63	-14.88	16.13	11.69	1850	-0.20	1.55	6	10.04	1.28								
EXEL Ltd.	NYS	37.00	-1.00	-17.78	45.75	36.00	371	1.32	3.57	9	31.62	1.17	USLICO Corp.	NYS	19.63	-2.48	18.94	24.00	15.75	40	-0.24	1.22	10	24.44	0.80								
Fremont General Corp.	NYS	22.25	-3.26	-7.77	26.00	21.50	169	0.76	3.42	6	22.90	0.97	USLIFE Corp.	NYS	33.63	1.13	-13.23	41.38	30.83	212	1.32	3.93	8	40.82	0.82								
Frontier Insurance Group	NYS	18.38	-3.29	-58.12	37.50	16.75	591	0.48	2.61	15	14.94	1.23	Washington National	NYS	19.88	0.00	-18.04	25.50	19.63	49	1.08	5.43	7	23.61	0.84								
Gaisinc Inc.	ASE	8.13	-4.41	-9.72	9.41	7.63	122	0.04	0.49	11	3.79	2.14	Zenith National Ins.	NYS	21.38	-2.84	-3.39	27.38	20.63	34	1.00	4.68	10	17.54	1.22								
General RE Corp.	NYS	119.00	0.42	12.00	125.50	101.75	1078	1.92	1.61	16	57.17	2.08	Zurich Reinsurance Centr.	NYS	25.50	-3.77	-9.73	29.00	24.25	49	0.00	0.00	-25	22.26	1.15								
Guaranty National Corp.	NYS	15.63	0.81	-10.71	20.00	13.75	25	0.50	3.20	10	11.84	1.32	INSURERS/REINSURERS AVERAGE		-0.8	-11.3					2.5	11.8											
Harleysville Group	NDQ	22.00	-4.35	-22.81	30.25	19.75	4	0.68	3.09	16	20.18	1.09	HEALTH MAINTENANCE ORGANIZATIONS																				
Hartford Steam Boiler	NYS	38.38	-5.54	-13.76	53.38	38.38	139	2.20	5.73	15	14.62	2.62	FHP International	NDQ	26.63	-1.39	2.40	31.00	20.25	1421	0.00	0.00	15	12.22	2.18								
HCC Insurance Holdings	NDQ	20.00	8.67	-0.83	22.25	15.00	32	0.00	0.00	14	10.75	1.86	Humana Inc.	NYS	19.13	-11.56	4.08	25.38	15.88	6507	0.00	0.00	20	6.04	3.17								
Home Holdings Inc.	NYS	7.13	7.55	-58.70	18.50	3.00	827	0.00	0.00	-2	22.36	0.32	Pacificare Health Sys.	NDQ	62.00	-9.16	64.24	79.50	36.75	395	0.00	0.00	21	14.21	4.36								
ITT (Hartford Group).	NYS	79.88	-0.31	-12.94	95.97	77.00	1770	1.98	2.48	11	49.95	1.60	Safeguard Health Enter.	NDQ	9.00	-2.70	-28.00	15.50	8.50	21	0.00	0.00	20	6.16	1.46								
Kemper Corp.	NYS	36.88	-8.39	2.79	65.00	34.25	1875	0.92	2.49	10	28.68	1.29	Sierra Health Services	NYS	26.50	-10.17	19.10	33.50	18.13	451	0.00	0.00	0.00	16	6.04	4.39							
Lincoln National	NYS	37.13	-3.26	-13.66	44.38	34.63	482	1.72	4.63	13	31.99	1.16	United Healthcare Corp.	NYS	41.88	-11.38	12.04	55.38	36.75	10392	0.03	0.07	27	6.57	6.37								
Market Corp.	NDQ	41.00	-1.80	6.49	44.50	37.50	77	0.00	0.00	11	25.15	1.63	U.S. Healthcare	NDQ	39.50	-11.24	3.04	49.00	33.75	14281	0.84	2.13	17	5.04	7.84								
Mid Ocean Ltd.	NDQ	23.13	0.54	-18.14	30.50	22.25	343	0.00	0.00	11	20.24	1.14	Wellpoint Health Networks	NYS	28.32	-2.58	-8.10	37.00	24.25	339	0.00	0.00	13	12.73	2.23								
Mutual Risk Mgmt. Ltd.	NYS	25.38	0.00	-15.42	30.75	21.13	59	0.32	1.26	14	9.11	2.79	HMOs AVERAGE		-7.5	8.6					0.2	17											
													ALL COMPANIES AVERAGE		-3.0	-1.0					2.7	12											

