

DECEMBER 20, 1999

# Business Insurance

The  
**Top 10**  
News Stories  
begin on page 3

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

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# YEAR IN REVIEW



# 1999



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# Business Insurance

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

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## U.S. workplace injury rate falls to all-time low: BLS

WASHINGTON—Workplace injuries and illness rates fell to an all-time low last year, according to a report released last week by the federal Bureau of Labor Statistics.

The BLS found that about 5.9 million cases of private-sector workplace injury and illness were reported in 1998, or the equivalent of 6.7 cases per 100 full-time workers.

That represented a 5.6% drop from the 7.1 cases per 100 full-time workers in 1997, setting a record low for injury and illness rates since the BLS began keeping records more

See Updates on next page

## Cost of risk up 8.8% as survey base differs

By MICHAEL BRADFORD

Risk managers are finding that a competitive insurance marketplace doesn't always add up to a lower cost of risk.

The 1999 RIMS Benchmark Survey found that, while many insurers continued to cut rates last year or kept increases slight, any savings were more than offset by respondents' higher retained liability losses.

Those losses helped drive a year-to-year increase in the average cost of risk for U.S. non-bank companies, the first such increase in six years. Their average cost of risk rose to \$5.71 per \$1,000 of revenue in 1998, an increase from \$5.25 per \$1,000 in 1997.

The increase follows a steady annual decline in the average cost of risk since 1992, when it was



**Risk and Insurance Management Society, Inc.**

\$8.30 per \$1,000 of revenue. The average cost in 1998 was nearly identical to the 1996 figure of \$5.70.

"It's very interesting that the cost of risk actually rose this year, given the soft market," said Sue Anne Mitro, vice chairwoman of the Risk & Insurance Management Society Inc. research committee. "I would not have anticipated those results."

The survey acknowledges that the results appear to have been "skewed upward" by higher costs incurred by a group of new partic-

ipants in the study.

"Some very large companies with very low costs of risk" participated in the previous survey but not in the 1999 survey, the report notes.

James Gamble, senior manager with Ernst & Young L.L.P.'s Business Risk Solutions practice in New York, said that "it's somewhat in the nature of a survey of this type that changes in respondents from year to year can have an impact." Ernst & Young and RIMS conduct the survey jointly.

He pointed out that, in the current survey, a "large portion of this respondent base takes large retentions," and some were hit with big losses.

"Retained losses have more volatility than premiums and other types of costs," said Mr. *see Costs on page 42*

## Xerox not altering benefits but report sparks scrutiny

By JOANNE WOJCIK KOCHANIEC

STAMFORD, Conn.—Published reports that Xerox Corp. may switch to a defined contribution approach for funding employee health care benefits are not really "news" to the benefits community.

In fact, many employers are considering such an approach, given the increasing cost of health care and growing employee dissatisfaction with the choices available to them, industry surveys show.

Abandoning the group health benefit model and forcing employees to buy coverage on an individual basis, however, could significantly raise costs for employees and increase the ranks of the uninsured population, some industry studies have found.

And, as Xerox found this month, employees may strongly oppose such a radical change in benefits.

Two days after newspapers nationwide reported that Stamford, Conn.-based Xerox wanted to "abandon its longstanding approach to health benefits and

pay workers to buy the insurance of their choice," the company's benefits department was bombarded with calls from irate employees worried that they were losing their health benefits, a company spokeswoman said.

The article, which the spokeswoman said was based on a "theoretical discussion" with a Los Angeles Times reporter, reported that Xerox would like to give each of its 50,000 employees between \$5,000 and \$6,000 a year to buy their own health insurance. The article noted, however, that such a system could not be implemented for at least five to seven years "in the absence of deep and fundamental changes in the insurance market."

The proposal is similar to a model implemented this year for retiree health care benefits by Armonk, N.Y.-based International Business Machines Corp.

The IBM plan operates much like a cash balance pension plan, with the company crediting each employee's account with a specific dollar amount each year. The account earns interest while the employee *See Xerox on page 40*



## ERC chief eyes future

# Bringing good things to light

By JUDY GREENWALD

OVERLAND PARK, Kan.—The new head of Employers Reinsurance Corp. says there are distinct advantages to being an outsider in the reinsur-



Mr. Calhoun

ance industry and he intends to take full advantage of them.

As an outsider, "you are not afraid to ask simple questions," says David L. Calhoun, 42, who was named chairman, president and CEO of ERC in July, replacing Kaj Ahlmann.

"I think that's an outsider's greatest strength. You don't know enough to discount the client's point of view, so you try to listen. I try to take advantage of that," said Mr. Calhoun. "In a year, I'll probably be one of those insiders and I'll be looking for an outside perspective," he quipped.

There are two questions to which Mr. Calhoun said he already knows the answers:

The first is whether ERC is up for sale, which has been the

subject of a market rumor. It is not, he said. "It's a funny thing how this rumor persists. It's been around for 100 years, it seems," he said.

A second, related rumor is whether he was brought in to get ERC ready for sale. He denies that as well. "I'm here to run the company and I'm moving a big family to this city to do it, so I don't take the move lightly," said the father of four.

Meanwhile, despite his newness to both the reinsurance industry and the job, Mr. Calhoun has already developed strong ideas on the need for higher rates, the future of e-commerce, the desirability of a Bermuda operation, merger and acquisition activity, and the capital market's involvement in the reinsurance industry, among other issues.

Mr. Calhoun, who has spent his entire career at General Electric Co., was most recently president and CEO of GE Lighting, based in Cleveland. The son of a cement company executive, Mr. Calhoun was born in Philadelphia and raised there and in surrounding towns. He graduated in 1979 from Virginia Polytechnic Institute in Blacksburg with an accounting degree and then rose through the ranks of GE before eventually being plucked to head ERC.

"I really had no idea what I wanted to do with my career or how high I wanted to go, or anything of that sort, but for 20 years, GE has sort of reached out and grabbed me and asked me to do new and different and better things ev-

*See Calhoun on page 41*

## HHS extends deadline for privacy rule comment

By MARK A. HOFMANN

WASHINGTON—Employers and health insurers will have more time to make their thoughts known on the Clinton administration's proposed medical records privacy regulations.

The proposals, which appeared in the Nov. 3 Federal Register, would regulate access to electronic medical records. In general, the rules would limit the release of electronic medical data to private parties without a patient's consent and would subject violators to a variety of new—and often harsh—civil and criminal penalties.

The U.S. Department of Health and Human Services published the proposed rules after Congress failed to meet a self-imposed deadline under the 1996 Health Insurance Portability and Accountability Act—HIPAA—to approve its own privacy rules by Aug. 21.

HIPAA directed the HHS, in the absence of congressional action, to issue final regulations within six months, or by Feb. 21, 2000. HHS initially set a Jan. 3, 2000, deadline for comments on its proposals.

But opponents of the proposals won a victory last week, when the department announced that it was extending the comment

period by 45 days—until Feb. 17—after receiving requests to do so from both business and Capitol Hill. HHS has not said when a final regulation will be promulgated.

Rep. Bill Thomas, R-Calif.—chairman of the House Ways & Means Committee's Health Subcommittee—was among those requesting that HHS grant an extension, as was a group consisting of the Blue Cross & Blue Shield Assn., the American Assn. of Health Plans, the American Hospital Assn., the American Medical Assn., the Assn. of Electronic Health Care Transactions and the Health Insurance Assn. of America.

"We applaud HHS for extending the con-

fidentiality comment period by 45 days. We believe that this extension is a reflection of an acknowledgment by the administration of our deep concerns regarding the potential impact that this rule will have. We also appreciate Chairman Thomas' efforts in this, because he sent a letter to HHS and we think that that was also very instrumental in getting an extension," said a spokesman for the Blues in Washington.

Technically, Congress could still jump on the issue, pass its own regulations and render the HHS rules moot. But that is not likely to happen before HHS promulgates a

*See Privacy on page 39*

## Updates

### Job injury rate at record low

Continued from previous page  
than 20 years ago.

The bulk of the reported cases—5.5 million—involved workplace injuries, with fewer than 400,000 workplace illnesses reported. Disorders associated with repeated trauma, such as carpal tunnel syndrome and noise-induced hearing loss, accounted for about 65% of the illnesses.

### Miami gun suit dismissed

MIAMI—Miami-Dade County officials plan to appeal a Florida circuit judge's ruling dismissing the local government's lawsuit against handgun manufacturers.

Judge Amy Dean ruled last week that, under Florida law, municipalities are not appropriate plaintiffs in lawsuits such as Miami-Dade's, which sought to recover costs the local government has incurred as a result of gun violence. Instead, such suits should be brought by the actual victims of gun violence, the judge indicated.

The Florida judge's ruling follows a similar decision earlier in the month by Connecticut Superior Court Judge Robert McWeeny, who had dismissed a gun industry suit filed by Bridgeport, Conn.

Along with an October ruling dismissing Cincinnati's suit against the gun industry (*BI*, Oct. 11), three of the 19 suits brought against the gun industry have now been dismissed, though all the dismissals are being appealed.

### Victim's liability claim denied

SAN FRANCISCO—A woman who was raped in a commercial parking garage where no other assaults occurred during the previous 10 years cannot hold the garage owners and operators liable, California's Supreme Court ruled last week.

The case, *Sharon P. vs. Arman Ltd. et al.*, was closely watched by business and tort reform supporters. They filed amicus briefs arguing in favor of the garage owners, Arman Ltd., and the parking services company, Apcoa Inc.

The court found that garages are not inherently dangerous and, because the garage had been crime-free for 10 years, the assault was not foreseeable. Therefore, the defendants did not have a duty to provide a certain level of security.

The 6-1 decision overturned a state appeals court ruling that favored the plaintiff. She was attacked in 1993 at gunpoint when she arrived for work in the office building, where she operated an accounting business. She sought compensatory damages for pain and suffering, emotional distress, loss of income and medical expenses.

The dissenting Supreme Court justice argued that the court essentially is saying that business owners are entitled to one free assault before they can be held liable for failing to take sufficient security measures.

### Aon challenges A&A verdict

NEWARK, N.J.—Aon Corp. is contesting a jury ruling that it must pay a former Alexander & Alexander Services Inc. employee \$10 million for alleged deceptions made by A&A's former chairman and chief executive officer.

Philip J. McConkey, a former New York Giants football player and director of insurance services for the greater New York area at A&A, sued A&A and Frank G. Zarb, alleging he was fraudulently misled by the CEO into believing that the brokerage was not for sale.

Mr. McConkey later dropped Mr. Zarb from the suit.

Soon after those discussions took place in 1996, Aon acquired A&A for \$1.23 billion, and Mr. McConkey subsequently lost his job.

A six-person jury in the Superior Court of New Jersey last week unanimously ruled to award Mr. McConkey \$5 million in compensatory damages and \$5 million in punitive damages.

Aon immediately filed a motion with the judge to override the jury's decision, an Aon spokesman said. If the judge does not rule in Aon's favor, the broker will appeal the verdict, the spokesman said.

### LTD cap doesn't violate ADA: Court

NEW YORK—A long-term disability insurer that caps LTD payments on mental disabilities but not on physical disabilities does not violate the Americans with Disabilities Act, an appeals court has ruled.

In upholding a lower court decision, the 2nd U.S. Circuit Court of Appeals in New York ruled in *Leonard F. vs. Israel Discount Bank of New York and The Metropolitan Life Insurance Co.* that MetLife is protected by the safe harbor provision of the ADA, because its LTD policy is consistent with state law and does not constitute a subterfuge to evade the purposes of the ADA.

The appeals court ruled that the district court correctly interpreted the term "subterfuge" as inapplicable to insurance policies adopted prior to the enactment of the ADA in 1990.

The appellate court, however, remanded to the trial court the issue of whether MetLife had adopted its LTD policy prior to 1990.

At issue is MetLife's LTD policy, which limits benefits to employees with psychiatric disabilities to two years, while employees with physical illness receive LTD benefits without an aggregate limit until the age of 65.

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# NAIC to adopt model agent licensing act

By MEG FLETCHER

SAN FRANCISCO—The National Assn. of Insurance Commissioners plans to adopt amendments to its proposed agent licensing model act later this month, as one of its first responses to the new federal financial modernization law.

The amendments are needed to further the NAIC's strategy of preserving existing state regulatory authority through timely compliance with provisions of the federal Gramm-Leach-Bliley Act (S. 900), new NAIC President George Nichols III of Kentucky said at the NAIC's winter meeting, held Dec. 4-8 in San Francisco.

Specifically, the NAIC seeks to

prevent establishment of the National Assn. of Registered Agents & Brokers by, over the next three years, encouraging greater reciprocity among states in the li-

## NAIC

censing of non-resident agents.

However, NAIC leaders and other observers differ over whether NAIC will be able to meet its goal by the three-year deadline.

If regulators fail, the federal law will establish NARAB "as a clearinghouse for multistate licensing so that service may be

more efficiently provided to policyholders," according to an analysis by the Council of Insurance Agents & Brokers in Washington. NARAB would be charged with imposing licensing and professional qualification requirements that exceed the standards of any current law, and it would have the authority to reduce duplicative regulatory requirements on agents and brokers whose clients require them to do multistate businesses, according to the CIAB (*BI*, Oct. 18).

Under the new federal law, states and U.S. territories can prevent the creation of NARAB if a majority of them—at least 29—achieve either reciprocity or uni-

See NAIC on page 44

## Employer group urges OSHA to extend ergo comment period

WASHINGTON—Congress is likely to begin holding hearings on the Occupational Safety and Health Administration's proposed ergonomics standard early next year, according to an employer group that opposes the regulation.

No dates have been set for the hearings, but they could begin as early as January, according to Jennifer Saunders Krese. Ms. Krese, director of employment policy at the Washington-based National Assn. of Manufacturers, spoke during a press briefing last week.

Ms. Krese said that members of the NAM are pushing OSHA to extend the comment period on its proposal, which is currently slated to end on Feb. 1, 2000.

Employers groups oppose the proposal, claiming

that not enough scientific evidence exists to justify imposition of what they regard as an overly vague and expensive standard (*BI*, Nov. 23).

Ms. Krese said that hearings are likely to focus on several aspects of the proposal, notably creation of a compensation system that would pay larger benefits to workers suffering from ergonomic-related injuries than workers suffering from other employment-related ailments could collect under state workers compensation laws.

The Occupational Safety and Health Administration's proposal would create a "most-favored-injury status" for ergonomic-related ailments, said Patrick Cleary, NAM's vp-human resources, during the briefing.

—By Mark A. Hofmann



AP/WIDE WORLD PHOTOS  
The Houston Rockets opted not to insure the multimillion-dollar contract of injured star forward Charles Barkley.

## NBA star's contract uninsured, team says

By SALLY ROBERTS

HOUSTON—The Houston Rockets have no insurance to cover the loss of NBA star forward Charles Barkley, who sustained a career-ending knee injury earlier this month.

A Houston Rockets spokesman said that the team did not insure Mr. Barkley, who signed a one-year contract with the Rockets earlier this year for a reported \$3 million in guaranteed pay.

Under a mandatory NBA insurance program underwritten by Trustmark Insurance Co., each team is required to insure its six highest-paid players in the program against the risk of injury, explained Dave Meyer,

group administrator for Trustmark in Lake Forest, Ill. Trustmark reimburses the team for 80% of a player's salary contract, up to various limits, after the player misses a total of 41 games in a season due to an injury or illness, Mr. Meyer explained.

But when a player has only a one-year contract or only one year remaining in a contract, the NBA allows the team to opt not to insure that player's contract, Mr. Meyer said.

Mr. Barkley, who will be 37 in February, tore his left quadriceps tendon away from his kneecap in the first quarter of a game against the Philadelphia 76ers on Dec. 8. The injury

See Barkley on page 41

## Inside

• Four of the five Lloyd's of London syndicates forced to stop underwriting last month when UNUMProvident decided to exit Lloyd's likely will go into runoff. **PAGE 37**

• Editor Paul D. Winston explains what happened to that captive domicile he set up in his garage and takes another look at some of the other topics he's written about in 1999. **PAGE 41**

• Almost Donothing gets a visit and a lecture from Santa, who gives new meaning to "dressing down." **PAGE 43**

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# YEAR IN REVIEW 1999

## TOP RISK MANAGEMENT STORIES

1. Year 2000 risk and coverage concerns
2. Bermuda's ACE and XL expand via U.S. acquisitions
3. Financial services modernization law enacted
4. UPS captive called a sham, lawsuits follow
5. Uncover workers comp pool disintegrates
6. QIC is disbanded; Quality scorecard survives
7. Softness in P/C market starting to evaporate
8. RIMS, brokers reach accord on contingent commissions
9. Government entities file class-action lawsuits
10. Heavy catastrophe toll worldwide

## TOP EMPLOYEE BENEFITS STORIES

1. Tough patient protection legislation debated in Congress
2. Health care plan cost increases accelerate
3. Furor erupts over cash balance pension plan conversions
4. United Healthcare drops prior approval of physicians
5. Funding benefits through captives grows more popular
6. States take lead on mental health care benefits parity
7. IRS issues new COBRA regulations
8. Doctors plan labor union, seek bargaining rights
9. Clinton administration proposes new Medicare drug plan
10. IBM adopts new approach to retiree health care cover

### Contingency planning for Y2K bug dominated 1999's risk landscape

By JOANNE WOJCIK KOCHANIEC and MICHAEL BRADFORD

Concern over Year 2000 exposures, the demise of the Quality Insurance Congress and the continued consolidation of the property/casualty insurance industry were the most significant developments of the year, according to several risk managers.

While industry consolidation is likely to remain in the news, new issues—including the proposed ergonomics standard issued by the Occupational Safety and Health Administration and financial services deregulation—are likely to move onto risk managers' radar screens in the new millennium.

Risk managers also will need to stay on their toes professionally as organizations and government alter the definition of "risk management."

"Preparation for the Y2K rollover, not so much from an insurance perspective as much as from a contingency planning perspective," was the most significant issue of 1999 for James J. Jacobs, risk manager for Arlington County, Va.

Mr. Jacobs said the preparations required so much effort that other duties, such as insurance renewals, were accomplished practically on "autopilot. We figured our focus should be on the contingency planning."

"The big story of the year has to be

Y2K," agreed Lou Drapeau, manager of risk management at ThyssenKrupp S.A. Inc. in Troy, Mich. "It's certainly had an impact on the things I'm doing," he added, referring to compliance preparations for his organization's systems.

"It will be interesting to see who's right" with regard to predictions of the date change's impact on computer systems, Mr. Drapeau said. "I think there will be some minor glitches," but nothing like the major problems predicted by some doomsayers, he said.

Walter Pizzano, risk manager-Fidelity Insurance and risk management at FMR Corp. in Boston, said that, although Y2K was "a huge story for the general public, within corporations, it's proving to be nothing more than a manageable project that had to get done, a lot like implementing a tremendous (management information systems) project."

While Y2K was a big issue for many risk managers, others felt the demise of the Quality Insurance Congress was the bigger story.

"From my perspective, the most significant issue is the demise of the QIC," said Mark A. DeLillo, vp of risk management at Celotex Corp. in Tampa, Fla. "It tells a very sad tale... that an organization created to enhance and improve quality received less-than-adequate support to remain alive."

The QIC's board voted to dissolve the organization in the fall, after the QIC

See Risks on next page

### Benefit managers cringe as drug costs fuel hikes in health care costs

By MICHAEL PRINCE and AMANDA MILLIGAN

The increase in health care costs, particularly the sharp rise in prescription drug costs, along with patients rights bills pending in Congress, are benefit managers choices for top events of the year.

Rising health care costs received a lot of attention this year, said Kathy Eggering, director of employee services for Clark Refining & Marketing in St. Louis. Several factors, including health care network mergers and direct marketing of brand name prescription drugs to consumers, helped drive up health care costs, she said.

In fact, several benefit managers cited the dramatic rise in prescription drug costs as a prime factor behind the increase in health care costs.

Pharmacy costs rose between 15%-30% in 1999 for Minneapolis-based Dayton-Hudson Corp., said Director of Benefits Caroline Carlin, which she attributes largely to direct-to-consumer advertising.

For example, ads for the drug Claritin encourage patients to ask their doctors for prescriptions for the popular allergy medication, she noted.

"To the doctor, the patient is the customer," she said, so the doctor will "give the customer what the customer wants,"

as long as it's safe and effective, even though it may be far more costly than a similar medication.

Ms. Carlin estimates that between one-quarter and one-third of overall health care cost increases stem from the rise in drug costs.

In addition, she noted that premiums for health maintenance organizations increased because in previous years many HMOs suffered losses and now they need to raise rates to rebuild reserves.

New advancements in technology also are a factor in rising medical costs, Ms. Eggering said.

"If plans are forced to cover more high cost things, our quality of life will improve, the diseases we can prevent or alleviate will increase, (and) our costs will increase, too," she said.

To combat the rise in drug costs, New York-based Amerada Hess put in place a three-tiered drug plan, said Elaine Morrow, director of corporate benefits. The first tier is for generic drugs and employees pay a \$10 co-payment. The middle tier is for drugs on a formulary and employees pay a \$20 co-payment per prescription and the top tier is for non-formulary drugs with employees paying a \$30 co-payment.

She said that pharmaceutical manufacturers have become so aggressive in marketing their drugs that some have even called her to push their products.

While the three-tiered plan may stabilize

See Benefits on page 6

## Risks

Continued from previous page failed to generate strong support from its members. The dissolution ended the sometimes-controversial history of the organization, which was created to improve insurance industry quality through greater cooperation among risk managers, insurers, brokers and other insurance service providers. In particular, insurers balked at working together on quality issues for fear of giving up proprietary information.

"The fact that the industry refuses to recognize that they have to improve quality is kind of sad," Mr. DeLillo said.

The QIC's demise is a "sad situation," agreed Lance Ewing, director of insurance and loss prevention at GES Exposition Services in Las Vegas.

"However, RIMS will continue to make quality a driving force in 2000 and beyond," he said.

Consolidation of the insurance industry, also a top story for risk managers in 1999, will likely continue to make headlines in 2000, predicts Lance Davis, risk manager for Xerox Corp. in Stamford, Conn.

The fact that ACE Ltd. is coming ashore through "their strategic acquisition of CIGNA's property and casualty business could potentially make them very significant long-term players in the property/casualty market," he said.

"I was impressed by it. They will be formidable competition for some of the other large property/casualty insurers," Mr. Davis said.

Going forward, "we'll continue to see consolidation (like the ACE/CIGNA acquisition) in the insurance industry," he said.

Despite continued industry consolidation, most risk managers predict that the soft pricing environment will continue in the new year.

Mr. DeLillo, for example, said his talks with insurers that have completed reinsurance renewals revealed that there were no price hikes that would be passed along to policyholders.

"There's still an excess of capacity in the market, and reinsurance is still plentiful," said FMR's Mr. Pizzano.

A few risk managers, though, said they saw some indications of a turn.

"It's starting to look like there will be some firming," said Mr. Drapeau. "I heard a horror story the other day about property insurance increases," and workers compensation coverage costs appear to be leveling or rising some, he said.

The release of a new ergonomics standard by OSHA will likely be a big issue for many risk managers in the

coming year.

"What really concerns me going forward are OSHA's ergonomic regulations and what will develop from that," said Mr. DeLillo. "There's no question that we will have some rules implemented; there's just the question of how broad they will be."

Until OSHA issues ergonomics standards, there's no way for companies to completely prepare for the impact of those regulations, he said. "That concerns me."

Mr. Jacobs said he sees the OSHA regulation as "potentially the most significant issue we face" in the coming year. He said he worries that OSHA's ergonomic oversight will "seek to regulate where my priorities should be on my loss control efforts, which could be contrary to my own internal trending."

"OSHA is trying to drive this down the throats of corporate America,"

said Mr. Ewing of GES, despite the fact that "many corporations have already established ergonomics programs. Instead of becoming a partner, OSHA is becoming a policeman."

Recognizing the widespread impact the new regulations will have, the Risk & Insurance Management Society Inc. is considering publishing a position paper and may even join with other employer coalitions, such as the National Assn. of Manufacturers, said Mr. Ewing, who chairs RIMS' external affairs team.

FMR's Mr. Pizzano said, "I try not to be too pessimistic about it, but in general, new OSHA standards have had a serious impact on organizations in the first years after being released."

The potential impact that financial services deregulation will have on the practice of risk management also is a significant concern for risk managers.

"I'm wondering where that will go," said Mr. Jacobs of Arlington County, referring to how risk management will be handled as barriers between financial services companies come down.

While deregulation continues, new methods of enterprise risk management are expected to take hold as companies begin to view all their risks—financial, operational and traditionally insured hazards—as manageable in a single portfolio. New methods of funding involving capital markets are becoming increasingly common.

"There's been so much press about enterprise risk management, but it is almost as if that piece of legislation slipped by without anyone tying the two together," Mr. Jacobs remarked.

With "the financial services industry getting into the risk management business with securitization or holistic-type risk management practices" the risk manager's job "is evolving into some larger CFO/treasury-type function," said FMR's Mr. Pizzano.

To survive this transition, "risk managers must be fluent and talented in skills beyond the procurement of insurance," he said.

Furthermore, "the globalization of the economy means you have to consider risks significantly outside of your home territory and normal operational risks," he said, pointing to foreign currency risk and interest rate fluctuations as examples of "new" exposures of which risk managers must be aware.

Mr. Pizzano also predicted that risk managers will become more involved in their organizations' employee health risk financing, because "risk managers have the knowledge and skills."

"The demonstrated expertise risk managers have in constructing effective property/casualty insurance programs will drive CFOs to get more involved in negotiating and managing health care risk," he said.

GES Exposition's Mr. Ewing pointed out that risk managers also will need to keep abreast of changes in state regulations that redefine the risk manager's role.

For example, in some states, "a person with five years' experience in any facet of the insurance industry who holds a professional designation can be a risk manager," he said. Having a risk manager exempts organizations from rate and form filing requirements in most states, he explained.

Other states, such as Pennsylvania, require insurers to give 5% premium discounts to commercial policyholders with risk and safety managers, he explained.

"I believe there's room at the table for everybody, but a company with 500 employees that has been buying insurance from a brother-in-law should not be able to get discounts on its premiums simply by naming that brother-in-law the company's risk manager," Mr. Ewing said. **■**

## WHAT WE DO

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# Benefits

Continued from page 3

lize a company's swelling drug costs, it is not always a popular move, as Clark found out.

In January of 1999, at the same time Clark moved some of its employees to managed care plans, the company also adopted an open formulary and a three-tiered copayment structure for prescription drugs.

"Of all the changes for 1999, the three-tiered copayment received the most criticism and comment," said Ms. Eggering, noting that every time employees have prescriptions filled, they are reminded of the policy change, making it an extremely emotional issue. She said the company "knew it would be the sore thumb" of the plan.

Other employers used different

methods.

After examining prescription drug costs and retiree medical costs over the past year and observing the decreased effectiveness of managed care in holding down costs, spice manufacturer McCormick & Co. Inc., based in Loveton, Md., has decided to focus on promoting employee wellness.

Although some companies push wellness programs, Barbara Zavodny McCormick's benefit manager, said this is not the norm at most employers. And as managed care organizations fight to remain profitable and avoid bad publicity, wellness has gone by the wayside.

"Some managed care organizations are not spending the time (on) prevention and wellness that was so important to us in the beginning," she said.

But Ms. Zavodny is convinced that the repercussions from neglected wellness programs will be felt later at

many corporations. "Many of our employees today will be our retirees of tomorrow," she said.

McCormick, which has a medical director and four nurses on staff, has held programs on smoking cessation, grieving, weight management and various medical screenings, Ms. Zavodny said. Baby wellness is also covered under the company's health plan.

Another big issue in 1999 cited by benefit managers was the patients rights legislation pending in Congress.

Legislation that would expose employers to damages under state law for coverage decisions—a key provision in the House-passed patient rights bill—worries benefit managers.

"It's not based on health policy, but politics, and that's always a concern," said Sue Nelson, co-leader of total compensation and benefits for Texas

Instruments Inc. in Dallas.

"It will be costly, bureaucratic and time-intensive. It really may impact the effectiveness of managing the health plan for employees," Ms. Nelson said.

Ms. Carlin said that if patient rights legislation becomes law, it will drive up the costs of health care even more, forcing some employers to drop coverage.

"The issue is complex, and the issue is so emotional it's very hard for legislators to bring facts to the debate," she said.

The patients rights debate in Congress will have long-lasting impact, said Richard Quinn, director-performance and rewards for Public Service Enterprise Group in Newark, N.J.

"It drew some battle lines," he said. Also, he said, the potential that the legislation would create liability for

health plans that make coverage and treatment decisions led HMO UnitedHealthcare to leave those decisions to the physicians.

The public push for patients rights laws "has put pressure on managed care companies to back away from their principles," Mr. Quinn said.

In the future, he expects some form of patient protection law to emerge. "Something will happen definitely next year," he said.

Charlene Edwards, vp-employee benefits for Lend Lease Real Estate Investments Inc. in Atlanta, said she expects more health plans next year will follow UnitedHealthcare and eliminate most prior-approval review of physician treatment decisions.

"It makes employees very happy, and if United can manage the costs, it gives them an advantage," she said, so that its competitors will have to follow them.

Ms. Morrow also said that she expects more health plans to emulate UnitedHealthcare.

"It will be interesting to see how many companies will follow them," she said.

Many benefit managers cited the controversy over cash balance pension plans as a major issue.

The negative publicity of the plans was misplaced as cash balance plans "are a much better deal on average" for today's work force, said Dayton Hudson's Ms. Carlin.

Congress will "overreact" to the problem, added Mr. Quinn, if it passes some of the current bills.

"Whatever it is will be more restrictive and limiting than what currently exists," he said.

Ms. Morrow said the controversy over cash balance plans was so big that "we felt it was our responsibility to explain the issue," to the company's senior management and board of directors, even though Amerada Hess has no plans to convert its current pension plans to cash balance plans.

She said that the bills in Congress addressing cash balance plans are too radical, and she is working with trade groups to provide more accurate information to federal legislators on the issue. She said a concern is that Congress will pass legislation imposing so many restrictions on pension plans that companies might terminate them.

Consolidation also registered as an issue with benefit managers. Health plan consolidation could be a good thing, said Ms. Zavodny, whose company uses Aetna U.S. Healthcare as one of its major providers.

"You would hope the strength of the merger would make a better company," she said, noting the streamlining of administration and improved networks. "That's what I look forward to."

Looking to the future, Mr. Quinn said a possible new issue will be an increase in retirees lacking health care coverage as more and more employers eliminate retiree health plans.

As a result, he said, older workers may be forced to delay retirement to keep their company-provided health benefits until they are eligible for Medicare.

Ms. Carlin predicts that the issue of health care quality will emerge as a big topic next year. She said that many industries have implemented procedures for improving quality and lowering the rate of errors, and the medical profession needs to do the same.

In particular, she cited a recent announcement by President Clinton that the federal government will move to reduce the number of errors committed by medical providers that are under federal control.

"There will be lots of discussion, lots of initiatives," and hopefully some action will take place, she said. **BI**

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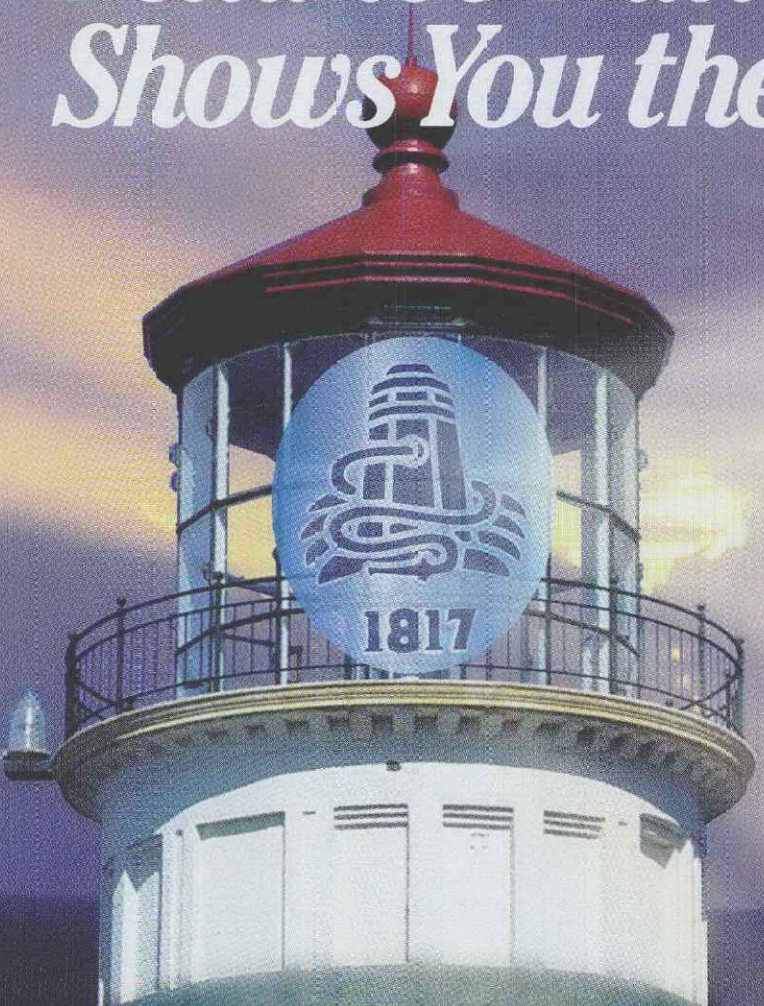
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# Happy Holidays from BI



**I'm hoping for a white Christmas, my snowblower is ready to go. A blanket of white would cover the gray and make for a more festive day.**

**I'm hoping for a calm New Year with Y2K glitches far and few. May the planes stay up, the power grid flow and business continue to grow.**

**I'm hoping for some sane health care. Savings and profits are fine and, yet, must Congress mandate by the written word for a patient's rights to be heard?**

**I'm hoping for a good snowfall, all of the sleds are primed for the slopes. The boots are now laced and lined up at the door, a shoe mat is gracing our floor.**

**I'm hoping for a bank teller who will know how to open accounts and won't try to sell insurance or stocks or plague me with 'adviser' talks.**

**I'm hoping for intelligence, for Medicare's unfocused and broke. Reform's used as election-year bunting while Congress shuffles the funding.**

**I'm hoping for a white Christmas, with temperatures plunging to zero. Since, while those at home will shiver and swear, I'll be sunning in warm tropic air!**

**Happy Holidays and a wonderful New Year!**

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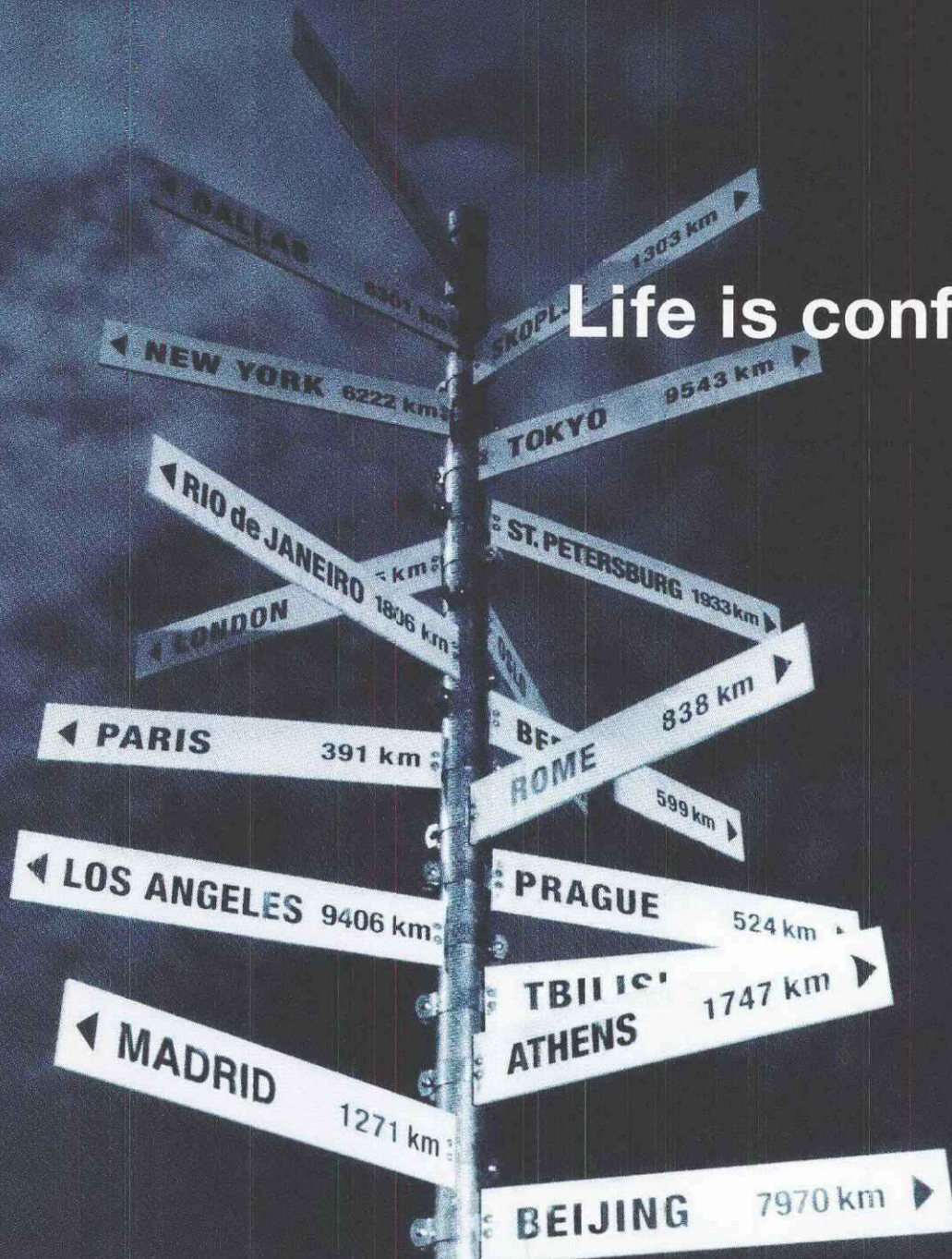
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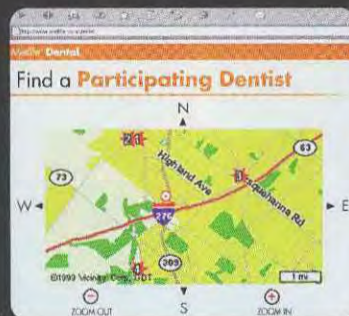


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A kitchen counter with several glass jars containing various ingredients like sugar and flour. A laptop is open on the counter, displaying the MetLife Life Advice Library website. The website features a tree diagram with branches labeled 'Family', 'Money', 'Insurance', 'Business', 'Health', and 'Purchases'. The text on the screen reads: 'Life Advice Library', 'An indispensable resource to help you manage life's events through expert advice and interactive tools.', and 'Brought to You by MetLife'.

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# Assault on Y2K bug takes many forms

**R**isk managers, insurance industry executives and lawmakers around the globe attacked the millennium bug threat in 1999 with a multi-repellent effort that consisted of computer compliance efforts, litigation, insurance and legislation.

Many large corporations individually have poured hundreds of millions of dollars into efforts to ensure that their computer systems do not interpret the year represented by "00" in two-digit date fields as 1900 instead of 2000.

Worldwide, organizations will spend up to \$600 billion on Y2K remediation efforts, according to an estimate by The Gartner Group, a

Stamford, Conn.-based consulting company that specializes in Y2K issues.



But this summer, several large companies made it clear that they do not want to shoulder their costs alone. GTE Corp., Xerox Corp. and Unisys Corp. filed claims against their property insurers under the sue-and-labor clauses of their policies. The plaintiffs

argue that the clause obliges a policyholder to prevent potential losses and compels its insurer to cover any costs incurred in doing so. GTE alone seeks \$400 million in coverage for its Y2K remediation efforts.

Insurers responded that the sue-and-labor clause does not cover Y2K remediation costs, because the clause applies only to imminent losses that policyholders have not expected for years.

With almost no time left to remediate Y2K problems, policyholders, insurers and the rest of the world wait to see how badly the millennium bug will infest our lives. Predictions varied widely throughout the year.

In September, both the chairman and vice chairman of the Senate Spe-

cial Committee on the Year 2000 Technology Problem stated that U.S. businesses are in far better shape than anyone a year ago imagined they would be at this time.

In June, an American International Group Inc. survey of 2,000 major clients concluded that the millennium bug would not cause major disruptions.

Around the world, business and government reports maintained that private industry and public-sector computer systems in Australia, Canada and the United Kingdom largely were Y2K ready.

In addition, a successful effort in August by the European Space Agency to reset the clock of the Global Positioning System, a network of navi-



gational satellites, gave European organizations confidence that they are prepared to handle Year 2000-related trouble.

But various reports, including the Senate Special Committee's, warned that significant Y2K computer problems were likely for some major U.S. trade partners around the world. A science officer for the Central Intelligence Agency told the committee in October that "Russia, Ukraine, China and Indonesia are among the countries most likely to experience significant Y2K-related failures."

Experts in August warned that millennium bug problems will plague many small and midsize companies in Latin America, which has raised concerns for larger companies in the area.

That state of unreadiness poses business interruption risks even for Y2K-ready businesses if some aspect of their operations depend on unprepared companies.

Even in the United States, only 48% of major companies and government agencies expect that all of their critical systems will be Y2K-compliant by Jan. 1, reported a study by Rubin Systems Inc. of Pound Ridge, N.Y. The study, sponsored by Cap Gemini America of New York, was released in August.

The millennium bug easily could become the single greatest loss ever for the insurance industry, according to a controversial projection that Milliman & Robertson Inc. released in June. U.S. insurers face \$15 billion to \$35 billion in liabilities from Year 2000 exposures, Milliman estimated.

The estimate is based on the assumption that insurers will not have to cover their policyholders' Y2K readiness preparation costs but that property, errors and omissions liability and directors and officers liability policies likely will have to respond to Y2K-related claims.

President Clinton, though, in July signed a law that will limit Y2K bug-related liabilities. Among other things, the law gives defendants a chance to fix defects in plaintiffs' computer systems. If defendants do not respond, plaintiffs then can proceed with litigation.

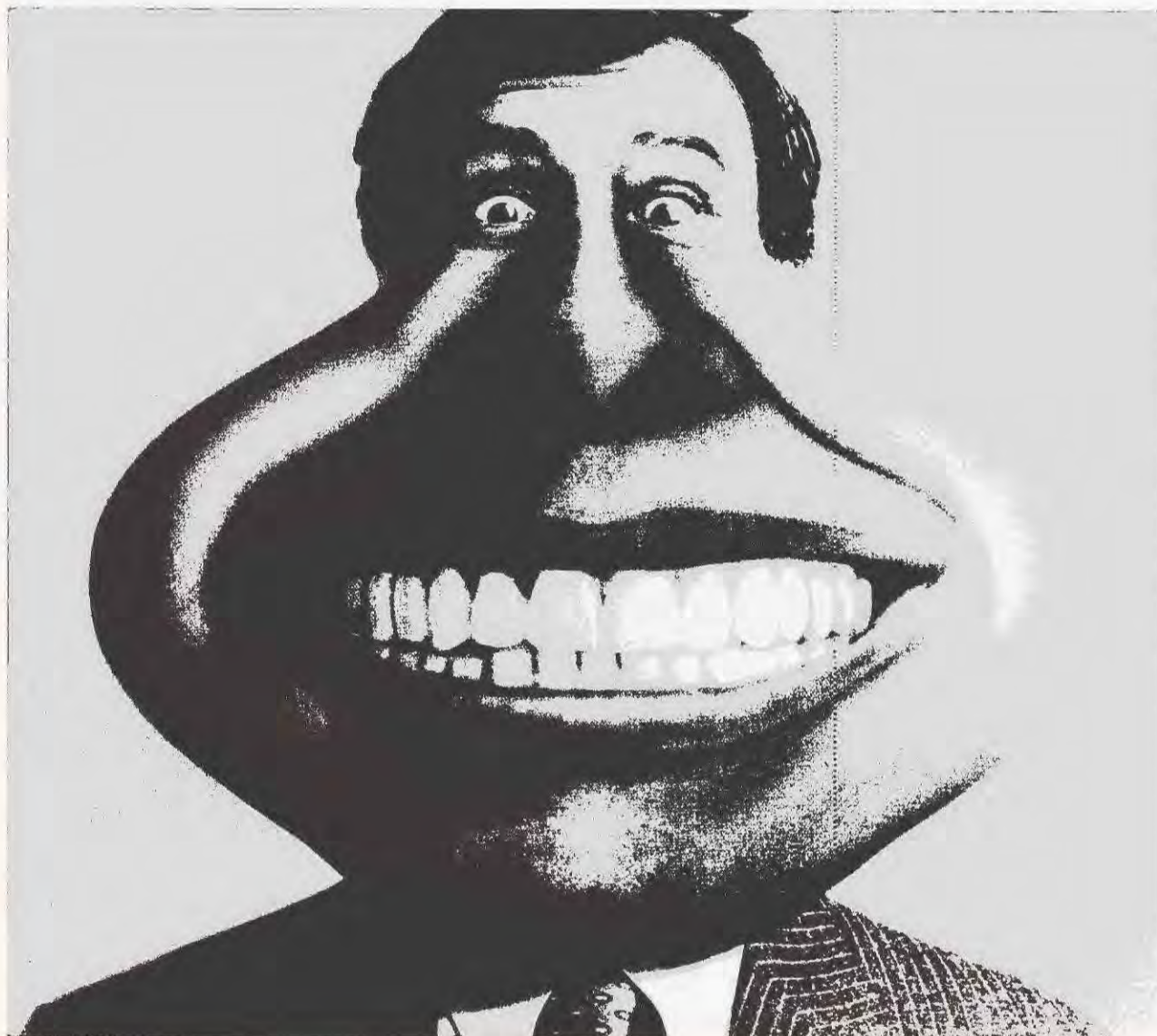
But the law creates hurdles for plaintiffs that seek punitive damages from private industry and exempts public entities from such damages.

In addition, defendants largely would not be subject to joint-and-several liability for compensatory damages.

Efforts by states this spring to limit Y2K liability ranged from broad to narrow protections. In some states, even modest reform measures failed.

Despite those protections, "the potential exists for certain countries to utilize their laws to unfairly recoup the costs of Y2K remediation by holding U.S. firms liable for Y2K-related disruptions," the Senate Special Committee reported in September.

—By Dave Lenckus



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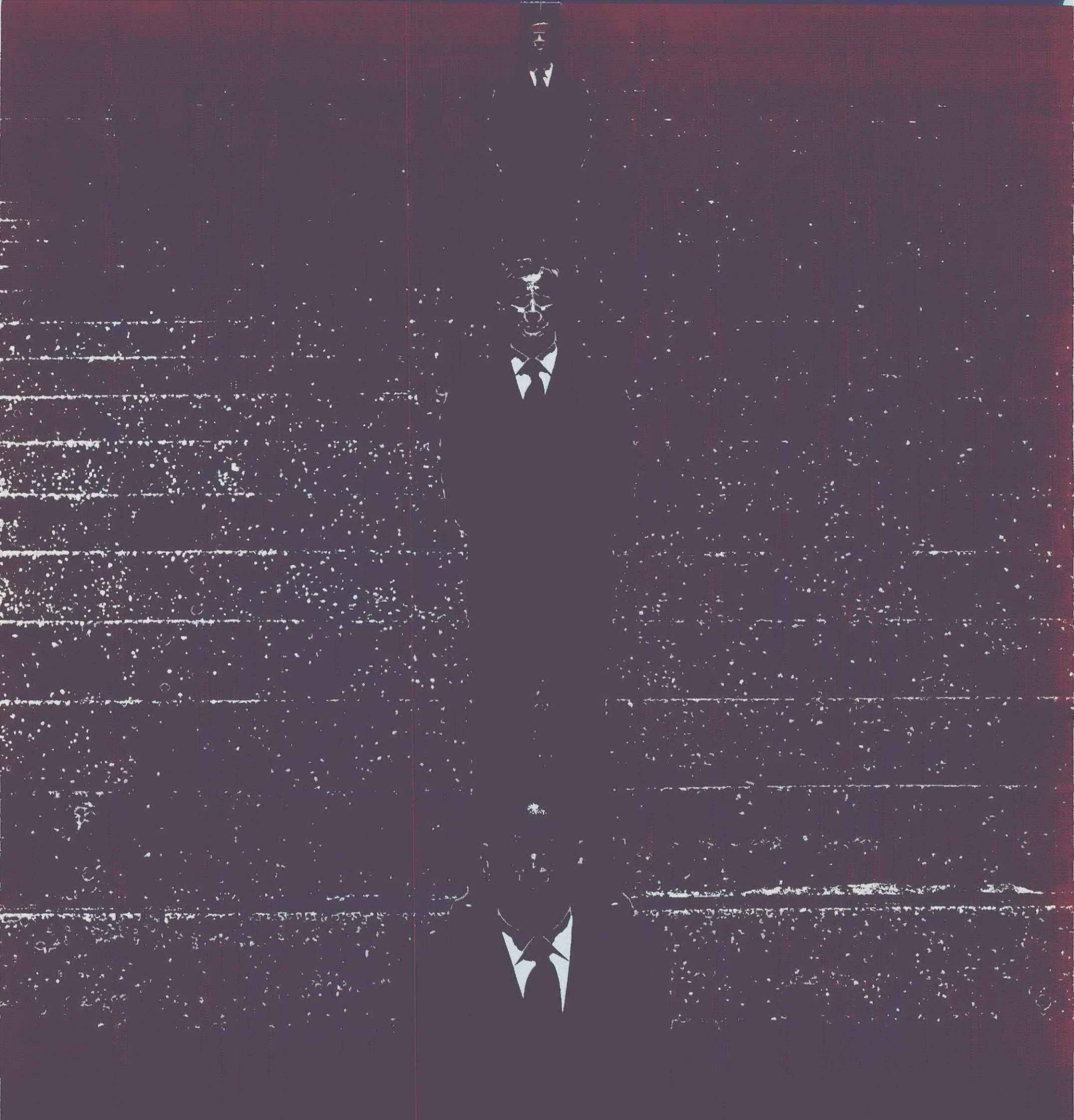
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# Buying spree sets up ACE, XL showdown

**A**fter devouring many of their competitors in Bermuda over the past several years, in 1999 the island's two insurance giants, ACE Ltd. and XL Capital Ltd., turned their attention to the formidable task of directly taking on the U.S. market.

Both insurers had previously set up beachheads in the United States, but this year they pushed on into the heart of the domestic insurance and reinsurance market.

ACE led the way with its purchase of the domestic property/casualty units and the international business of CIGNA Corp. XL followed with the more modest, but still significant, purchases of NAC

Re Corp. and ECS Inc.

Both insurers then became adversaries in a takeover battle for Capital Re Corp.

The move onshore by ACE and XL is the culmination of years of expansion by the insurers and stands in sharp contrast to their origins during the liability crisis of the mid-1980s, when they became an offshore refuge for policyholders who could not find coverage in the United States.

Established with the capital from their policyholders, the two insurers

offered largely complementary cov-

erage to commercial policyholders for excess liability and directors and officers liability risks. Both companies built up large capital bases, launched successful public offerings and, with the exception of breast implant litigation settlements, made significant underwriting profits.

But with the re-emergence of competitive domestic U.S. excess liability markets in the late 1980s and early 1990s, the Bermuda giants sought to grow through diversifica-

tion.

After the diversification, in the mid-1990s the two companies set about buying up several of the highly successful property catastrophe reinsurers that were established in Bermuda in 1992 and 1993. ACE and XL also became significant investors in Lloyd's of London.

Still awash in capital and facing dim growth prospects in the soft market, both companies announced modest plans to move onshore in 1997. ACE bought Westchester Specialty Group Inc. for \$338 million, renaming it ACE USA. XL bought a shell company, Folksamerica General Insurance Co.

For both insurers, however, the minor ventures into the U.S. market



were just glimpses of things to come.

In January 1999, ACE announced its intention to purchase CIGNA for \$3.45 billion, which in one stroke would convert the company from a mainly Bermuda-based specialist into a worldwide, mainstream, commercial property/casualty insurer.

The purchase was not without risks. In 1995, CIGNA had restructured its long-tail liabilities and shifted them to Brandywine Hold-



ings, a separately capitalized company.

In an attempt to cap its exposure to the liabilities, ACE established a \$1.25 billion reinsurance contract with National Indemnity Co., a unit of Berkshire Hathaway Inc.

In February, XL followed ACE's move into the United States with its \$1.2 billion purchase of NAC Re.

The purchase gave XL a solid book of U.S. reinsurance business and a platform from which to expand into the United States. The move also helped XL diversify its reinsurance business: Previously, XL had written mainly property catastrophe reinsurance, but with NAC Re it picked up a significant amount of casualty business.

The deal also enhanced XL's Lloyd's operations, as NAC Re owned Denham Syndicate Management Ltd.

XL further expanded its U.S. operations in June, when it announced the acquisition of environmental property/casualty underwriting manager ECS.

The terms were not disclosed, but the purchase added more than \$200 million in annual gross premiums to XL.

During the second half of 1999, ACE and XL became involved in a bidding war for Capital Re Corp., a New York-based financial guarantee reinsurer.

In May, ACE originally announced its intention to purchase Capital Re for \$605.9 million in an all-stock deal.

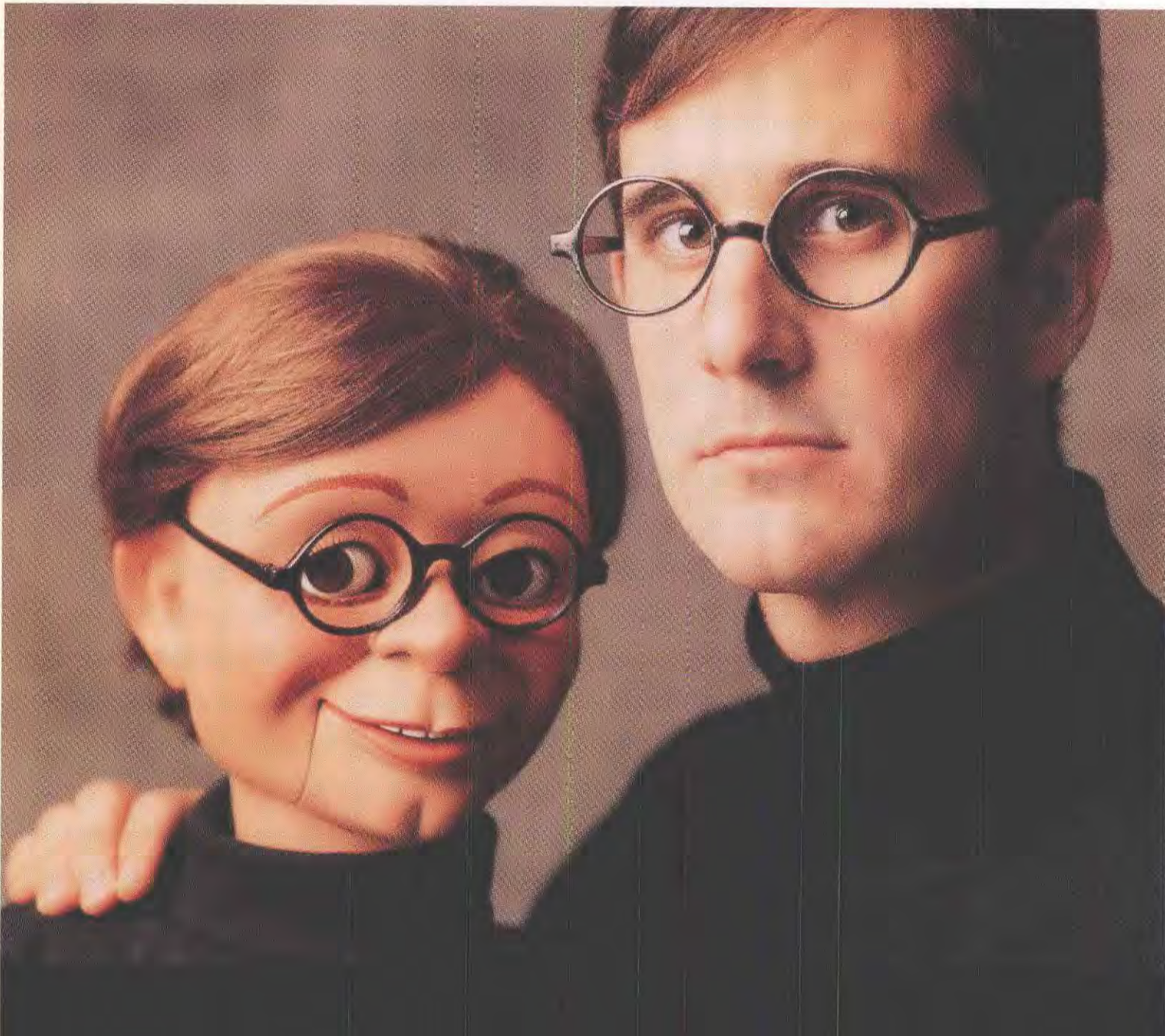
But ACE's stock price slumped over the summer as stock market investors appeared to take a wait-and-see attitude toward the CIGNA deal. By the time the Capital Re deal was due to close in October, ACE's offer was worth \$375.3 million.

One day before the deal was due to close, XL jumped in with a \$456.3 million cash offer.

Over the next several weeks, both insurers increased their bids, and ACE went to court in an attempt to block the XL offer.

Finally, at the end of October, ACE and Capital Re agreed to new terms, with ACE paying \$511.3 million in cash and stock. Capital Re shareholders are set to vote on the matter Dec. 30.

—By Gavin Souter



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# Financial services integration gets green light

**W**ith President Clinton's signing of landmark financial services modernization legislation in November, Washington gave formal approval to a process of financial industries integration already well under way.

The Gramm-Leach-Bliley Financial Services Modernization Act repealed the Depression-era Glass-Steagall Act, removing many of the barriers the 1933 act had erected to block insurance companies, banks and securities dealers from affiliating with one another and engaging in each other's business.

Financial services integration, however, has been accepted as a fact of life among U.S. companies in those industries for the past several years. The 1998 \$70 billion megamerger of Citicorp and Travelers Group into Citigroup might have been the most dramatic manifestation of the trend to date.

Across the country in 1999, that trend was being played out with increasing frequency in other ways as well, whether in the form of banks acquiring insurance agencies, insurance companies forming banks, or insurance buyers looking at financial alternatives to transferring risks.

Although the move toward financial services integration was well under way before the passage of S. 900, the law's enactment was expected to speed the pace of such activity.

Industry observers anticipate that S. 900 will prompt new merger and acquisition and alliance activity among banks and insurers, as those companies seek competitive advantages in the marketplace of the next century.

Many industry observers also see insurance buyers as the beneficiaries of that activity, with the elimination of barriers to bank/insurer affiliation providing increased insurance capacity, a more-efficient marketplace and greater buyer choice.

The new law also should promote increased development of financial risk transfer products. And the linking of banking and insurance activities also could make enterprise risk management more commonplace, some have suggested. They contend that a unified marketplace for financial and risk transfer products could bring the financial and property/casualty risk management sides of companies' houses closer together.

From an insurance industry perspective, one key benefit of the new law is that it keeps functional regulation of insurance at the state level.

In cases of conflicts between state insurance regulators and federal regulators, the state or federal regulator can seek expedited review by the U.S. Court of Appeals.

The new law also stipulates that any bank engaging in insurance underwriting can do so only through a holding company, rather than within the bank itself.

And the law includes a provision, sought by mutual insurance companies, that permits mutuals to redomesticate from states that don't allow the formation of mutual holding companies to those states that do, in order to take advantage of the new law.

The financial modernization law also promotes uniformity in insurance agent and broker state licensing. If a majority of states fail to achieve such uniformity on their own within three years, the law calls for the creation of the National Assn. of Registered Agents and Brokers.

NARAB's seven board members

would be state insurance regulators chosen by the National Assn. of Insurance Commissioners.

Proponents of financial modernization have been trying in vain to repeal Glass-Steagall's restrictions for the past 25 years. For a time during the 105th Congress, it looked

as though they might finally be successful, though their hopes were again dashed when that Congress closed its regular session late in 1998 without the passage of such a bill.

But financial modernization made rapid progress in this year's 106th

Congress. The Senate passed a version of the law in May and the House passed its own version in July, marking the first time both chambers of a Congress had approved financial services reform.

In October, a House-Senate conference committee succeeded in crafting a compromise version of the legislation, S. 900, that won approval from both the Senate—by a 90-8 vote—and the House—by a 362-57 vote—on Nov. 4.

Finally, President Clinton signed the measure into law Nov. 12, calling

the legislation "truly historic."

the legislation "truly historic."

During the negotiations over the compromise bill, the privacy of consumers' financial information emerged as a hot topic.

Although S. 900 contains privacy requirements for all financial services entities, the president indicated that his administration would forward a legislative proposal to Congress in 2000 intended to expand on those provisions.

The law also allows individual states to enact more-restrictive privacy laws, and consumer groups in some states are expected to seek such measures in 2000. Meanwhile, the NAIC has established a working group to study privacy concerns.

—By Rodd Zolkos



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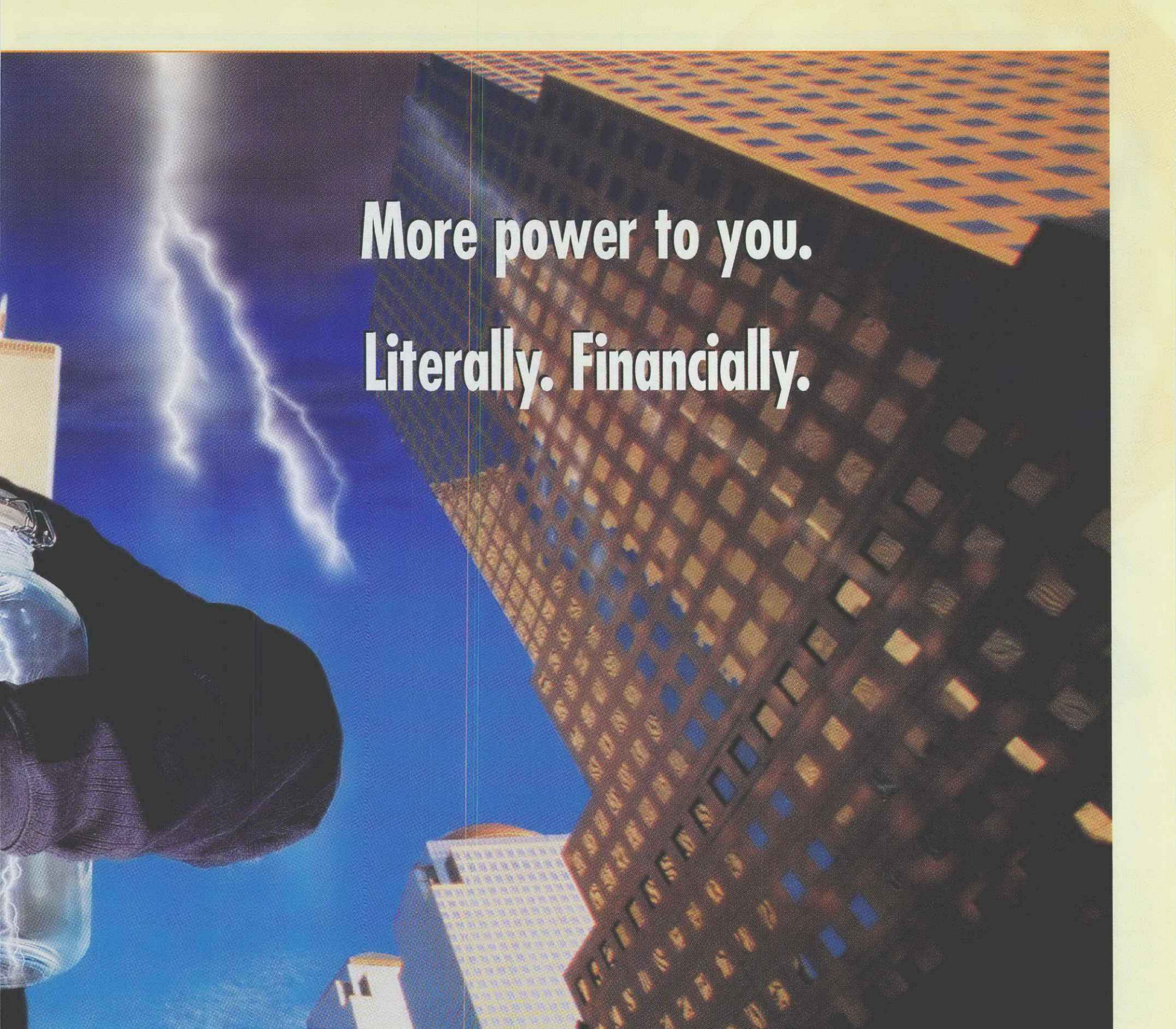
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# UPS facing tax troubles over captive

Most companies can't afford to take a \$1.44 billion charge against earnings and still complete a successful multibillion dollar initial public offering. But most companies aren't United Parcel Service of America Inc.

UPS took the charge to cover 15 years of back taxes following one of the most punishing captive insurance company tax judgments on record.

A U.S. Tax Court judge ruled in August that UPS owed taxes for 1984 for failing to report as income millions of dollars of fees it collected for package insurance placed with a fronting insurer and reinsured by Bermuda-based Overseas Partners Ltd. UPS formed Overseas Partners in 1983 and later spun the reinsurer off to UPS employee shareholders.

While UPS argued that it was merely forwarding premium to an

and penalties for negligence or intentional disregard of tax rules, along with underpayments stemming from tax-motivated transactions.

UPS hotly disputes most of the judge's conclusions, but has not yet decided whether to appeal.

And, while the tax ruling covers only the 1984 tax year, the Internal Revenue Service had alleged similar underpayments for the 1985 through 1990 tax years.

To stop interest and penalties from accumulating while it mulls an

appeal, UPS took its charge against earnings and placed \$1.34 billion in escrow to cover taxes for the 15 years since OPL's formation.

The shipping giant also dropped the National Union/OPL program and is now providing shippers risk coverage through an Atlanta-based subsidiary.

Even if upheld on a possible appeal, the UPS ruling will not have much impact on captive owners generally, tax experts say.

The peculiar structure of the UPS program is unlike that of most cap-

tive arrangements, where a main concern of captive owners is whether captive premiums are deductible.

The case offers lessons for captive owners, though, the most important being that a captive owner needs to document its business reasons for forming a captive in case it must later defend those decisions.

"Most of (UPS') arguments center on trying to justify, long after the fact, plausible business reasons for forming OPL," wrote Tom Jones, a partner with McDermott, Will & Emery in Chicago, in a memo about the ruling.

Despite its potentially massive tax liability, UPS had no trouble last month raising \$5.5 billion in the

largest initial public offering ever made.

Soon afterwards, though, more legal troubles appeared: Lawyers for UPS customers in four states filed a proposed class action complaint in a Dayton, Ohio, state court, charging that the company defrauded shippers by selling insurance illegally.

The suit alleges that UPS acted illegally as an insurer without holding a state insurer or agent license and that it falsely described National Union as the insurer when, in fact, the AIG unit was only a conduit for funds to OPL. The complaint demands \$14 billion in compensatory damages, which it seeks to treble under an Ohio corrupt activity statute.

Responding to the suit, a UPS spokesman said, "we believe it is totally without merit, and we intend to fight it with everything we have."

—By Douglas McLeod

## YEAR IN REVIEW

# 4

## RISK MANAGEMENT



American International Group Inc. unit for shippers risk insurance on packages valued at more than \$100, Judge Robert P. Ruwe labeled the transactions a "sham" with "no economic substance or business purpose" other than tax avoidance.

Among other things, the judge found that:

- Before its formation of OPL, UPS collected the same fees, which it reported as income, and bore the risk of damage to customer packages itself.

- UPS officials frequently discussed the tax benefits of forming OPL with adviser Frank B. Hall & Co. Inc. but during trial could produce no other credible business reasons for forming the captive.

- After setting up OPL and its fronting arrangement with AIG's National Union Fire Insurance Co. of Pittsburgh, Pa., UPS continued to collect shipper's risk fees and carried on several functions of an insurer, including adjusting and paying claims. After deducting claims payments, UPS sent the net proceeds each month to National Union, which deducted its own fees and taxes and forwarded the money to OPL.

UPS did not report the money as income.

- The shippers risk fees that UPS charged were "far in excess" of what it could have negotiated in an arm's-length deal with a commercial insurer. Between 1984 and 1989, the business produced a 33% loss ratio.

"This is another indication to us that (UPS') arrangement with (National Union) and OPL was a sham," Judge Ruwe concluded.

Along with the back taxes, he found UPS liable for extra interest

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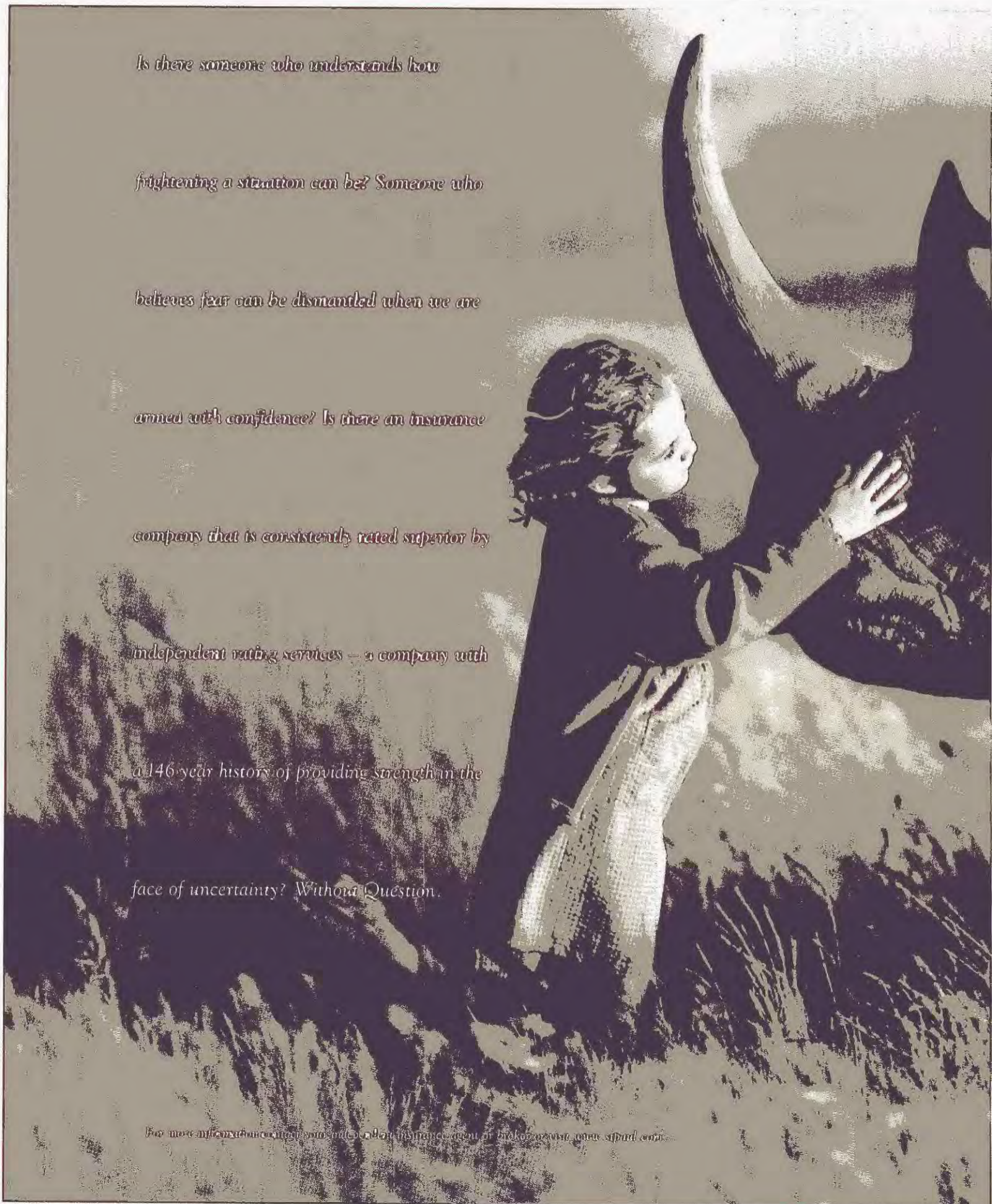
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# Unicover losses roil workers comp market

**S**hock waves went through the workers compensation market earlier this year after the specter of massive underwriting losses led reinsurers to withdraw from a Unicover Managers Inc. reinsurance pool.

The exodus, which started last January, became public the next month, when Cologne Reinsurance Co., a unit of Berkshire Hathaway Inc.'s General Re Corp., disclosed a \$275 million pretax loss, most of it related to its U.S. life insurance unit's participation in the Unicover facilities.

Since then, workers comp reinsurance capacity has eroded, rates and terms have firmed, lawsuits have been filed, and company credit rat-

ings have been put under review.

Created in 1994, Unicover, a Lisle, Ill.-based managing general underwriter, operated three insurance facilities through which life insurers assumed low-layer carve-out risks, comprising the accident and health portion of workers comp policies. Unicover typically wrote first-dollar and low-layer covers, effectively allowing workers comp insurers to "buy down" retentions to as little as \$10,000 per loss from previous retentions that had been as high as \$1 million.

Reinsurance officials confirmed that Unicover's initial premium volume estimate for 1998 was much less than the estimated \$2.5 billion in multiyear premiums it wrote by the

end of the year for six life insurer pool participants. This volume translated to about \$1.2 billion in annual reinsurance premiums. Analysts estimate that the facilities' gross losses will top \$1 billion and could hit more than \$2 billion.

Between January and March of 1999, all of the facilities' reinsurers suspended or terminated their partici-

ipation in Unicover.

The workers comp market has not been the same since.

Based on Unicover's premium volume, analysts estimate that about 10% of the U.S. workers comp marketplace ceded business to the facilities and that ceded losses and ceding commission expenses related to Unicover will boost the entire industry's workers comp combined ratio by five percentage points.

Some industry analysts predict that members' retrocessionaires may see their combined ratios surpass 200%.

Not only has Unicover caused a withdrawal of reinsurance capacity, which may push a number of pool managers out of the workers comp business, but it also has made life more complicated for those pool managers that remain. Reinsurers are adding restrictions to their pool agreements and increasing their scrutiny of underwriting managers as a result.

State regulators also are focusing their attention on the workers comp "carve-out" market that Unicover dominated. The Connecticut Insurance Department, for one, is barring Connecticut-domiciled life insurers from writing workers comp carve-out business in the future.

All of this, in turn, means that some workers comp insurers likely will pass on their own higher costs to policyholders in the form of higher rates.

Not surprisingly, Unicover's demise has sparked a spate of litigation.

Sun Life Assurance Co. of Canada made an arbitration demand earlier this year to void all of its Unicover contracts. Phoenix Home Life Mutual Insurance Co. followed suit in September.

Units of American International Group Inc., which planned to cede roughly \$400 million in annual premium with a Unicover pool, sued Unicover and ReliaStar Life Insurance Co., claiming that the underwriting manager bound ReliaStar alone on the business. A New York State Supreme Court judge later dismissed Unicover as a defendant, but the suit against ReliaStar is still pending.

Odyssey Re (London) Ltd. filed a racketeering lawsuit against Bermuda broker Stirling Cooke Brown Holdings Ltd., alleging that the broker and others conspired to use it as a dumping ground for underpriced workers comp business, including contracts reinsuring Lincoln National's Unicover risks. Stirling Cooke later filed a motion to dismiss the suit, arguing that it is not subject to the jurisdiction of the New York federal court where the suit was filed.

Chicago-based reinsurance broker Aon Re Worldwide was named in a suit brought by Allianz Life Insurance Co. of North America Inc. that alleges fraudulent, negligent and innocent misrepresentations regarding Unicover.

Phoenix Home Life and Sun Life also filed suit against Aon Re, seeking access to Aon's records regarding Unicover. Aon Re provided some back-office support for the workers comp pool.

Reliance Group Holdings Inc., whose ratings were placed under review by Standard & Poor's Corp. in October due to potential Unicover losses, is in settlement discussions with Phoenix Home and Sun Life to resolve liability connected with its role as a fronting insurer and pool participant.

Lincoln National Corp.'s ratings also were placed under review by S&P due to potential losses associated with Unicover.

**YEAR IN REVIEW**  
**5**  
**RISK MANAGEMENT**



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# House approves tough bill on patients' rights

One of the worst nightmares envisioned by employers and health insurers threatened to become reality in October when the House of Representatives overwhelmingly approved a tough patient bill of rights.

The measure, sponsored by Reps. Charles Norwood, R-Ga., and John Dingell, D-Mich., would subject managed care plans to a number of significant new restrictions and liabilities. Some provisions, like providing for independent outside review of denied coverage, proved to be relatively non-controversial. But the Consensus Managed Care Act contained one provision in particular that wor-

ried plan sponsors and plans alike. It would have granted enrollees the right to sue plans—and in some cases employers—over decisions that deny health benefits.

The House's 275-151 vote in favor of the consensus act marked a personal victory for Rep. Norwood, a Georgia dentist-turned-lawmaker who had repeatedly bucked his own party's leadership to push for tighter regulation of managed care plans. His efforts won him support from President Clinton, someone not usually

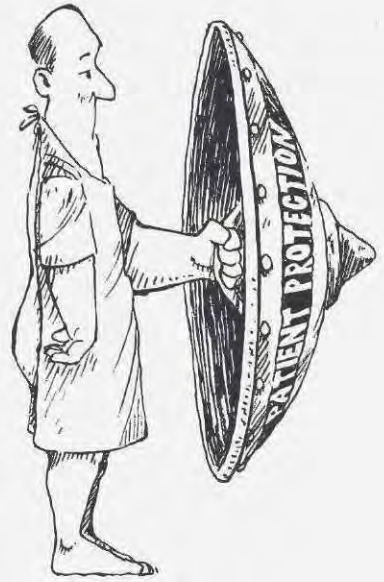
found in the same corner as the generally conservative lawmaker, but that support is far from enough to assure Rep. Norwood's victory.

In fact, chances of the consensus bill ever becoming law faded considerably in early November when the House GOP leadership named 12 lawmakers who opposed the consensus bill—and only one who supported it—as their representatives on a conference committee named to work out the considerable differences between the consensus

bill and a much narrower measure passed by the Senate last summer.

And that's just as well, as far as employers and health insurers are concerned. Both groups had repeatedly warned that passage of the Norwood-Dingell bill's expanded liability could have effects exactly the opposite of those sought by its backers.

Instead of enhancing the quality of health care under managed care, opponents of broad patient protection legislation said enactment would mean fewer employers offering health benefits out of fear of litigation, with a commensurate increase in the number of uninsured Americans. Despite assurances by Rep. Norwood that his



measure did not target employers except under very rare circumstances, employers held that the bill would indeed subject them to new and potentially disastrous liability.

Republican leaders of both houses of Congress agreed with critics of broad patient protection legislation.

The bill passed by the Senate in July contained politically popular provisions such as guaranteed external review of denied coverage, direct access to specified medical specialists and easier coverage criteria for emergency room services. But the bill provided no new grounds for participants in managed care plans to sue over coverage decisions. In addition, many of the measure's provisions would apply only to employer-funded self-insured plans.

But as the summer progressed, House Republicans in addition to Rep. Norwood grew increasingly vocal in calling for greater control over the operations of managed care plans. Reps. Tom Coburn, R-Okla., and John Shadegg, R-Ariz., also offered legislation that would amend the Employee Retirement Income Security Act to allow suits against managed care plans over coverage decisions. Rep. Coburn, a practicing obstetrician generally counted among the most conservative members of the House, warned that if his measure did not pass the House, the more stringent Norwood-Dingell consensus bill would.

House Speaker Dennis Hastert, R-Ill., who had earlier promised to bring some form of managed care reform legislation to the House floor by the end of September, did not endorse the Coburn-Shadegg bill. Instead, he presided over the introduction and debate of four bills, including Coburn-Shadegg and Norwood-Dingell.

And just as Rep. Coburn had predicted, the Norwood-Dingell bill carried the day. The House rejected the other three bills, none of which would have subjected managed care plans to restrictions as stringent as those in the consensus bill, before voting by a nearly two-to-one margin for the Norwood-Dingell bill. Sixty-eight House Republicans went against their leadership's wishes and supported the consensus bill.

Rep. Norwood's victory, however, could well prove to be short-lived. Given the composition of the committee, the fact that it has not met and is not expected to meet until after the new year and the considerable differences between the scope of the two bills, the nightmare envisioned by employers and insurers will probably not materialize.

—By Mark A. Hofmann

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# Cash balance outcry comes as a shock

The furor triggered by cash balance pension plan conversions in 1999 could result in congressional action next year.

Legislation backed by the Clinton administration has been introduced in Congress which would require an employer to give its employees greater notice of a cash balance plan conversion and to disclose more information about the potential financial impact of the conversion of employees' benefits.

That cash balance plan conversions could trigger controversy and possible congressional intervention was inconceivable until recently.

Employers adopting cash bal-

ance plans and the benefit consultants that designed the plans said the plans were a response to employee complaints about the shortcomings of traditional final average pay pension plans.

Those plans were set up so that employees earned most of their benefits after many years of service—a design that was appropriate when there was a greater expectation on the part of the average employee that he or she would spend much of his or her working career with one company.

But with increased job mobility, the appeal of final average pay plans began to dim. For an employee leaving a company with a final average pay plan after five, or even 10, years, the result was a skimpy benefit.

Out of that dissatisfaction, cash balance plans were born. They were designed so that benefits accrued more evenly than with traditional plans. That meant that an employee leaving after only a few years of service got a much richer benefit, compared with what he or she would have re-

ceived from a traditional plan.

Cash balance plan formulas also were designed to be more easily understood by employees.

As with 401(k) plans, benefits are typically expressed as a lump-sum cash value that is payable to an employee when he or she leaves employment. By contrast, traditional plans often use formulas in which the benefits are expressed as a monthly annuity payable to an employee at age 65. Not surprisingly, such plans meant little to younger employees, employers said.

Initially, there was a cautious response to cash balance plans. But the plans caught on, and hundreds of employers, including such well-

## YEAR IN REVIEW

# 3

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known corporations as CBS Inc., Georgia-Pacific Corp. and International Business Machines Corp., have, in recent years, converted their traditional plans to cash balance plans.

The cash balance plan honeymoon ended abruptly this year, though. A series of stories in the Wall Street Journal and other media cast the plans in an unfavorable light. Those articles said that older, longer-service employees were losing out in such conversions, and that employers weren't disclosing that fact to their employees.

Such a situation could exist, said both the articles and critics of cash balance plans, because, at the time of a conversion, an older employee could be just shy of earning rich benefits under the old plan but would not be in the new plan long enough to earn significant benefits.

Critics also maintained that, rather than seeking to provide better benefits to shorter-service employees and to make benefits information more accessible to employees, employers primarily wanted to cut pension costs.

Employers and consultants said the criticism was unfair. To prevent older employees from being hurt by conversions, employers typically offered transition benefits in which older employees were given the option to stay in the traditional plan, supporters of the plans said.

Nevertheless, the criticism was embraced by some members of Congress, especially after IBM adopted a cash balance plan and gave the option of staying in the old plan only to those employees within five years of retirement, a move that prompted an employee protest.

IBM later relented and doubled the number of employees that could stay in the old plan, a move that appeared to ease the sentiment against cash balance plans that was growing in Congress.

Congressional support for proposals that would mandate that an employer converting to a cash balance plan give all its employees a choice of either the old or the new plan largely dried up in favor of a less far-reaching requirement that an employer give its employees greater advance notice of a conversion and notify them of the potential effect on their benefits of such a conversion.

That proposal is expected to receive serious consideration when federal legislators return next year. The Internal Revenue Service also could weigh in with new rules governing the plans after it reviews the public comments it earlier solicited.

—By Jerry Geisel



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# UnitedHealthcare takes bold step for HMOs

Like an outclassed boxer, the managed care industry staggered from one body blow to another this year.

Plan members voiced displeasure about restrictions. Members of Congress introduced bill after bill to regulate the industry and increase its liability for coverage decisions. And employers beefed when plans hit them with rate increases. Even Wall Street joined in the action, knocking down the stock prices of most health maintenance organizations like they were huts in a hurricane.

But one HMO, UnitedHealthcare, bucked this trend and won applause when it announced in November that it was ending its longstanding prior-approval requirement for treatment decisions, leaving final say to the provider. This step gave the industry and UnitedHealthcare a much-needed public relations boost.

The decision was hailed by some industry experts as bold, revolutionary and a milestone. Some even said it will usher in a new era of managed care.

UnitedHealthcare's decision puts it "at the forefront of a new

wave of change," said a spokeswoman for the Washington-based American Assn. of Health Plans.

Many health care experts say that UnitedHealthcare's move acknowledges the success of the drive to reduce unnecessary medical treatments. For more than two decades, the practice of reviewing treatment decisions with an eye to eliminating unnecessary procedures has been a major component of managed care. By eliminating that review, UnitedHealthcare says it is moving to the next level of managed care: using data to promote evidence-based health care.

Rather than conducting treatment reviews, the company will now focus on educating physicians to help them practice evidence-based medicine. This approach involves using outcomes data from millions of patients to determine the best and most cost-effective treatment for a patient. UnitedHealthcare has been one of the companies leading the charge

in this direction, and many experts say that UnitedHealthcare, because of its size, is one of the few HMOs that could make such a move.

In a news release announcing the move, the company said it will use "its database of more than 14 million patients to provide its doctors with data and information that compare the treatments they are recommending for their patients against national treatment norms."

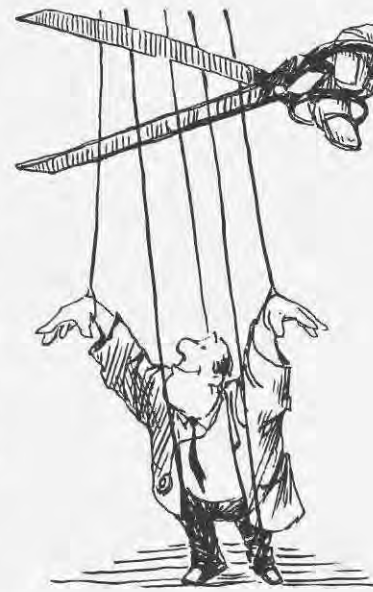
United is, in essence, saying that the best way to change physician behavior is not to monitor every move a doctor makes, but rather to conduct a yearly review of treatment decisions and work with physicians, as necessary, on improving those decisions. Physicians that ultimately fail to stay within the company's standards will be eliminated from the network, the company said.

The move came after pilot projects over three years suggested that the company could eliminate the reviews without costs rising.

In addition, UnitedHealthcare said it was spending more money on treatment reviews than it was saving in reducing treatment, as nearly all treatment decisions were approved.

The move also creates other advantages for UnitedHealthcare, the HMO said. It will improve the relationship between doctors and the HMO as well as that between doctors and patients. In addition, by no longer making coverage decisions, the company reduces the potential liability that could result if Congress passes patient protection legislation.

But the move was not met without some skepticism. Eliminating prior approval is untested territory, and some say that without a managed care company looking over their shoulders, doctors could start performing more unnecessary medical treatments, eventually increasing medical costs. To date, prior approval of medical procedures has succeeded in controlling costs, and eliminating it could return health care to the pre-managed care days, say those who view the move with skepticism. Even though nearly all treatments received approval, doctors still knew UnitedHealth-



care reviewed their decisions. This influence will disappear, possibly leading to higher medical costs.

Despite the positive feelings UnitedHealthcare's move has generated, it's unclear whether any other HMOs will follow suit. Some say that it's inevitable that other HMOs will make a similar move, as both employers and physicians will push for the change. But for the moment at least, the rest of the HMO industry is watching and waiting.

—By Michael Prince

# Captives make headway in funding benefits

One of the top issues of 1999, the possibility of funding of employee benefit risks through captive insurers, could become an even bigger story in the years ahead.

Next year, the U.S. Department of Labor will rule on a pending application by Herndon, Va.-based Columbia Energy Group to use a Vermont branch of its Bermuda-domiciled insurance subsidiary, Columbia Insurance Corp. Ltd., to reinsure long-term disability policies. The policies are written by Liberty Mutual Insurance Co. unit Employers Insurance of Wausau.

If DOL regulators approve the application, many other employers likely will follow Columbia Energy's lead, say risk management and employee benefit experts.

"If this gets DOL approval, we expect a long queue," said Brady Young, president of Alternative

Risk Solutions in Waltham, Mass.

For many years, employers have been interested in expanding their property/casualty captives to fund benefit risks as a means of broadening captives' risks, cutting costs and, most recently, as an approach that would allow a parent company to deduct property/casualty premiums paid to its captive.

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

Those court rulings preceded an IRS ruling in 1992 that said employers can deduct group term life

insurance premiums paid to captives because the premiums represent unrelated business.

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

A 1993 filing with the Labor Department by transportation giant CSX Corp. requesting permission to reinsure group term life insurance benefits through its Vermont captive sought to take advantage of this reasoning.

The Labor Department in 1994 rejected the CSX application, however, because 90% of the cap-

tive's business was related to CSX, which violated a 1979 Labor Department rule. Known as a class exemption, the rule said a domestic captive could be used to fund parents' employee benefit plans only if at least 50% of the captive's business was not related to its parent.

Employers regarded that 50% test as a rigid barrier against funding benefits through captives, because few companies would want their captives to write that much third-party business.

But just as Columbia Energy filed its application, the Labor Department announced it was reviewing the 50% test.

In an interview in August, Ivan Strasfeld, director of the Labor Department's Office of Exemption Determinations, said that passing the 50% test no longer was an absolute prerequisite for employers to obtain DOL approval to fund benefits through their captives.

The department, Mr. Strasfeld said, would consider alternatives to the 50% test, if the alternatives are in the best interest of participants.

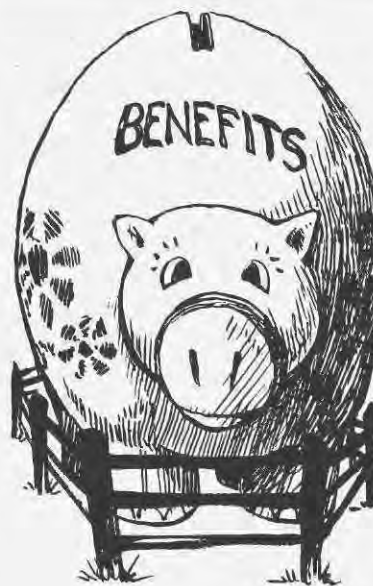
"There could be other approaches. We are flexible if there are safeguards," he said.

Among other things, the department would want to see that primary insurers used by the captive to write the policies are top-quality and top-rated, Mr. Strasfeld said.

"The plan should be getting good-quality insurance at a fair price, taking into account reinsurance arrangements," he said.

In addition, he said, the transaction must benefit participants. "We want to see something concrete that this is good for participants," Mr. Strasfeld said.

The Columbia Energy filing could be a key test of whether the DOL has, in fact, moved beyond using the 50% test as the sole criteria for ruling on requests to fund benefits through domestic



captives.

Columbia Energy does not meet the 50% test. Virtually all the risks funded through Columbia's captive relate to Columbia Energy and affiliated companies.

But employees would benefit from the transaction, according to Columbia Energy's filing with the DOL.

In anticipation of using the captive to reinsure the LTD program, benefits were sweetened, effective Jan. 1, 1999, so that disabled employees receive 60% of their salary. Previously, the plan offered an LTD benefit of 30% of salary up to the Social Security wage base and 60% of salary over the wage base. This year, the wage base is \$72,600; in 2000, it will be \$76,200.

A DOL decision on the Columbia Energy filing is expected early in 2000.

The DOL earlier this year approved a request by Union Carbide Corp. to use a U.S. Virgin Islands branch of its Bermuda captive to reinsure supplemental life insurance policies. That approval, however, lacked the potential significance of the Columbia Energy case, as Union Carbide met the DOL's 50% test.

—By Jerry Geisel

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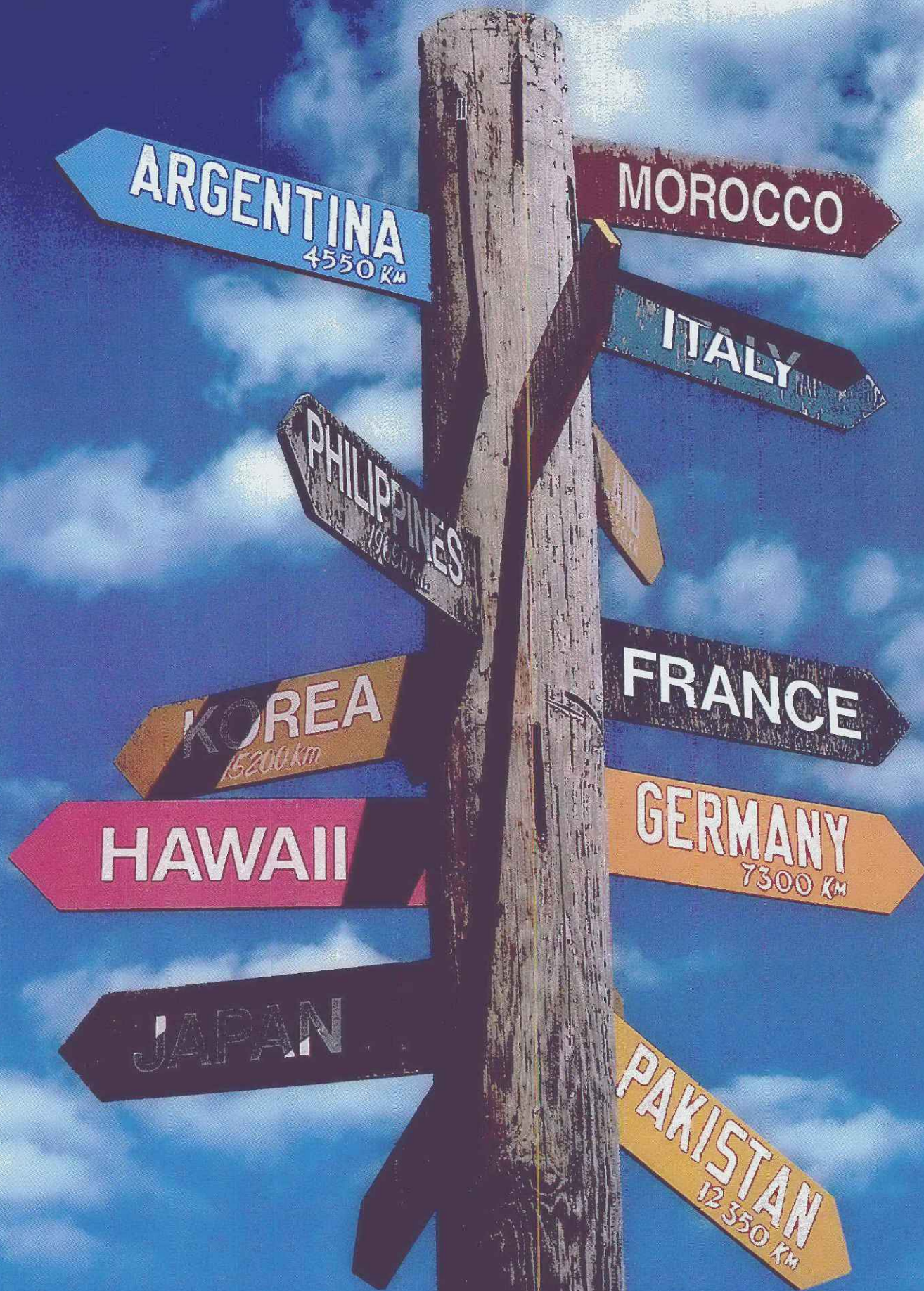
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# 10 who made news throughout '99

## NEWSMAKERS

Louisiana Insurance Commissioner **Jim Brown** won re-election to a third term despite a federal indictment on conspiracy and other charges.

The commissioner and five others, including former Louisiana Gov. Edwin Edwards, were charged with helping the owner of failed Shreveport, La., insurer Cascade Insurance Cos. avoid a \$27 million lawsuit by the state.

Mr. Brown faces 56 charges, including conspiracy, insurance fraud, witness tampering and making false statements to federal officials.

After the indictments were announced, the commissioner said that he felt like a "victim in a drive-by shooting," because "I was in the wrong place at the wrong time."

He has proclaimed his innocence in the case, which is expected to go to trial sometime in 2000.

Mr. Brown became the third consecutive Louisiana insurance commissioner to be indicted. Preceding commissioners Doug Green and Sherman Bernard both drew prison sentences on corruption convictions earlier in the decade.

The problems of Uncover Managers Inc. might have gone unnoticed even longer by the reinsurance market if not for **Warren Buffett's** disclosure in January that a U.S. life reinsurance subsidiary of Berkshire Hathaway Inc. would take a \$275 million pretax charge related to Uncover losses.

The announcement of the huge charge by Cologne Life Reinsurance Co. and its intention to withdraw from the workers comp reinsurance pool quickly resulted in the unraveling of the Uncover facility, as other reinsurers and retrocessionaires woke up to their exposures and sought to pull out.

In the wake of Mr. Buffett's move to cover Cologne's exposure, many other reinsurers swiftly discovered their exposure to Uncover losses, sparking negotiations, commutations and litigation that likely will take years to sort out in the courts.

Mr. Buffett's Berkshire Hathaway became majority owner of Cologne Life following Berkshire Hathaway's 1998 acquisition of General Re Corp.

The Uncover losses also caught Berkshire Hathaway shareholders by surprise, prompting Mr. Buffett to address the issue during the company's annual meeting in Omaha.

While he acknowledged that the Uncover exposure was an unwelcome development, Mr. Buffett noted that "these things happen in insurance. . . . The nature of insurance is that there may be unpleasant surprises."

Some trial attorneys may be forgiven if they looked at President **Bill Clinton** after he signed the Y2K Act and asked themselves, "With friends like this, who needs enemies?"

The president, who had threatened to veto earlier versions of the Y2K liability relief legislation, signed without fanfare the bipartisan measure in July, after it won overwhelming support in both the House and Senate. The plaintiffs bar—which has traditionally been one of President Clinton's most faithful constituencies—had made no secret of its opposition to the bill.

But signing the Y2K measure was only one of

the risk management- and benefits-related actions the president undertook in 1999. He came out strongly in favor of a stringent patient protection bill that was drafted by Reps.

Charles Norwood, R-Ga. and John Dingell, D-Mich., which employers strongly opposed. The president also proposed adding a prescription drug benefit to Medicare, which could reduce some employers' benefit costs, and he suggested allowing states to tap their unemployment insurance funds to provide paid family leave for new parents.

And, as 1999 wound to a close, President Clinton announced his support of a possible federal class-action suit against gunmakers, thus pressuring the weapons makers to settle suits already filed by more than two dozen cities.

ACE Ltd. Chief Executive Officer **Brian Duperreault** secured his place among the top newsmakers not long after the 1999 New Year revelry had ended.

The Bermuda Insurance Institute in March honored Mr. Duperreault with the market's first Leader of the Year award. The BII recognized Mr. Duperreault for propelling Bermuda, as well as ACE, into a stronger worldwide insurance market leadership position.

ACE's most important move this year was its \$3.45 billion purchase of CIGNA Corp.'s domestic and international property/casualty operations. The deal, announced in January, immediately established ACE as a major U.S. insurer. ACE completed the purchase before CIGNA's 1996 reorganization survived a lengthy court challenge.

In May, ACE USA Inc., Aon Corp. and Royal & SunAlliance USA Inc. formed a \$300 million insurance and reinsurance facility that will provide custom-made alternative risk transfer products.

ACE also made a bid for financial guarantee reinsurer Capital Re Corp. But when ACE's stock price fell, ACE found itself in a bidding war with XL Capital Ltd. ACE ultimately prevailed in late October and agreed to a \$511.3 million cash-and-stock deal for Capital Re.

No one this year made news in quite the way **Martin R. Frankel** did. The debarred stockbroker earned international headlines while on the lam from charges that he looted a group of U.S. life insurers from his Greenwich, Conn., mansion.

Using various aliases, Mr. Frankel controlled Franklin American Corp. of Franklin, Tenn., and a sister company, which together owned seven life insurance units in four states. In March, Mississippi regulators became alarmed when they discovered that ownership of the insurers had been shifted to a British Virgin Islands entity, the St. Francis of Assisi Foundation. A Franklin American official later reported that he was not able to find any of the insurers' assets or the stockbroker that had invested them, Liberty National Securities Inc.

Liberty National, it turned out, was an unregistered firm that Mr. Frankel ran from his home with help from several women he had met through personal ads. When regulators started asking questions, Mr. Frankel—who had also set up the St. Francis foundation—disappeared. Indicted on fraud and money laundering charges for allegedly siphoning \$200 million from the in-

surers, he spent four months on the run before being arrested in Germany in September. He is awaiting extradition.

After three years of heading Marsh & McLennan Capital Inc., which originates, structures and manages insurance industry investments, **Jeffrey W. Greenberg** made headlines early this year when parent company Marsh & McLennan Cos. Inc. announced that he would replace retiring A.J.C. Smith as chairman and chief executive officer of the world's largest broker.

The announcement was not as stunning to the industry, however, as was his 1995 departure from American International Group Inc., where he had been seen as heir apparent to his father, AIG Chairman and CEO Maurice R. Greenberg.

With Jeffrey's brother, Evan, now in the role of Maurice Greenberg's right-hand man, the prospect of having two siblings at the helm of two of the most influential companies in the commercial insurance industry made for great cocktail party gossip this year.

Jeffrey Greenberg was named president of MMC in January and was named CEO in November; he will assume the role of chairman when Mr. Smith retires after Marsh's 2000 annual meeting.

Swiss Re North America Corp.'s Chairman, President and CEO **Heidi Hutter**, who had spent almost her entire career with the company, resigned in November following a reorganization by parent company Swiss Reinsurance Co.

Ms. Hutter, who has had a reputation for being bright and hard-driving and was one of the most prominent women in the reinsurance industry, said the reorganization had eliminated the position she had held since 1996.

The North American division will now be merged with the Latin American division and headed by Andreas Beerli, managing director of Swiss Re Italia S.p.A. in Rome.

Although the division reported a nine-month combined ratio of 113.7%, according to the Washington-based Reinsurance Assn. of America, Ms. Hutter said it had achieved its nine-month financial target.

Ms. Hutter joined Swiss Re as an actuarial assistant in New York after graduating from college in 1979. In 1993, she left the company to create the reinsurer that is now known as Equitas, whose purpose was to take on the pre-1993 liabilities of Lloyd's of London. She stayed at Equitas until she was recruited by then-Swiss Re CEO Lukas Muhlemann to head Swiss Re's North American operations. Mr. Muhlemann later left Swiss Re at the end of 1996.

Upon her departure from Swiss Re, Ms. Hutter said she now plans "to travel and explore new opportunities."

As a Republican senator from a Democratic state, Vermont's **James Jeffords** often has had to do a juggling act.

In 1993, for example, he was the sole Republican to endorse President Clinton's health care reform package, a politically astute move, given Vermont's strong interest at the time in comprehensive reform.

Sen. Jeffords' juggling continued this year. He was caught in the middle when International Business Machines Corp., Vermont's largest private employer, announced it was converting its traditional defined benefit pension plan to a cash balance plan.

The conversion triggered a revolt among many older, longer-service IBM employees, who said they would receive 20% to 50% less under the new plan than the amount they projected they would get under the old plan.

Publicly, Sen. Jeffords said IBM's move was

unfair, but behind the scenes, he worked with company officials to see whether a compromise could be reached. That effort—along with employee pressure on IBM—bore fruit, as IBM agreed to more than double the number of employees eligible to stay in its old pension plan.

Sen. Jeffords, ever mindful of being in the middle, praised IBM's Vermont employees for being "ground zero" on pension issues. But he also saluted IBM for its responsiveness to employees' concerns.

Just when it seemed as though the managed care industry would become a permanent punching bag for the public and government officials, one move by a managed care plan scored some points.

In November, UnitedHealthcare, part of UnitedHealth Group, which is led by Chairman and CEO **Dr. William McGuire**, announced that it would end its longstanding practice of prior approval of physicians' treatment decisions, thus leaving those decisions in the hands of providers. That move eliminates for the health maintenance organization a major element of managed care—and a practice that often angered providers.

Some industry experts hailed the decision as revolutionary, and some even said it could start a new era of managed care.

With the move, UnitedHealthcare is getting away from the constant review of its physicians' treatment decisions. Instead, the company will focus on annual reviews of doctors and the education of physicians about how to give patients the best and most cost-effective treatment.

But the tide of public opinion flows back and forth. In entering uncharted territory, it's not clear whether UnitedHealthcare will now see its health care costs jump, thus prompting higher rates and a new round of criticism of HMOs.

**Rep. Charles Norwood**, R-Ga., will remember 1999 as the year he won a key battle in his crusade for a patients' bill of rights.

But it is far from certain that he will win the war next year.

Rep. Norwood, who has long advocated greater regulation of managed care plans, joined forces with Rep. John Dingell, D-Mich., to craft a patients' bill of rights that went far beyond a measure passed by the Senate in midsummer. Unlike the Senate bill, the Norwood/Dingell bill—known as the Consensus Managed Care Act—would allow managed care plan participants to sue plans—and, possibly, their employers—over coverage decisions.

Top House Republicans, backed by employers, health insurers and managed care providers, scrambled to block the measure by offering three managed care reform bills that granted far fewer rights to sue. But on Oct. 7, the House rejected the three milder reform acts in favor of the Consensus Managed Care Act by a vote of 275-151, with 68 Republicans bucking the GOP by supporting the bill.

The House GOP leadership may have the last laugh, though. When the time came to appoint a conference committee to iron out differences between the radically different House and Senate reform bills, House GOP leaders chose as their negotiators 12 opponents and only one supporter of the Consensus Managed Care Act, thus greatly reducing the chances that the core elements of the bill would find their way into any final managed care reform legislation.



Sen. Jeffords



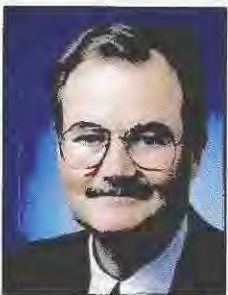
Mr. Greenberg



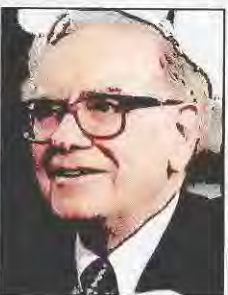
President Clinton



Mr. Brown



Mr. Duperreault



Mr. Buffett



Ms. Hutter



Mr. Frankel  
(FBI photo)



Dr. McGuire



Rep. Norwood

AP/WIDE WORLD PHOTOS

# Business Insurance presents People of the Century

## PEOPLE OF THE CENTURY

The 20th century has been a time of enormous change and innovation. During the past 100 years, many have helped shape insurance, risk management and employee benefits. The following are those whom our editors have selected as Business Insurance's People of the Century.



Mr. Benna

As Ted Benna tells the story, Section 401(k) was not buried in the tax code.

In fact, says Mr. Benna, benefit experts had known about Section 401(k), which permits cash or deferred pension plan arrangements, since it was added to the tax code as part of a broader tax bill in 1978.

"Many people, including myself, knew about it and said, 'Gee, that's nice. But I don't know what will ever be done with it,'" he said in an interview several years ago.

But one Saturday afternoon, while working on a project for a client that was considering moving from a cash bonus plan to a deferred profit-sharing plan, Mr. Benna, then a consultant with The Johnson Cos., had what he described as an idea revealed through prayer.

That idea consisted of the concept of combining pretax employee salary deferrals with matching employer contributions, an approach that wasn't spelled out in the tax code or regulations.

Mr. Benna says his attitude was, if IRS rules don't explicitly say something is not permitted, then it can be done.

After being rebuffed by two major insurers he sought as marketing partners, Mr. Benna set up the first 401(k) plan on Jan. 1, 1981, for The Johnson Cos. Johnson later was acquired by Noble Lowndes, which subsequently became part of William M. Mercer Inc.

From that humble start in 1981, 401(k) plans have exploded. Today, there are close to 300,000 such plans—far and away the largest number of any type of pension plan—and they hold more than \$1 trillion in assets.

But the impact of 401(k) plans goes far beyond numbers, says Mr. Benna, who now is president of the Bellefonte, Pa.-based The 401(k) Assn., which he founded in 1993 to promote the plans.

By requiring workers to contribute to the plans in order to receive matching employer contributions, "employees are getting into retirement planning a lot sooner than before," he says.

This approach, Mr. Benna says, has converted spenders into savers.

While Mr. Benna says he believed from the very beginning that 401(k) plans would have a huge impact, the plans' growth has surprised even him. "I stopped projecting after a few billion dollars," he says, referring to assets held by the plans.

—By Jerry Geisel

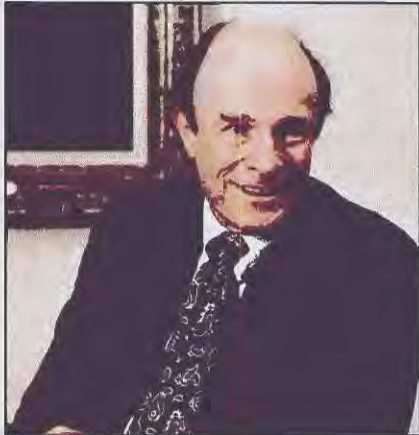
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During the hard market of the mid-1980s, when finding coverage for excess liability risks was difficult, Robert Clements had an idea that created more than just a home for these hard-to-place risks.

At the same time, Mr. Clements fostered two powerhouse insurers that would jump-start the Bermuda insurance and reinsurance market,

and he introduced buyers to this alternative risk financing option.

Longtime colleagues credit Mr. Clements with being a great innovator who is capable of turning ideas into reality. He has also been called a finder of solutions and a fierce competitor.



Mr. Clements

Mr. Clements began his career at Royal Insurance Co. in 1957. Two years later, he joined Marsh & McLennan's Toronto office, where he worked for 16 years. He later moved to the broker's New York headquarters.

Before retiring from M&M in 1995, Mr. Clements served in several distinguished capacities, including chairman of the insurance brokerage subsidiary and president of the parent holding company, Marsh & McLennan Cos. Inc. He currently serves as chairman of Greenwich, Conn.-based Risk Capital Reinsurance.

While working at M&M, Mr. Clements had the idea of creating a large, heavily capitalized insurer, for which policyholders, in exchange for large capacity, would provide the capital to keep the insurer solvent. This insurer was Hamilton, Bermuda-based ACE Ltd, which reported statutory capital and surplus of \$2.79 billion in 1998, up from \$260 million in 1985.

Mr. Clements also played a role in the genesis of XL Capital Ltd., also based in Hamilton. XL, which began in 1986 with initial capital totaling \$395 million, has grown its capital and surplus to \$1.26 billion as of 1998.

In 1992, he also helped establish Mid Ocean Reinsurance in Hamilton.

Last month, Mr. Clements was named Insurance Leader of the Year by The College of Insurance, of which he is chairman. In addition, Mr. Clements is a director of XL, Danish Re, Stockton Holdings and Annuity & Life Re. Previously, he was a director of Mid Ocean Reinsurance and Hiscox P.L.C.

—By Amanda Milligan



Mr. Greenberg

Maurice R. Greenberg, the demanding chairman and chief executive officer of American International Group Inc., had already made a name for himself in the insurance industry by 1960.

But during the next 40 years, not only would Mr. Greenberg continue building one of the world's pre-eminent insurance organizations as the hand-picked successor to its founder, but he would also be instrumental in shaping risk management.

As the architect of Continental Casualty Co.'s accident and health insurance business, Mr. Greenberg so impressed insurer entrepreneur C.V. Starr that Mr. Starr wooed away Mr.

Greenberg. Mr. Starr asked Mr. Greenberg to build the business on an international scale for the American International companies.

Within two years, though, Mr. Starr appointed Mr. Greenberg president of American Home Assurance Co. and charged him with taking the company in a new direction.

What followed helped change an industry.

Under Mr. Greenberg, American Home sold its expensive and unwieldy agency business and concentrated on underwriting large commercial and industrial risks and selling through brokers to retain risk selection and underwriting control.

And while other insurers and brokers tried to deter policyholders from keeping large retentions for fear of losing premium income, Mr. Greenberg encouraged the practice of retaining predictable levels of risk.

Product innovation has been an AIG hallmark under Mr. Greenberg as well. An early specialty was difference-in-conditions coverage. In addition, AIG has led the market in directors and officers liability insurance policy developments, such as entity coverage.

AIG also has developed reinsurance facilities to write large blocks of major risks.

Mr. Greenberg continued to expand the reach of AIG's business as well as its geographic presence throughout the 1980s and 1990s.

AIG dramatically expanded its financial services operations through acquisitions and new company launches. With its \$18 billion purchase of SunAmerica Inc. in 1998, AIG entered the retirement savings arena—one of the world's fastest-growing businesses.

AIG earlier this decade was the first foreign insurance organization to enter the Russian and Vietnamese markets, and it was the first to re-enter the Chinese and Pakistani markets in decades.

The indelible stamp that Mr. Greenberg has made on his company and the insurance industry earned him the 1998 Insurance Leader of the Year award from The College of Insurance.

—By Dave Lenckus



Mr. Heath

Many insurance executives have made their mark on the industry by leading successful companies, but few have provided a legacy of innovation as broad and lasting as the man considered to be the father of the modern Lloyd's of London.

Cuthbert Heath's resume includes achievements for which he long will be remembered.

Not only did he found one of the world's largest insurance brokerages in the early 1880s but he also was instrumental in developing non-marine insurance at Lloyd's.

Mr. Heath went to work at a Lloyd's brokerage at the age of 17, after a hearing impairment barred his joining the navy. In 1880, at the age of 21, Mr. Heath borrowed money from his father to become a name at Lloyd's.

As a pioneering underwriter in North America, Mr. Heath helped Lloyd's increase its business there. The United States today is Lloyd's largest foreign market, accounting for nearly one-third of Lloyd's total premium.

Among Mr. Heath's underwriting innovations were loss-of-profits coverage in fire policies, jewelers' block insurance and bankers' blanket bonds. He also was a leading earthquake underwriter in his day.

His role in handling claims from the San Francisco earthquake of 1906 bolstered Lloyd's reputation and led him to develop a novel form of reinsurance.

Rather than quibble over the fractious cover-

age that insurers had instituted at that time on earthquake losses, Mr. Heath instructed his agent in San Francisco to pay policyholders' claims in full. That action cemented a longstanding relationship between Lloyd's and its U.S. clients.

Shortly after the San Francisco quake, a U.S. insurer sought Mr. Heath's advice on how to protect against similar catastrophic losses. His answer: excess-of-loss reinsurance, which would cover cedents for losses beyond a predetermined amount.

More than a century ago, Mr. Heath founded the brokerage that today still bears his name and is among the world's largest. Earlier this year, London-based Heath Group Ltd. announced plans to merge with broker Lambert Fenchurch Group to form HLF Insurance Holdings Ltd.

In 1911, Mr. Heath helped convince Parliament to pass a momentous new Lloyd's Act. The legislation expanded the scope of the market from marine insurance to "insurance business of every description." He died in 1939.

—By Regis Coccia



Sen. Javits

Roth has his IRA, and Glass and Steagall had their runs as legal headlines for more than half a century. So one might imagine that one of the key architects of the Employee Retirement Income Security Act, the law that has occupied a prominent place in the minds of benefit professionals for more than 25 years, would also merit the same recognition. Instead, Sen. Jacob Javits had a convention center in New York named in his honor.

If any one person is most responsible for ERISA, it is the longtime Republican senator from New York.

Sen. Javits introduced comprehensive pension legislation in 1967. Although that bill fizzled, Sen. Javits carried the issue forward.

A big impetus came in 1971, when a congressional study Sen. Javits sponsored showed that few people ever received their pension benefits. The subsequent public outcry pushed the issue into the news, and that publicity helped to overcome the objections to pension legislation by both business groups and organized labor. Further opposition came from the Nixon administration, which introduced its own watered-down pension bill.

Sen. Javits helped turn up the heat the next year, holding hearings around the country that allowed people to speak out about the pensions they never received. Despite the growing support, political opponents of the bill managed to kill the legislation in the Senate.

But in 1973, there was a groundswell of support. Versions of the original bill passed in both the Senate and the House, and a conference committee hammered out the differences for months in 1974. The final bill passed both houses just days after President Nixon's resignation, and the measure became one of the first signed into law by President Gerald Ford. At the White House Rose Garden ceremony, Sen. Javits smiled as he stood behind President Ford, watching as his years of effort became a reality.

But that success didn't end his work on ERISA. Like a proud father, Sen. Javits kept an eye on his baby, proposing numerous amendments to help ensure that workers received their pensions.

And his efforts continued after he left office in 1981. As a private citizen, Sen. Javits continued to make recommendations about how to shore up some of the law's deficiencies. He died in 1986.

—By Michael Prince

# A look at the year in risk management news

## JANUARY:

■ ACE Ltd. agrees to pay \$3.5 billion to buy CIGNA's Corp. domestic property/casualty operations. The deal will give ACE a large U.S. and international platform to build on, while CIGNA sheds problems with its property/casualty operations to focus on its large and profitable health insurance business.

■ Marsh & McLennan Cos. Inc. announces that Jeffrey Greenberg will become chief executive officer at the end of the year and chairman of M&M, when A.J.C. Smith retires. Mr. Greenberg, who currently is chairman and CEO of Marsh & McLennan Capital Inc., came to M&M in 1995 after 17 years with American International Group Inc., where he had long been seen as heir apparent to his father, AIG Chairman and CEO Maurice R. Greenberg.

■ J&H Marsh & McLennan Inc. reaches an agreement with the Risk & Insurance Management Society Inc. to disclose, when asked by risk managers, the fees it receives from insurance companies.

The move helps end the controversy over contingent commissions that had seized the market in 1998.

## FEBRUARY:

■ XL Capital Ltd. merges with NAC Re Corp. for \$1.2 billion, leaving the Bermuda company well positioned to expand its U.S. insurance and reinsurance businesses. NAC Re obtains the financial backing of the highly capitalized XL, allowing it to take on bigger risks and to retain more of those risks.

■ Chubb Corp. offers to buy Executive Risk Inc. for \$850 million. The deal, completed in August, gives Executive Risk access to Chubb's extensive distribution system and broader range of property/casualty insurance products, and allows Chubb to strengthen its position in the directors and officers liability and executive protection insurance markets.

■ AXA Group will buy Guardian Royal Exchange P.L.C. for £3.45 billion (\$5.66 billion), making the French company one of the largest multilines insurers in the United Kingdom and boosting its stature

in the German property/casualty market.

■ Risk managers enjoyed a steadily falling cost of risk in 1997, made lower, in part, by a significant drop in liability costs, according to the RIMS Benchmark Survey. The survey finds that the cost of risk averaged \$5.25 for every \$1,000 of revenue in 1997, an 8% drop from \$5.70 the year before and a 37% decline from \$8.30 in 1992.

## MARCH:

■ The workers compensation market faces tightening and the potential for changing the way the market buys reinsurance after the unraveling of a huge workers comp reinsurance pool. Reinsurance facilities operated by Unicover Managers Inc., a managing general underwriter, stop accepting business this year after an explosion of premium volume triggered withdrawals from the pool and several lawsuits.

■ A lawsuit is filed against Amtrak, Illinois Central Railroad Co. and truckdriver John Stokes after 11 people were killed and more

than 100 injured when an Amtrak train struck a flatbed tractor trailer loaded with steel about 50 miles south of Chicago. Amtrak has several hundred million dollars in excess liability coverage over a \$10 million per-occurrence attachment.

## APRIL:

■ A shooting at Columbine High School, near Littleton, Colo., leaves 15 people dead and 22 wounded. This is the latest and most deadly in a string of U.S. school shootings since 1997, which have put a spotlight on school safety and crisis management.

■ A continued softening in the U.S. directors and officers liability insurance market means lower rates for most buyers for the fourth consecutive year, a survey by Tillinghast-Towers Perrin finds. D&O premiums fell 13% in 1998, the report says.

■ Odyssey Re (London) Ltd. files a civil racketeering lawsuit in a U.S. Court, charging that one of its managing general agents and Bermuda-based broker Stirling Cooke Brown Holdings Ltd. vic-

timized it in a series of reinsurance placements, including deals that originated with the Unicover Managers Inc. reinsurance pool.

## MAY:

■ Tornadoes tear through Oklahoma and Kansas, destroying thousands of homes and businesses and creating the worst insured catastrophe in Oklahoma history. Estimates for total insured losses could reach \$1 billion for both states.

■ The House approves H.R. 775, the Year 2000 Readiness & Responsibility Act, by a vote of 236 to 190. Among other things, the bill would provide some protection from Y2K-related disputes in most cases and would encourage disputants to use alternative dispute resolution before taking Y2K cases to court. The Senate follows with similar legislation, and President Clinton signs the bill into law in July.

■ The creation of a new \$300 million insurance and reinsurance facility by Aon Corp., ACE USA Inc. and Royal & Sun Alliance USA Inc. reflects changes both in the insurance market and in desired coverages. The new facility, called Custom Risk Solutions L.L.C., is a managing general underwriter jointly owned by all three that will provide alternative risk transfer.

■ ACE Ltd. announces plans to buy Capital RE Corp. for about \$606 million in stock. XL Capital Ltd. in October steps in with a rival bid, however, that ultimately forces ACE to sweeten its offer, as the value of its original bid declines by almost \$300 million due to a drop in ACE's stock price. ACE eventually wins the bidding for Capital RE.

## JUNE:

■ XL Capital Ltd. plans to expand its North American underwriting operations by more than \$200 million in annual gross premiums with its acquisition of property/casualty underwriting manager ECS Inc., an Exton, Pa.-based underwriting manager specializing in integrated environmental risks.

■ CNA Financial Corp.'s deal to sell its personal lines business to Allstate Corp. will permit CNA's management to focus more intensely on its financially pressured property/casualty operations.

■ GTE Corp. sues five insurers, seeking coverage for the cost of its Y2K remediation efforts. According to the suit, the policies contained "sue and labor" clauses that require GTE to expend money to safeguard its computer data and software and that say such expenses would be covered.

## JULY:

■ The Wisconsin Supreme Court rules that lead paint becomes both an irritant and a contaminant when it breaks down and, therefore, is excluded from coverage under those policies that contain the so-called absolute pollution exclusion.

■ Xerox Corp. files a lawsuit seeking coverage for Year 2000 mediation costs under the sue-and-labor clause in property insurance policies. Some risk managers say the cost of litigating for possible coverage will be seen by some companies as a small price to pay when stacked alongside the millions of dollars spent to eliminate potential losses from the millennium bug.

## AUGUST:

■ The U.S. Tax Court holds that United Parcel Service of America  
See News on page 36

## GETTING BURNED



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Companion Information Management Resources

# A look at the year in employee benefits news

## JANUARY:

■ Health care costs are climbing, with even bigger increases expected to come. Group health care costs in 1998 rose 6.1%, to an average of \$4,164 per employee, according to a survey by William M. Mercer Inc. The increases are fueled by soaring prescription drug costs and stiff rate hikes by HMOs trying to improve their financial results after years of fierce price competition.

## FEBRUARY:

■ Long-awaited Internal Revenue Service regulations on the Consolidated Omnibus Budget Reconciliation Act provide much of the guidance employers have been looking for since Congress passed the health care continuation statute in 1986. But benefit experts say the IRS went beyond its authority in allowing beneficiaries an additional grace period when their COBRA premium payment checks are off by small amounts.

## MARCH:

■ Watson Wyatt Worldwide is pulling out of defined contribution plan recordkeeping, transferring those services to First Data Investor Services Group. Wyatt says the move is part of its strategic plan to concentrate on pure benefit consulting. It had earlier pulled out of a joint benefit outsourcing venture and also exited risk management consulting.

■ Aided by a booming economy and the lack of any terminations of big underfunded pension plans, the Pension Benefit Guaranty Corp. reports that its surplus hit a record \$5 billion in 1998. That's up 43% over the 1997 surplus and a sea change from the early 1990s, when its deficit hit nearly \$3 billion.

■ Bipartisan legislation introduced in the U.S. House of Representatives this month would allow employees to contribute more to their pension plans and cut the red tape associated with administering the plans. Among other things, the bill introduced by Reps. Rob Portman, R-Ohio, and Ben Cardin, D-Ohio, would allow an employee to defer up to \$15,000 a year to his or her 401(k) plan—an increase from the current \$10,000 annual maximum—and would raise to \$235,000 from \$160,000 the employee compensation that could be included in calculating pension benefits. The measure also would ease pension non-discrimination testing procedures. Some of the bill's provisions are part of a minimum wage bill that is pending in the House and Senate.

## APRIL:

■ An employer, not plan participants, is entitled to any surplus remaining when an overfunded pension plan is terminated, the 2nd U.S. Circuit Court of Appeals ruled. The decision overturns a district court ruling that granted a nearly \$14 million surplus to participants in a pension plan sponsored by Coleman Co. Inc., which had terminated its plan a decade ago.

■ Legislation introduced in the House and Senate this month would require employers to offer the same coverage for mental disorders in their health plans as they do for physical illnesses. The Senate bill would require full benefit parity for severe biologically based mental illness, while the House measure would mandate parity for all mental disorders. No action has been taken on the measures.

## MAY:

■ International Business Machines

Corp.'s new retiree health care plan could be a model for other employers that want to limit their liabilities while making the benefit more visible. IBM will provide, for up to 10 years, a \$2,500 annual credit, plus interest, to special accounts for employees age 40 and older. When employees leave—starting at age 55—they can draw on the accounts to pay premiums for IBM-provided retiree health care coverage.

## JUNE:

■ A New York Insurance Department requirement will bar point-of-service plans from using experience rating on the out-of-network portions of their coverage. HMOs in the state are required to use community

rating, which establishes premiums based on every employer for a plan in a geographic region. Previously, however, HMOs with POS options had been using community rating only for the in-network portion of the plan. Benefit experts say that, as a result of the ruling, employers with good experience may shift to preferred provider organizations, where experience rating is permitted.

■ Participation in smoking cessation programs and the purchase of prescription drugs to treat nicotine withdrawal are tax-deductible medical expenses and can be funded through flexible spending accounts, the Internal Revenue Service determines. IRS Revenue Ruling 99-28 revokes a 20-year-old IRS ruling that

the cost of smoking cessation programs was a tax-deductible medical expense only for those employees with specific ailments or diseases.

## JULY:

■ The Clinton administration proposes to expand the federal Medicare program to offer retirees a new prescription drug benefit. Under the plan, which would be phased in gradually, retirees and Medicare would equally share in the first \$5,000 of prescription drug expenses. The monthly premium, by the time the program goes fully in effect, would be \$44. Those employers that agree to provide prescription drug coverage that is at least as good as the coverage offered by Medicare would

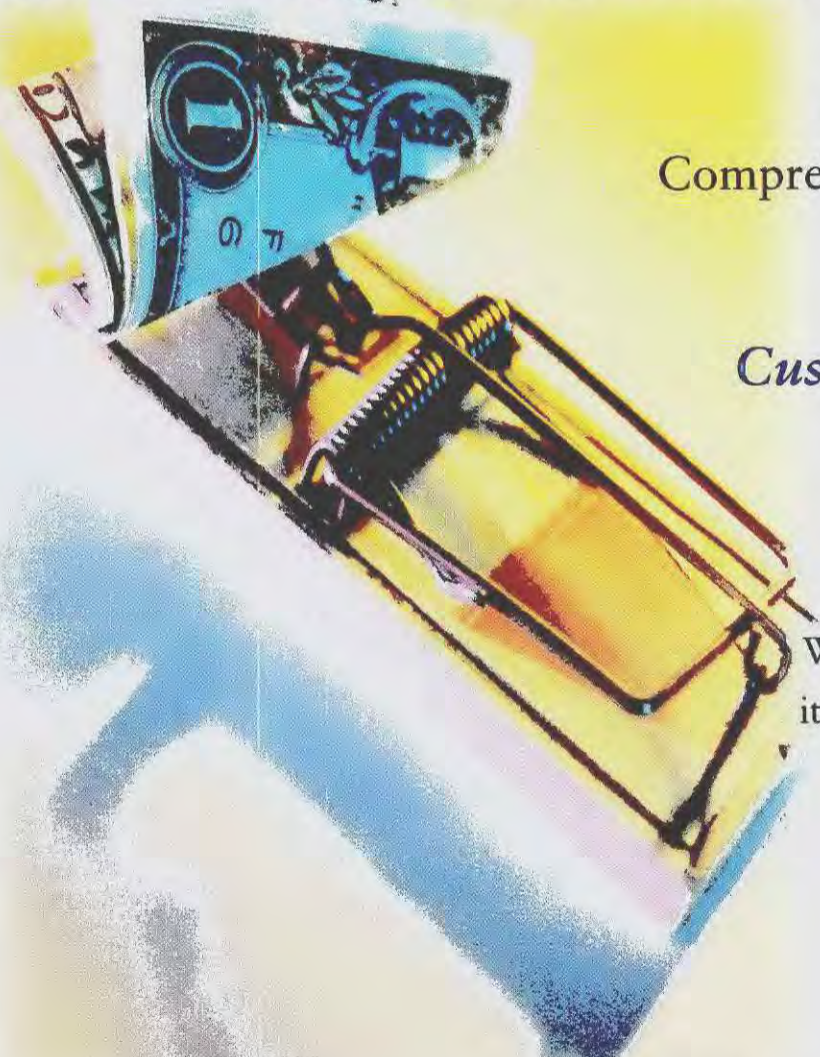
be eligible for financial subsidies per individual of roughly \$190 a year for individual coverage and \$350 for family coverage.

■ Premiums will increase 10% next year for members of the Pacific Business Group on Health, under an agreement reached with 11 California health maintenance organizations under contract with the purchasing group. That rate increase is double the aggregate increase PBGH members have experienced over the last five years.

■ A new law in Washington state will require insured plans to provide access to alternative health care providers. The law, among other things, will require access to a wide range of therapies, including naturopathy, massage therapy and acupuncture, as long as they are administered by licensed practitioners.

See Events on next page

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# Events

Continued from previous page

## AUGUST:

■ United Airlines will offer its U.S. employees domestic partner benefits, ending a two-year refusal to comply with a San Francisco ordinance requiring the benefits. American Airlines and US Airways Inc. soon after follow United's lead.

■ Columbia Energy Group is asking the U.S. Labor Department for permission to use a new Vermont branch of its Bermuda-domiciled insurance subsidiary to reinsure its long-term disability benefits program. If the DOL approves the filing, a wave of other employers could follow suit.

## SEPTEMBER:

■ Maryland insurance regulators can enforce a new law that bars health insurers from offering stop-loss policies with attachment points of less than \$10,000 for expected specific claims and an aggregate attachment point of less than 115% of expected claims, a federal judge rules.

■ Under fire from thousands of employees and from members of Congress, International Business Machines Corp. more than doubles the number of employees eligible to choose to remain in its traditional pension plan rather than move to its new cash balance plan.

## OCTOBER:

■ An unusual case before the U.S. Supreme Court, *Lori Pegram, M.D., et al vs. Cynthia Herdrich*, could redefine who is a fiduciary under the federal Employee Retirement Income Security Act. The plaintiff in the underlying case alleged that a doctor had delayed medical treatment because she was participating in an incentive plan that rewarded doctors who held down costs. The plaintiff alleged the HMO's incentive plan represented a breach of fiduciary duty under ERISA. Employers fear that if this is upheld, health plan costs will increase.

■ A conference committee will meet to try to iron out differences in patient rights bills passed by the House and Senate. The House this month passed—over the objections of the Republican leadership—legislation that would allow patients with coverage disputes to sue health plans and, in certain cases, employers, for damages allowed under state

laws. An earlier Senate-passed bill would give patients the right to appeal coverage decisions to independent external review panels comprised of physicians but would not expand patients' right to recover damages.

■ Bipartisan legislation introduced in Congress and backed by the Clinton administration would require an employer to give employees much more advance notice and provide more information when the employer changes its pension plan design and reduces future benefits. Among other things, the employer would have to give 45 days notice prior to design changes that could reduce benefits and would have to give examples of how the design change would affect any group of employees, such as workers over 50, whose future benefits are expected to be reduced.

## NOVEMBER:

■ Los Angeles and Seattle both enact ordinances patterned on a San Francisco law that requires city contractors to provide benefits to the domestic partners of employees.

■ Watson Wyatt Worldwide unveils plans for an initial public offering of stock, the first such move by a major benefit consultant.

■ UnitedHealthcare, the HMO subsidiary of UnitedHealth Group Inc., drops its longstanding prior-approval requirement for physician treatment decisions, finding the requirement costly and generally unnecessary. The move eliminates a key feature of managed care plans, as well as a key source of friction among HMOs, physicians and patients.

## DECEMBER:

■ New York lawmakers are expected to hold a special session to consider legislation that would extend or revise a controversial 1996 surcharge on hospital bills and an assessment on employers based on the number of covered lives in their health plans.

■ Group health care cost increases are accelerating for employers, according to a survey by William M. Mercer Inc. Employers' total health care costs for active employees climbed 7.3% to an average of \$4,097 per employee in 1999, compared with 1998 costs reported in January.

■ BP Amoco P.L.C. hires a start-up company, Exult Inc., to create and operate an external human resources services function for the global energy giant. The move marks one of the largest and most sweeping outsourcing contracts to date. **BI**

# News

Continued from page 34

Inc. improperly shifted nearly \$100 million in income in 1984 to a Bermuda reinsurer it created to cover damage claims by its shipper customers. If the Internal Revenue Service prevails in its claim for taxes in succeeding years, this could mean more than a billion dollars in additional tax liabilities for UPS. To stop interest and penalties while it considers an appeal, the shipping company takes a \$1.44 billion charge against earnings.

■ A freak tornado hits Salt Lake City, causing more than \$150 million in property damage.

■ Signs of a market turn in the property/casualty market appear premature. Although the soft pricing cycle may be bottoming out, most insurers have attained only modest price increases.

■ An earthquake ravages Turkey, causing insured losses between \$900 million and \$2.75 billion, according to consultants at Risk Management Solutions.

## SEPTEMBER:

■ Superior National Insurance Group Inc. files a \$200 million fraud lawsuit against American Re-Insurance Co. and an affiliate over reinsurance contracts related to Superior's 1998 acquisition of Business Insurance Group Inc. The Los Angeles-based workers compensation insurer charges in its suit that American Re and Bermuda-based Inter-Ocean Reinsurance Co. Ltd. have wrongly refused to honor a \$175 million reinsurance contract covering adverse loss development at BIG.

■ Insured damages resulting from Hurricane Floyd are far lower than risk managers originally predicted, even though uninsured flood losses are among the worst ever to hit North Carolina. Projected potential insured losses from the hurricane are in the \$1.5 billion to \$2.5 billion range for private-sector property damage, according to EQECAT Inc.

■ A massive earthquake strikes Taiwan, and damages could reach several billion dollars. Although the quake's epicenter was in a sparsely populated region some distance from the capital city of Taipei, disruptions to utilities in Taipei and other industrial centers likely will mean large business interruption claims, particularly from the highly profitable semiconductor industry.

■ Gunmaker Beretta U.S.A. Corp. files a lawsuit in federal court, seeking coverage for suits brought against it by municipalities. The suit

seeks a declaratory judgment requiring insurers Federal Insurance Co. and Great Northern Insurance Co. to cover the \$150,000 Beretta already spent in defense costs, all future defense costs and indemnification for any future damage awards.

## OCTOBER:

■ Louisiana Insurance Commissioner Jim Brown denies conspiracy and other charges contained in a federal indictment against him. The indictment charges Mr. Brown and others with helping the owner of a failed insurer avoid a lawsuit by the state. In spite of the charge, Mr. Brown wins re-election to a third term in November.

## NOVEMBER:

■ Passage of financial services reform legislation could usher in a brave new world for risk managers. The Financial Services Act, S. 900, will remove many of the barriers that have prevented banks, insurers and securities firms from being involved in each other's business.

■ The Quality Insurance Congress dissolves after failing to generate continued strong support from its members. The QIC's controversial Quality Scorecard, however, will be taken over by its co-sponsor, the Risk & Insurance Management Society Inc.

■ Following an August U.S. Tax Court ruling against United Parcel Service of America Inc., customers of UPS charge in a lawsuit that the shipping giant defrauded them by selling insurance illegally. The complaint demands \$14 billion in compensatory damages, which it seeks to treble under an Ohio corrupt activity statute.

■ Hurricane Lenny's powerful sweep through the Caribbean causes widespread damage to resorts and commercial residential property in the islands and prompts initial claims in the tens of millions of dollars.

■ Insurance buyers and underwriters alike welcome the proposed merger that will create HLF Insurance Holdings Ltd. The partners, Lambert Fenchurch Group P.L.C. and Heath Group P.L.C., are the world's 10th- and 12th-largest brokers, respectively. The merged firm, according to estimates, will be the world's fifth-largest broker.

## DECEMBER:

■ Swiss Reinsurance Co. announces plans to purchase Underwriters Re Group Inc. for \$725 million. Observers see the merger as a good move that will enhance Swiss Re's U.S. operations.

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## Business Insurance

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# INTERNATIONAL

## Global Briefs

Italian insurer **Assicurazioni Generali S.p.A.** last week won control of **Institute Nazionale delle Assicurazioni**, having gained control of just over 80% of its smaller rival's shares in a bid launched in September (*BI*, Sept. 20). A decision by the European Union's competition commissioner, Mario Monti, as to whether the takeover will be investigated as anti-competitive is expected this week. . . . **The International Group of Protection & Indemnity Clubs** will, for the first time, offer reinsurance contracts on a two-year basis. The group, whose members are the leading mutuals for ship liability coverage, also is offering premium reductions at its Feb. 20, 2000 renewals to reflect a reduction in major claims. . . . **A.M. Best Co.** has assigned its A+ (superior) financial strength rating to **Overseas Partners Cat Ltd.**, a start-up catastrophe reinsurance subsidiary of Overseas Partners Ltd. Best said the rating is based on an agreement whereby Renaissance Re will produce and underwrite an assumed portfolio of international property catastrophe business on behalf of OPCat, that OPCat's risk profile will essentially be similar to Renaissance Re's catastrophe book of business, and that OPCat will have "superior capitalization and operating leverage in comparison to its peers". . . . **Moody's Investors Service Inc.** has lowered to Aa3 from Aa2 the insurance financial strength rating of **Winterthur Swiss Insurance Co.** The downgrade reflects uncertainty about the company's future competitiveness resulting from its ownership by Credit Suisse Group and its revised strategy of concentrating on European—rather than global—property and casualty business. . . . Meanwhile, Winterthur Swiss Insurance Co. has announced the acquisition of **National Insurance & Guarantee Corp. P.L.C.**, a London-based non-life subsidiary of the Swedish Skandia Group. Winterthur said the acquisition will substantially strengthen its position in the U.K. market and underscores its aim to further expand as a leading insurer and provider of financial services. . . . **Moody's Investors Service** expects to assign an A1 insurance and financial strength rating to **Property & Casualty Insurance Co. P.L.C.**, the Nordic insurer to be created by the combination of the non-life insurance businesses of three leading companies in Sweden, Norway and Finland (*BI*, Oct. 25). **Moody's** has also upgraded to A1 its insurance financial strength ratings of the three companies involved: Skandia Property & Casualty Insurance Co. Ltd., Pohjola Non-Life Insurance Co. Ltd. and Storebrand Skadeforsikring A/S. The upgrade reflects "the strong strategic rationale for the cross-border consolidation of companies operating in small domestic markets". . . . **The Yasuda Mutual Life Insurance Co.** and **Fukoku Mutual Life Insurance Co.**, Japan's sixth- and 11th-largest life insurers, are discussing an agreement that could result in a business alliance. **Moody's Investors Service** has changed the outlook for the respective A2 and A3 insurance financial strength ratings of Yasuda and Fukoku to "stable" from "negative," following the announcement of the anticipated arrangement. **Moody's** said it views the affiliation as positive and in line with its view that life insurance companies are increasingly being required to operate more efficiently due to tougher competition and poor investment returns. . . . The supervisory board of **Allianz Versicherung A.G.** has appointed **Karl-Herman Loewe** to its board of management in Munich, effective Jan. 1, 2000. Mr. Loewe will head the finance and accounting division, replacing **Joachim Faber**, who will head Allianz's asset management and financial services division. Formerly, Mr. Loewe was chief financial officer of Allianz's life insurance unit in Stuttgart.

# Many names staying put

Shift to limited-liability status seen as indication of resolve to remain

By **EDWIN UNSWORTH**

Many individual names at Lloyd's of London not only appear to be committing to stay in the market, a new study suggests, but they also are outperforming the suppliers of corporate capital.

Figures published early this month by the Assn. of Lloyd's Members show that private investors increasingly are converting to limited-liability membership from the traditional unlimited-liability status they have had throughout most of Lloyd's 311-year history.

In 1999, about 22% of individual names provided underwriting capacity on a limited-liability basis, amounting to £722 million (\$1.20 billion). For 2000, however, the percentage of limited-liability names is expected to rise to nearly 49%, or about £1.12 billion (\$1.80 billion).

This year, of Lloyd's 5,500 individual names, about 4,500 wrote on an unlimited-liability basis. Next year, about 3,500 are expected to do so.

Michael Deeny, chairman of the ALM,

### Corporate members facing tough times

	1997 year of account		1998 year of account	
	Number of corporate investors	Profit (loss) in millions	Number of corporate investors	Profit (loss) in millions
Members making profits	109	\$105.7	43	\$61.4
Members making losses	93	(169.8)	393	(433.4)
<b>Total</b>	<b>202</b>	<b>(\$64.1)</b>	<b>436</b>	<b>(\$231.0)</b>

Source: Lloyd's of London forecast

said this shift is significant, as "it strongly suggests that large number of names are planning to remain underwriting at Lloyd's for the long term."

Although corporate investors provided more than 70% of Lloyd's capacity this year, some are beginning to withdraw as their syndicates post substantial losses. Since the market opened to corporate capital in 1993, the number of names has dwindled. A decade ago, Lloyd's reached a high of 34,000 individual names. For the 2000 year of account, around 5,200 names are expected.

With the expected improvement in rates and market conditions in 2000, the ALM says members' agents are planning to recruit new names to start underwriting in 2001.

Capacity supplied by individual names is forecast to stabilize at about £3.2 billion (\$5.16 billion) in 2000, against this year's level of £3.4 billion (\$5.48 billion). The ALM calls this a "very modest decline" compared with the £600 million (\$994.2 million) fall from 1998 to 1999.

Mr. Deeny said the ALM's findings negate *See Names on next page*

## Prospects dim for 4 syndicates after capital exit

By **CAROLYN ALDRED**

LONDON—Four of the five Lloyd's of London syndicates forced to stop underwriting last month when UNUMProvident decided to exit Lloyd's likely will go into runoff, despite last-minute negotiations to rescue them, according to a Lloyd's official.

As the year draws to a close, time is running out for the syndicates, all of which were forced to stop underwriting just as the busy year-end renewal season was getting under way.

Although one syndicate may well continue to operate if negotiations succeed, hope for the others was fading fast last

week, as another proposed deal fell through.

"I think expectations of a market rescue have gone," said David Gittings, director of regulation at Lloyd's.

Duncanson & Holt Syndicate Management Ltd. ceased underwriting on non-marine syndicates 55 and 1101, marine syndicate 1308, aviation syndicate 957 and space syndicate 1999 after Portland, Maine-based UNUMProvident decided to pull out of the Lloyd's market and concentrate on its core disability business in North America, the United Kingdom and Japan. The company provided approximately 75% of the capital to the five *See Syndicates on page 39*

# LLOYD'S



**Oil tanker insured for loss**  
Losses from an oil tanker accident off northwest France Dec. 12 were unknown as of last week. Coverage on the Italian tanker Erika was placed in the Italian market, with protection and indemnity coverage written by The Steamship Mutual, according to insurance industry sources. All 26 crew members were rescued when the tanker broke apart and sank in rough seas. Erika, carrying about 25,000 tons of fuel oil, was en route from Dunkirk, France, to Livorno, Italy.

## Increased risk management focus urged

By **EDWIN UNSWORTH**

LONDON—U.K. companies and local governments must improve their risk management practices as they head into the 21st century, an insurance executive warns.

Jonathan Bloomer, deputy group chief executive of London-based Prudential Corp. P.L.C., said in a speech at the recent annual dinner of the Assn. of Insurance & Risk Managers in London that "poor risk management will destroy shareholder value and inevitably lead to the withdrawal of capital from companies with a consistently poor track record."

He told an audience of more than 800 risk managers that risk management should be moved up on the corporate agenda and should become part of board members' decision-making.

"Risk management awareness needs to be embedded within the organization as a culture, with commitment from the most senior levels being channeled to all employees," said Mr. Bloomer.

Risk management practices also must be developed for new areas of business, such as e-commerce, he added.

"There is an array of dangers in electronic trading—failure of (information technology) equipment, viruses, hackers, slander—but the greatest risk is in losing ground to competitors through delay in capitalizing on e-commerce opportunities," Mr. Bloomer explained.

Separately, risk managers in local government offices were urged recently to adopt a new means of measuring the cost of risk, dubbed the Corporate Health Indicator.

David Fleetwood, chairman of the Assn. of Local Authority Risk Managers, said this indicator would assess not only evident costs of risks—including insurance premiums, claims, uninsured losses and administration—but also the "vast hidden costs" in areas such as disruptions in services, employee absence, employment of temporary staff, replacements for damaged equipment and unreported damage to town property.

ALARM estimates that the total cost of risk to a typical local authority could be as high as 5% of gross revenues.

The indicator also would establish certain best-practices guidelines for the risk management process.

In a report to a joint commission of the Department of Environment, Transport and the Regions and the Audit Commission on Best Value Performance Indicators for 2000/2001, ALARM said the cost of risk to local governments would be better controlled if the indicator were introduced as a Best Value standard. These standards are a part of the U.K. government-led initiative for better corporate governance.

The only way to control the expected rise in the cost of risk within local governments is "through quality management with an embedded risk management culture," said Mr. Fleetwood.

Risk management should be incorporated into corporate culture "in a manner which is measurable and accepted by all," he added.

## Names

Continued from previous page

predictions by "many commentators and market professionals" that names eventually would disappear from Lloyd's. "The evidence is now that this is not going to happen. As the trading conditions improve, names—old and new—will be increasing their capacity to replace some of the corporate capacity that is now withdrawing after significant losses," he said.

Lloyd's is expecting to post marketwide underwriting losses for both 1998 and 1999.

According to the ALM, the majority of those losses will fall on corporate members, because individual names have been selling capacity on the worst-performing syndicates while retaining capacity on the best-performing ones.

From 1989 to 1995, individual names supplied 53% of the capacity on Lloyd's 10 best-performing syndicates. By comparison, corporate members since 1993 have accounted

for 88% of the capacity on the 10 worst-performing syndicates, according to the ALM. "There is no reason to believe that this position is any different today," the ALM study says.

For 1998, ALM projects that 96% of individual names will make a profit or a small loss.

Citing Lloyd's figures, the ALM forecasts that individual names will earn an aggregate profit of £21.2 million (\$34.2 million) for 1997 but have a £69.6 million (\$112.2 million) loss for 1998. Corporate members, meanwhile, will lose a total of £39.8 million (\$64.1 million) in 1997 and £231.0 million (\$372.3 million) in 1998.

Evidence that corporate investors are worried by the loss trend comes from the decision last month of Portland, Maine-based UnumProvident Corp. to withdraw its £174 million (\$280.4 million) of capacity at Lloyd's, the ALM says (see story, page 37).

The association claims this "is likely to be the first of a number of departures as a result of these losses." **BI**

## Australia evades cyclone losses

PERTH, Australia—Oil and gas operations on Western Australia's offshore oil drilling area, the North-West Shelf, reported no major damage after the category-5 Cyclone John hit the Indian Ocean coastline last Wednesday.

The most powerful cyclone ever to hit Australia, John passed between the populated areas of Karratha and Port Headland, leaving little property damage in its wake despite winds gusting up to 62 mph inland and 180 mph offshore.

Woodside Energy Ltd. operates North-West Shelf ventures on behalf of BHP Pty.

Ltd.; BP Australia Ltd.; Chevron; Shell Australian Ltd.; and the Japanese consortium MIMI, which consists of Mitsubishi and Mitsui. Woodside continued operating its two offshore platforms and one onshore gas plant throughout the cyclone.

High seas did, however, force Woodside to disconnect its moored oil tanker, the Cossack Pioneer, from a floating production, storage and offloading facility permanently situated over an oil and gas field, said Rob Millhouse, Woodside's public affairs manager. Mr. Millhouse said the Cossack Pioneer, which collects an average 130

barrels of oil daily, is typically unmoored between five and 10 times a year, when cyclones pass through the area.

Bruce Larson, Perth-based external affairs manager for giant mining company Rio Tinto Ltd., said that Rio Tinto's six iron mines in the region were kept on "red-alert standby." Mr. Larson said the railway line and port, owned by Rio Tinto, had to close due to heavy rains but that there had been no property damage.

As *Business Insurance* went to press, the North-West Shelf was bracing itself for the category-1 Cyclone Ilsa, which was traveling in John's wake. **BI**

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### REQUEST FOR PROPOSALS

### NEW YORK CITY HOUSING AUTHORITY REQUEST FOR PROPOSAL (RFP) FOR BROKERS/CONSULTANTS TO PROVIDE GENERAL LIABILITY AND/OR WORKERS' COMPENSATION INSURANCE SERVICES

The Authority invites insurance Brokers/Consultants to submit proposals to provide consulting services for the purpose of enhancing the Authority's casualty insurance program.

Proposals shall be made in the format outlined in the Request For Proposal packet and shall contain full submission requirements. Packets may be obtained from the New York City Housing Authority, Risk Finance Division, 90 Church Street, 6th Fl., New York, New York 10007. Completed proposal must be received by 4:30 P.M. on January 10, 2000.

A proposers conference will be held on December 21, 1999 at 10:30 A.M. at the Authority's central office, located at 250 Broadway, New York, New York 10007. All inquires for additional information regarding the Request For Proposal may be directed, in writing, to Augusto Montan, New York City Housing Authority, 90 Church Street, 6th Fl., New York, New York 10007.

Rudolph W. Giuliani, Mayor, New York City  
John G. Martinez, Chairman, NYCHA



### LEGAL NOTICES

### LEGAL NOTICES

### IN THE HIGH COURT OF JUSTICE CHANCERY DIVISION COMPANIES COURT IN THE MATTER OF THE CHARTER REINSURANCE COMPANY LIMITED AND IN THE MATTER OF THE COMPANIES ACT 1985 NOTIFICATION TO SCHEME CREDITORS

NOTICE IS HEREBY GIVEN that by an order dated 11 October 1999 made in the above matter, the Court sanctioned a Scheme of Arrangement ("the Scheme") between the Charter Reinsurance Company Limited ("the Company") and its Scheme Creditors (as defined in the Scheme) following a meeting of its creditors held on 22 September 1999. On 12 October 1999 ("the Effective Date"), an office copy of that Order was filed with the Registrar of Companies and on that date the Scheme became effective.

Pursuant to the Scheme, Scheme Creditors have been sent Provision of Information Forms or, where appropriate, Broker Statements. It is a Provision of the Scheme that if a Scheme Creditor wishes to amend any of the information contained within a Provision of Information Form or a Broker Statement, he must amend his form and return it to the Joint Scheme Administrators within 91 days of the Effective Date. Therefore, all amended Provision of Information Forms or Broker Statements together with all relevant supporting documentation must be sent to the Joint Scheme Administrators by 11 January 2000.

Scheme Creditors should note that if their amended forms are not received by the Joint Scheme Administrators at the address below by 11 January 2000, they shall be bound by the information contained in their forms (with the exception of any information listed under the heading "Provisional Valuation"). This may affect the value (if any) of Scheme Creditors' claims.

Amended forms must be returned to the following address:

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# Syndicates

Continued from page 37

DHSM-managed syndicates (BI, Nov. 29), which had a total capacity of £240 million (\$387 million).

"Recent deterioration in projected results of the syndicates has led the company to this action, which will allow (UNUM) to minimize and manage further costs and losses," an UNUM statement said.

Although Marlborough Underwriting Agency Ltd. had looked at taking on some of the business and underwriters from syndicates 1308, 55 and 1999, its majority shareholder and main syndicate investor, CGU P.L.C., decided against the deal, according to Angus Sladen, Marlborough's managing director.

Nevertheless, negotiations were continuing last week with Richmond Underwriting Ltd., said Andy Ripley, acting managing director of DHSM.

Paul Sandilands, Richmond's managing director, confirmed that Richmond and the management team of syndicate 1101 were discussing jointly taking over the management of the syndicate. If discussions are successful, syndicate 1101 would continue in 2000 with its existing underwriting staff and without prior-year accounts going into runoff, Mr. Sandilands said.

DHSM also is negotiating with three runoff agents to ensure a smooth and orderly runoff if any or all of the syndicates are permanently closed, Mr. Ripley said.

However, it is in everyone's interest to keep the syndicates operational, Mr. Ripley said, adding

that the agency was working hard to find alternative capacity or homes for the syndicates. He also pointed out that Lloyd's had been working closely with the agency to find a solution.

In the now-likely event that most of the syndicates close, Lloyd's would continue to work with DHSM to ensure the proper management of any runoff, Mr. Gittings noted.

The situation at DHSM, where several syndicates are likely to be forced to close because one corporate investor changed its business strategy, has received mixed opinions in the Lloyd's community.

"The Duncanson & Holt situation is very dangerous potentially for Lloyd's. It is one of the most significant developments facing the market, as it creates a credibility issue," said James Weatherstone, deputy underwriter for syndicate 861, managed by Brockbank Syndicate Management Ltd.

While corporate and individual investors "both have the right to make money on syndicates" and are at liberty to pull out, corporate investors sometimes take a more short-term view than do individual investors, as they are under pressure to produce regular dividends to shareholders, said Mr. Weatherstone.

Names—the individual investors at Lloyd's who formerly took unlimited liability in the market—are far more resilient than corporate investors, he noted.

It is vital that corporate investors understand the Lloyd's market, according to Mr. Weatherstone, who pointed out, for example, that Lloyd's three-year accounting system is quite different from the annual Generally Ac-

cepted Accounting Principles used in the United States.

"To find that capital is taking flight so easily is worrying," said Mr. Weatherstone, who predicted that the "market is ripe for another round of consolidation."

Michael Deeny, chairman of the Assn. of Lloyd's Members, predicted that other corporate investors will pull out of the market during the next year.

Corporate investors "may see this is turning into an expensive

**Syndicate closures 'are not the right message for Lloyd's customers,' says Lloyd's underwriter Reg Brown.**

experience," and "we believe that there will be others" pulling out of the market, said Mr. Deeny, at a recent press briefing (see story, page 37).

Others, however, are not so worried.

Insurance analyst Rob Jones, a director of Standard & Poor's Insurance Ratings in London, said that UNUM's departure from Lloyd's is not a matter of great concern for the market.

"We think that there's a strong possibility that some of the capacity will find a new home. I believe there is plenty of corporate capital" still wanting to back Lloyd's syndicates, Mr. Jones said.

"If there was a flood of exiting capital, I would be seriously concerned," but that is not the case, he said.

Stephen Catlin, chairman of Catlin Underwriting Agencies Ltd., also is not fretting.

"Capital providers always have the ability to pull out of the market, whether they are corporate investors or individual names. I don't think it's necessarily unhealthy," Mr. Catlin said.

Syndicates have always come and gone. It is part of the marketplace, he said, adding that members' agencies have always taken names off syndicates that the agencies feel are not performing well.

Seven to eight years ago, several dozen syndicates ceased underwriting in the space of two to three months because they lost the support of names, Mr. Catlin noted.

"Lloyd's is a market, and there will always be syndicates withdrawing and those starting up," agreed Andrew Fleming-Williams, a director of managing agent R.J. Kiln & Co. Ltd.

The central fund and the chain of security that stands behind Lloyd's is the same for all syndicates, so a closure does not hinder claims payments to policyholders, he pointed out.

In addition, "one can't complain of excess capacity in the market and then complain when some

leave it," Mr. Fleming-Williams noted.

Reg Brown, Lloyd's underwriter and president of the Chartered Insurance Institute in London, agreed that feelings in the market are mixed.

There is a need for excess capacity to leave the market, but syndicate closures "are not the right message for Lloyd's customers," he said.

Market forces and changing conditions have always led to the closing of syndicates; capacity withdrawal just happens a bit faster when a corporate investor pulls out, noted Mr. Brown, underwriter for syndicate 702, which is managed by Octavian Syndicate Management Ltd.

Lloyd's regulator Mr. Gittings is not concerned about the "future of the market because of one corporate investor deciding not to continue." But "what raises concerns is the lateness in which it is being done," he said, pointing out that a major investor pulling out so late in the year leaves very little time to find alternative capacity for the business before Jan. 1.

Meanwhile, "the chain of security that supports the policyholders is not affected" by the syndicate closures, Mr. Gittings said. **BI**

# Dinosaur model designer wins suit

By PAULA WESTON and KATE TILLEY

ADELAIDE, Australia—The Royal Agricultural & Horticultural Society plans to appeal its portion of a \$31.25 million Australian (\$20.08 million) liability award related to losses from a model dinosaur that was destroyed by fire at a society-sponsored exhibition.

A South Australian Supreme Court judge late last month found the society to be among the parties responsible for losses stemming from a fire that destroyed a 40-foot-high, 18-ton model Tyrannosaurus rex in September 1985.

Much of the award comprises loss of potential earnings from exhibiting the dinosaur in the United States and in films.

The Royal Agricultural & Horticultural Society of South Australia leased the Royal Adelaide Showground where the dinosaur was destroyed. The model's actual value was estimated at only \$2.8 million Australian (\$1.8 million).

In a Nov. 25 ruling, Judge Robin Millhouse awarded the dinosaur's designer, Allan Limb, \$3.25 mil-

lion Australian (\$2.09 million) to rebuild the creature, \$20 million Australian (\$13 million) for lost potential earnings and \$8 million Australian (\$5 million) in interest.

"I suggest that T-rex would have been a success on the state fair circuit in the U.S. It had the potential to make millions for its owner," Judge Millhouse said.

The judge ruled that the fire was caused by workers using a welder to dismantle a protective steel tent surrounding the dinosaur. He found liable: the Royal Agricultural & Horticultural Society, responsible for 30% of the award; an uninsured scrap collector, 10%; two demolishers who worked with the scrap collector, 50%; and an uninsured rigger employed by the demolishers, 10%. The demolishers had a public liability policy, but it excluded their use of a crane.

The Supreme Court judge found the society negligent for not immediately calling for firefighters or using water from an onsite hydrant to extinguish the fire.

A spokeswoman for CIC Insurance Ltd., now part of Sydney-based HHH Insurance Ltd., in-

sured the society and handled its defense. The society will appeal the award, she said, but would not say on what grounds it would base its appeal.

The other defendants could not be reached.

Judge Millhouse found the scrap merchant and rigger liable for 10% of the damages for not foreseeing the fire risk. The two demolishers, who hired the rigger, were found to be "vicariously liable" for his negligence, and the judge held the two jointly responsible for 50% of the damages.

The judge noted that Mr. Limb faced financial difficulties after the loss that prevented him from filing suit until 1991, just before the statute of limitations expired. Pretrial procedures further delayed hearing of the case by eight years, Judge Millhouse said.

Judge Millhouse described the dinosaur as "a marvelous contraption" that Mr. Limb had built using a small model from the British Museum. It was activated by hydraulics and controlled by many minicomputers. The dinosaur took Mr. Limb four years to build. **BI**

# Industry networks to form EDI standards

Exchanging insurance and reinsurance data electronically around the world could get easier as the result of an international joint venture to create new messaging standards for data exchange using XML, or extensible markup language.

Partners in the joint venture are the Brokers & Reinsurance Markets Assn., based in New York; the Reinsurance Assn. of America, based in Washington; IVANS Inc. of Greenwich, Conn.; and Worldwide Insurance E-Commerce, or WISE, which has offices in Chicago, London and Brussels, Belgium.

XML is a syntax standard, similar to hypertext markup language, or HTML, which is widely used on Web sites. XML, however, allows for the transfer of structured data as well as text. The XML standards should be ready by the end of the first quarter of 2000, according to a statement from WISE.

Until now, the insurance networks have focused on creating electronic data interchange standards to transact reinsurance and large-risk commercial insurance.

"However, with advances in Web technology and an increasing emphasis on XML as an alternative for sharing structured data, the (joint venture) partners decided it was essential that their standards be made

available in XML format, in addition to (those of) EDIFACT," according to the statement. EDIFACT is the United Nations body set up to create standards for the electronic data interchange for administration, commerce and transport.

ACORD, a U.S. standard-setting body for the insurance industry, and IVANS will be joint contractors for the XML project; both have worked on the creation of XML standards for U.S. personal and small-risk commercial insurance. Meanwhile, WISE will continue to administer the joint venture and will create a full data dictionary.

"Large and small organizations are seeing XML as a Web-friendly approach that will allow them to share structured data with their business partners cheaply," said Kevin Ashby, chief executive officer of WISE.

"Combining the business experience gained in initiatives such as (the joint venture) with new technologies such as XML provides a powerful formula for realizing true electronic commerce within the insurance and reinsurance industries," said Jorgen Flemmer, global e-commerce business leader of ERC Frankona located in Munich, Germany.

—By Carolyn Aldred

# Privacy

Continued from page 1

rule, say some observers. "I don't think Congress has time to move" within the HHS timeframe, said Neil Trautwein, director-employment policy for the National Assn. of Manufacturers in Washington. But the "convoluted way" that HHS has moved on the regulations could "light a fire" under Congress to act later next year, he said.

Employers and health insurers had given the proposals a mixed review at best (BI, Nov. 8; Nov. 1). They fear that complying with the rules would be extremely expensive and would make measuring health plan performance more difficult. Employers have also expressed concern about what impact the proposals could have on their ability to manage workers compensation medical treatment.

The tone of a panel discussion of the proposals a few days before HHS announced the extension at the Cato Institute, a liber-

tarian think-tank in Washington, underscored that employers are not the only ones worried about what the regulations might do. The concerns expressed at the Cato forum focused on the possibility of government abuse of the information.

The proposal has several shortcomings, said Ronald Weich, a partner in the Washington law firm Zuckerman, Spaeder, Goldstein, Taylor & Kolker L.L.P. and legislative consultant to the American Civil Liberties Union.

Chief among these is the fact that, as far

as the ACLU is concerned, law enforcement agencies' access to the data would be too easy, he said. Other concerns cited by Mr. Weich included the possibility of data being gathered from government data banks and omission of patient consent requirements for release of information under certain circumstances.

Nevertheless, the ACLU has decided to back the HHS plan because "these regulations, on balance despite these limitations," represent an improvement over the current

See Privacy on next page

# Xerox

Continued from page 1

is working. After retiring, the employee taps into the account to buy health insurance and to pay for other health care-related expenses. But when the account is exhausted, the retiree must pay these expenses out of his or her own resources (BI, May 24).

The Xerox benefits department declined to be interviewed by *Business Insurance* after the article was published, because "they just want it to go away," the company spokeswoman explained.

But benefits experts say the issue is not going to go away soon. It already has been a topic of discussion for several years.

In May, for example, the Employee Benefits Research Institute in Washington published a conference report titled "Severing the Link Be-

tween Employment and Health Care."

According to a survey conducted in November by benefit consultant PricewaterhouseCoopers L.L.C., more than 60% of employers expect to move to a defined contribution system for financing health care by the year 2010.

And the Harvard Business School last month hosted a private meeting with 100 industry experts to "hash over the consumer-driven health care model, which is not the economic model we have right now," said John Erb, area vp for Gallagher Benefit Services in Boca Raton, Fla. Mr. Erb attended the Harvard event in Cambridge, Mass.

During the meeting, one benefit manager for a large company asserted that "his CEO wants out of the health care business," Mr. Erb recounted.

"If I'm an employer thinking about this for the future, I've got to

be very sensitive about communicating it to employees," observed Barry Barnett, a principal at PricewaterhouseCoopers in Teaneck, N.J. "Since time immemorial, health care has been viewed as an entitlement."

## Employers want to get out of the health care business, says Ralph Kimmich of Southwest Airlines Co.

Employers, though, understandably want to get out of the health care business, said Ralph Kimmich, director of benefits and compensation for Southwest Airlines Co. in Dallas.

Federal mandates requiring more-expansive coverage and eroding em-

ployers' protection from liability under the Employee Retirement Income Security Act of 1974 are making employee benefits an increasingly risky business, Mr. Kimmich said.

"If more oppressive government regulation is enacted, more employers will move toward a defined contribution health and welfare approach," he predicted.

Under such an arrangement, "employees would get an MSA-type of program and take responsibility for buying their own health care," explained Mr. Kimmich, referring to medical savings accounts. "There would be less employer involvement."

MSAs currently are available only to companies with 50 or fewer employees, though the U.S. House has passed a bill, H.R. 2990, that would make the tax-favored accounts available to all employers (BI, Oct. 11). With such accounts, employers give employees a fixed sum to pay for health care expenses on a pay-as-you-go basis and to purchase catastrophic health insurance. The funds are not taxable income for employees as long as the MSA is used for those purposes.

"In the future, employers will give employees a dollar amount, and then they would buy from a menu of benefits available in the marketplace," predicted Suzanne Mercure, a principal at health care consultant Barrington & Chappell in Falls Church, Va. Ms. Mercure also is the former health programs manager for Edison International in Rosemead, Calif.

The plans will "not necessarily be company-sponsored. They could be individual plans," she said.

Ms. Mercure said she also envisions the creation of health care purchasing cooperatives, or "mega-benefits firms," that will make such a menu of health plans available to employers via the Internet.

But before such a system can be implemented, there would have to be significant changes in tax law to assure such contributions would not be taxable income for workers, and changes in the way health insurance is underwritten, benefit experts say.

"Tax law is a deterrent," explained Tom Wildsmith, a policy research actuary at the Health Insurance Assn. of America in Washington. "Employer-provided health insurance is not taxed as income. If you get rid of that tax break...there

would be a net decrease in the number of people who buy insurance" because after-tax dollars would not go as far in purchasing coverage for individuals, he explained.

In its May conference report, titled "Individual Choice Initiatives: Analysis of a Hypothetical Model Act," EBRI concluded that if tax breaks were eliminated for coverage bought by employees and the self-employed, "the number of individuals covered by employment-based insurance will decline from about 152 million to between 68.9 million and 78.1 million."

Employers currently deduct 100% of their health insurance premiums, while the self-employed can deduct 45%.

That tax break "reduces the cost of insurance to employees by upward of 40% to 50%," EBRI estimated.

Fundamental changes in the way health insurance is underwritten also would be necessary if the nation were to switch to an individual market from a predominantly group market, experts said.

"The market's not ready," asserted Mr. Barnett of PwC. For individual coverage, "insurance companies rate people by health status, so older, less-healthy workers would have to pay significantly more than younger workers."

An individual market approach also could be financially detrimental to managed care plans, suggested Mr. Erb of Gallagher. Less-healthy people would gravitate toward the plans considered the most generous, he explained.

"You could retrospectively adjust the premiums so plans experiencing adverse selection would be subsidized by those with more money," he said. "It's a concept that obviously needs a lot of work."

In addition, individually rated health insurance is more expensive than group health coverage, noted Mr. Wildsmith of the HIAA.

"For the majority of working Americans, the group-based system works pretty well," he said. "Administrative costs are lower; premium collection is easier. It also cuts marketing and distribution costs."

By switching to an individual market, "you would lose the economies of scale and the ability to piggyback on the administrative systems of employers" that, for example, allow automatic premium deductions from payroll, he explained.

"If, in fact, the whole country went to an individual market approach, the industry would have to be reorganized," said Helen Darling, a senior consultant at Watson Wyatt Worldwide in Stamford, Conn., and a former Xerox benefit manager.

For example, "in most states, an individual can't even buy health insurance," she said.

She also suggested that people who are less healthy and require a lot of health care likely would end up in "pools" similar to high-risk pools for auto insurance.

But Mr. Barnett of PwC said that while the concept may need work, it should not be ruled out.

"Ten years ago, it would have been hard. But now, with the World Wide Web and e-commerce, it can be done. Employees can educate themselves and buy through the Web. It removes the administrative burden on employers. They're out of the risk. They just have to figure out how much to fund."

While the transition may be difficult for some employees, Ms. Darling predicted that a consumer-driven approach to financing health care ultimately "could be a positive development."

"If you hold the contribution to a fixed amount, the employee will feel it more and they'll start to pay attention," she said. "They'll certainly be more cost-conscious consumers." BI

# Privacy

Continued from previous page

system of protecting the privacy of medical information.

"We think the status quo is completely unacceptable," he said. The proposals would provide a federal "floor" regarding medical records confidentiality, allowing states to adopt more-stringent rules if they so desire, he said.

Two other speakers at the Cato forum said that they believe the proposals would be worse than the problem they seek to remedy.

The government, rather than individuals, would decide who would have access to individual records under the regulations, warned Sue Blevins, president of the Washington-based Institute for Health Freedom, a market-oriented non-profit research group. In fact, she said, the proposals would prohibit health care providers, health plans and so-

called health care clearinghouses from seeking patient authorization to disclose information under some circumstances.

The regulations also fail to provide a private course of action if medical confidentiality is breached, she said. Instead of the wronged individual recovering damages, the government would be the beneficiary of any penalties levied.

Solveig Singleton, Cato's director-information studies, also questioned whether the rules would actually benefit the people they were designed to protect. Like Mr. Welch, she expressed concern over the expansive access to records that would be enjoyed by government agencies under the HHS proposal.

The "ultimate result" would be to be "least protective of privacy where the government is most heavily involved," such as law enforcement, she said.

Ms. Singleton also questioned the bias against private access to

information contained in the proposals. Consumers can benefit from some marketing efforts based on medical information, she said.

"The business side of medicine actually translates into treatment," she said, and she insisted that citizens should be "primarily" concerned about privacy risks posed by government access to information.

Speaking for the government, Gary Claxton—an HHS deputy assistant secretary—said that HIPAA did not allow HHS to draw broad-enough privacy rules because it limited HHS' task to overseeing electronic data. He pointed out that electronic data covered by the proposal includes computer printouts.

"We still strongly support Congress enacting" more-comprehensive legislation, said Mr. Claxton.

Ed Hudgins, Cato's director-regulatory studies, moderated the discussion. BI

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## Commentary

# Achieving closure on issues of 1999

These early days of winter are a time for many people to look back at the year and reflect on accomplishments, missed opportunities, change. This introspection could result from a sense of time running out as the calendar runs its course, especially at the end of a century. Or, it could have something to do with seasonal affective disorder.

So afflicted, I decided to examine some of the issues and events explored in this column over the past year and to update what has come to pass since I first wrote about them.

In March, I apparently struck a nerve with my account of the travails of airline travel. It soon became apparent that I could write about this topic on a weekly basis and would not soon run out of material.

In spite of my acerbic commentary on the dismal state of airline services, I did not discern any noticeable improvement in airline arrival times, space in overhead compartments, quantity of miniature pretzels or ticket prices. In fact, my fortunes actually deteriorated later in the year when, on two successive trips in October, two different airlines saw fit to detain my luggage.

Clearly, more airline managements need to be reading *Business Insurance* to learn of ways to make the customer happy. I'll get our circulation department on that right away.

In April, I hit upon what I felt was a brilliant scheme—er, plan—to create my own captive domicile in my garage.

My idea was inspired by the rush of jurisdictions around the world eager to get into the captive game. I felt my clean, dry garage compared quite favorably with such domiciles as Montenegro, New York and South Dakota.

Unfortunately, I was soon visited by Treasury Department officials who advised me that they do not take kindly to the establishment of tax havens within U.S. borders. What a relief that no one had yet sent me their \$10,000 application fee, despite assurances from a certain New Jersey reinsurance broker that he would do so.

So I dropped the captive domicile plan and am now considering creating an Internet-based keno gambling empire in my spare time. I'm not telling where the server will be located so those Treasury guys don't come back.

June brought news of the first long-term medical research into the health risks of cigar smoking. A team of killjoys from Kaiser Permanente found that cigar smokers are at higher risk of developing various lethal health problems than non-smokers.

I wrote how disappointing it was that such a trendy pastime, already so welcome at restaurants, sporting events and government buildings, was now likely to fall out of public favor. To add insult to injury, no doubt the United States will normalize relations with Cuba just around the time smoking a Hoyo de Monterrey Double Corona from Havana becomes passé.

So I'm still in search of something to replace burning fragrant dried plant bundles in my mouth—something chic and a little different. I'm thinking Pokémon tattoos.

In September, I shared my relief at surviving the harrowing 9-9-99, armed with only a Swiss Army knife and a limited supply of minibar liquor bottles. After writing of my elation at avoiding the risk of a total electronic meltdown in a foreign country, I also survived 10-9-99, 11-9-99 and 12-9-99, only I haven't had an opportunity to tell you about it until now. I'm feeling so darned confident about besting this millennium critter, I just might break into my stockpiles of bottled water, beef jerky and toilet paper and spend some of that gold bullion before Dec. 31 rolls around.

In November, I noted the disturbing trend of state and local governments jumping on the litigation bandwagon and hiring private plaintiffs attorneys to file multimillion-dollar civil lawsuits against various product manufacturers.

Since then, however, the U.S. government also has decided to grab for its share of the pie before it's divided into 50 slices—make that 51, counting the always revenue-hungry District of Columbia. The United States recently announced it is planning to file a civil lawsuit against tobacco companies and gun makers.

Do you think the e-commerce industry is big and is permanently altering the economy? Wait until the litigation juggernaut picks up steam.

And, finally, earlier this month, I wrote that health insurers should get out of the medical decision-making business and stick to financing claims. Since then, my health insurer has canceled coverage for me and everyone else with a surname of Winston. Just kidding.

Best wishes to all in Y2K.

Editor Paul D. Winston's commentary appears fortnightly. He can be reached at [pwinston@crain.com](mailto:pwinston@crain.com)

## Calhoun

Continued from page 1  
ery couple of years," said Mr. Calhoun.

Heading a lighting company is not really all that different from leading one of the world's largest reinsurers, said Mr. Calhoun. "I think there's a million skills that you can transfer" from one industry to the next, he said.

"I don't care who you are, when you run a company as big as these different businesses," you rely on others' technical and financial skills rather than doing everything yourself. It is the leader's job to encourage and coordinate teamwork and create a vision, he said.

Mr. Calhoun added that he can call on his knowledge base as well as people he knows from his long career at GE to help "along the way."

But Mr. Calhoun is not entirely new to ERC. "Fifteen years ago, I had the opportunity to participate in the acquisition of ERC, and so I got to know the team of people then at ERC, and frankly I was very much in favor of the acquisition and very impressed with the people," he said.

ERC has had a "wonderful track record since then," he said. "I jumped in blindly and willingly."

At the same time, the CEO acknowledges he still has a lot to learn. "There's a million insights I still have to gain. I know that."

But he has already reached some conclusions about the reinsurance business, including the need for higher rates. "It's not hard to know what's going on in our industry. There's an enormous need to move rates up," Mr. Calhoun said. "I don't think it takes a rocket scientist to figure out the state that we're in" and the need for a better return on capital.

Listening to the underwriters' views on pricing is important, said Mr. Calhoun. "I think the underwriters know what we can expect out there by way of long-term profitability, and right now, they're feeling under water relative to risks we've been writing, and now we've got to do something about that."

Mr. Calhoun is particularly enthusiastic about e-commerce's potential role in the industry.

"There's some terrific opportunities" in this area, he said. "There's a lot of (managing general underwriters) out there, I think, who will translate their underwriting skill set to an e-commerce-based model for delivery."

"When they do and as they develop, I don't think there can be a more efficient way to transfer risk" than using reinsurers, he said.

E-commerce will change the insurance industry, as it has others, though it will take longer because of regulatory constraints and product complexities, said Mr. Calhoun. He said he considers it his job to develop as many e-commerce opportuni-

ties as possible—as well as the people to lead these efforts—and to try to support them.

"I think that the e-commerce world is going to ignite and accelerate at a rate most of us probably can't imagine," said Mr. Calhoun. "I think that's the most important thing for a lot of us, whether primary or reinsurer. I think it's just going to become a very important distribution game."

Mr. Calhoun said he has seen other industries where e-commerce is looked at and considered as something for which the "good old strategic approach" can be used, with the company considering where it needs to be over a five-year period.

But, "I think this is one change in this world that none of us can plan." E-commerce is going to take off, "and we're all going to have to prepare to deal with it."

Mr. Calhoun is less sanguine about the opportunities presented by the financial services modernization legislation just signed into law. Other than raising the stock prices of primary insurers that may be acquisition targets, "I don't see a big impact," he said.

Discussing the industry's merger and acquisition activity, Mr. Calhoun said, "I think most of the consolidation has occurred, though clearly there's some left." He said big reinsurers will continue to make opportunistic acquisitions in specialty areas, but they will not be of the same magnitude that has been seen the past five or six years. "We look every day," he said.

One area ERC has recently concentrated on expanding is highly protected risks. It bought renewal rights to Kemper's HPR business in October, and in 1997 acquired the Industrial Risk Insurers pool (BI, Oct. 18; Dec. 22, 1997).

Mr. Calhoun said the hospital business acquired with those deals particularly complements ERC's existing book of health care business. "It blends very nicely with our business, and it also, I think, has some synergies with our overall health care business. That's just a game we like, and we think we can do it prudently."

ERC has recently announced its departure from facultative property reinsurance (BI, Oct. 25). "We just didn't think we had the stomach . . . to ever make a decent return, and I think we just finally admitted to that," said Mr. Calhoun, noting the returns in that business have been very weak. Continuing in that business would have "done more damage than good, and it was time to back off," he said.

ERC had a similar attitude in making its decision to leave the medical liability business, he said (BI, Nov. 15). "We just had a difficult experience in it. We again didn't feel like we were going to have the stomach to do what needed to be done. We just couldn't see our way to making a real buck in that game, and we decided to get out."

Today's soft rate environment "forces you to make some of those decisions, and this is what I did," said Mr. Calhoun. "I don't think in either one of these cases it really was central to our sort of game. It wasn't, frankly, that tough a decision, though we're sensitive to supporting our clients."

There are no plans to withdraw from other lines, said Mr. Calhoun. "I think we're done with that." Right now, ERC is "just trying to make sure we get the rates we need" in its existing books of business.

Employers Re does have its eye on Bermuda, said Mr. Calhoun, referring to the recent moves there by several reinsurers. There are "some serious competitive games out there, and I think the environment out there is ripe, certainly, for the catastrophe folks," while Bermuda also offers tax and regulatory advantages. "We view that as a real serious competitive threat."

"We have to also look at what we can do in Bermuda, and we may have to partner with somebody, we may have to do something there, but I don't want anybody to be able to one-up us."

Meanwhile, Mr. Calhoun noted that the capital markets' relationship with the reinsurance industry has been slow to develop, "and there's an awful lot of maturing" to do. Nevertheless, the opportunities there are very real, he said. "I think it's a game that GE and GE Capital and our ERC business ought to be very good at."

Although ERC has not done much in this area to date, it is "clearly a priority of mine to be able to say we're as good as anybody else on that game." But for now, there is still time as the market doesn't appear to be taking off, he said.

But no big changes in ERC are planned, said Mr. Calhoun. "I think we have a first-class business and first-class team." While Mr. Calhoun said he is "sure to make a few changes here and there . . . they're not dramatic, and I expect us to just move forward."

Mr. Calhoun declined to comment on the competition represented by Berkshire Hathaway's General Re Corp. acquisition. General Electric does "like to be No. 1 or No. 2 in our field, but that's up to this leadership to figure out how to differentiate" from the competition, he said.

"We certainly are one of the big global players now," said Mr. Calhoun. "It's a question of applying creativity . . . not to pick on the other guys."

Mr. Calhoun has been named as a possible successor to GE Chairman and CEO John F. Welch. "That's a decision that's made by a bunch of guys you'd have to ask," said Mr. Calhoun. "I've never once shopped my next job. They keep just challenging me with bigger things."

As to how long he is likely to stay in his current job, Mr. Calhoun said, "At every job, I expect to be there for life, and this one's no different." **BI**

## Barkley

Continued from page 2  
will sideline him for the rest of the season, which he had previously announced would be his last.

Because the contract is guaranteed, Sir Charles, as he is known among basketball fans, is entitled to receive his entire salary, which the Houston Rockets must pay.

Injury coverage, whether bought by the team or figured into the player's total compensation, is part of standard contract negotiations, explained Allan Diamond, a partner in the sports and entertainment practice of the law firm of Hughes & Luce L.L.P. in Dal-

las.

"In the NBA these days, almost all of the contracts, especially those for stars, are guaranteed," Mr. Diamond said. "Because they are guaranteed, the team is going to take on the insurance."

"For the Rockets, the issue is if they want to pay the premium on a one-year deal, assuming they can even get a policy on Charles," Mr. Diamond said.

"Simply because of the fact it's a one-year deal and the fact that he is 36 years old, it would be tough to find an insurer to cover him," he said.

In addition to his full salary, Mr. Barkley also is eligible to receive workers compensation benefits,

according to the NBA's workers comp administrator.

Mr. Barkley sustained a work-related injury, and "work-related injuries are covered by workers compensation," said Marc Blumencranz, executive vp of BWD Group in Jericho, N.Y., which administers workers comp coverage written by the NBA's Bermuda-based captive, Planet Insurers Ltd.

Unlike other states that do not provide workers comp benefits to professional athletes (BI, Aug. 12, 1996), Texas regards pro athletes as just another class of employees entitled to workers comp benefits for on-the-job injuries, according to the Texas Workers Compensation Committee. **BI**

# Costs

Continued from page 1

Gamble. "With premiums, the changes are usually marginal from year to year; that's not necessarily the case with retained losses."

While U.S. risk managers watched their cost of risk rise, the average cost in Canada fell to its lowest level in the last 10 years. Declines in property/casualty costs led the reduction in Canada, according to the survey.

The survey, which is conducted annually, shows that in 1998, retained liability losses for U.S. respondents rose sharply, to \$1.62 per \$1,000 of revenue from \$1.17 per \$1,000 in 1997.

Overall, liability costs per \$1,000 of revenue increased to \$2.43 in 1998, up from \$1.93 in 1997.

While those costs were rising, average liability premium costs moved up only slightly, to 79 cents per \$1,000 of revenue in 1998 from 76 cents per \$1,000 in 1997.

Ms. Mitro, who is a member of RIMS' benchmark steering committee, pointed out that retained liability losses make up a "very volatile segment of the cost of risk," and 1998 proved to be a year in which survey respondents—and the overall cost of risk—were particularly affected by those losses.

The survey considers the cost of risk to consist of the following: insurance premiums; retained losses; internal administration; outside services, including consulting, captive management and other vendor services; financial guarantees; and fees, taxes and similar expenses.

The results are intended to be used by risk managers to benchmark their risk management functions. The survey can be used to determine, among other things, how a company's cost of risk stacks up against that of others in its industry.

Ms. Mitro, who is manager-risk and insurance at The Hillman Co. in Pittsburgh, said she uses the annual survey for several tasks, including sizing up her company's cost of risk against industry averages, preparing risk management reports for management, and performing due diligence on potential acquisitions. In addition, she said Hillman uses the results to evaluate whether the companies with which it is considering doing business are carrying insurance limits that are in line with industry averages.

The 1999 survey contains a new "All Respondents" report, which compares costs for organizations with less than \$1 billion in revenue against those for organiza-

tions whose revenues exceed \$1 billion, allowing users to compare themselves with organizations of a similar size.

"I find this extremely useful," Ms. Mitro said of the new section, which she uses to determine how costs for Hillman, a diversified holding and investment company, compare with those of other firms.

Survey results were based on questionnaire responses from 737 U.S. respondents and 79 Canadian respondents.

Respondents included deputy members of RIMS, members of the American Society for Healthcare Risk Management, certain Ernst & Young clients and other companies that responded to the previous year's questionnaire.

Figures for U.S. banks were based on deposits and therefore were not included in overall ratio results. The bank figures are included in survey data on items such as limits and retentions where deposits are considered as

## Retained liability losses make up a 'very volatile segment of the cost of risk,' according to Sue Anne Mitro.

revenue.

While U.S. risk managers watched their cost of risk rise, those in Canada enjoyed their lowest cost of risk in 10 years, according to the survey.

The cost of risk in Canada fell to \$1.74 Canadian (\$1.18) per \$1,000 Canadian (\$678) of revenue in 1998, down from \$2.13 Canadian (\$1.44) per \$1,000 Canadian in 1997.

Liability costs fell to 76 cents Canadian (52 cents) per \$1,000 Canadian of revenue in 1998, down from 83 cents Canadian (56 cents) per \$1,000 Canadian the year before. Property costs dropped to 72 cents Canadian (49 cents) per \$1,000 Canadian last year, down from 94 cents Canadian (64 cents) per \$1,000 Canadian in 1997.

Administrative costs in Canada, which include costs for outside services—including broker compensation, consulting fees and third-party administrator fees—were up to 51 cents Canadian (35 cents) per \$1,000 Canadian of revenue, from 46 cents Canadian (31 cents) per \$1,000 Canadian in 1997.

U.S. risk managers saw their workers compensation costs move up slightly last year, according to the survey. The increase to \$1.96 per \$1,000 of revenue from \$1.93 per \$1,000 in 1997 is mainly at-

tributed to a rise in workers comp insurance premiums.

Those premium costs jumped to 48 cents per \$1,000 of revenue from 36 cents the year before. Retained workers comp losses fell to \$1.52 per \$1,000 of revenue in 1998, from \$1.57 per \$1,000 in 1997.

The survey also showed a growing concern among risk managers regarding employment practices liability risks. Of the 737 U.S. respondents, 212 reported purchasing separate EPL coverage, at a total cost of \$39.5 million in premiums.

Last year, 172 respondents from a pool of 876 surveyed reported buying the coverage in 1997, for a total of \$19.1 million in premiums.

Property risk financing costs moved up in 1998 to \$1.07 per \$1,000 of revenue from 93 cents per \$1,000 in 1997. Retained losses showed a significant jump to 53 cents per \$1,000 of revenue, from 34 cents per \$1,000 in 1997.

The survey said that, while the increase in self-assumed losses can be attributed to changes in the composition of the respondent pool, "the volatility of the results cannot be ignored."

But while some property costs were up, property premiums costs fell slightly in a continued soft market, the survey notes. Those costs were down to 56 cents per \$1,000 of revenue, from 59 cents per \$1,000 in 1997.

U.S. companies saw administrative expenses rise to 51 cents per \$1,000 of revenue in 1998, from 46 cents per \$1,000 in 1997. Those expenses include costs for outside services, which partly consist of consulting and TPA fees; broker compensation; captive management; and costs related to risk management information systems.

The average risk management department budget rose by just one cent, to 25 cents per \$1,000 of revenue in 1998. That scant increase came even though the average department added 1.2 employees to its staff last year.

The survey also found that risk managers are more frequently exploring the idea of integrated risk programs, although the number of respondents who have actually put together such programs did not increase.

*Copies of the 1999 RIMS Benchmark Survey are available from Insurance Publishing Plus Corp., Suite 500, 11690 Technology Dr., Carmel, Ind. 46032-9952. Telephone orders can be placed at 800-211-3257 or 317-843-2523, and fax orders at 317-816-1001. Ordering information also is available at [www.ey.com/riskmanagement/survey](http://www.ey.com/riskmanagement/survey). The cost is \$395 for RIMS members, \$445 for RIMS associates, and \$495 for others.*

## Breaking down the cost of risk

1990-1998 components of the cost of risk per \$1,000 of revenue

Costs	1998	1997	1996	1995	1994	1993	1992	1991	1990
Liability risk financing	\$2.43	\$1.93	\$2.51	\$2.50	\$2.55	\$3.29	\$3.14	\$2.20	\$2.80
Workers comp risk financing	1.96	1.93	1.87	2.44	2.82	3.42	3.81	3.00	2.50
Property risk financing	1.07	0.93	1.07	1.24	1.31	0.93	0.96	0.90	1.00
Risk management department budget	0.25	0.24	0.15	0.18	0.22	0.17	0.18	0.20	0.20
Other costs <sup>1</sup>	0.26	0.22	0.17	0.13	0.14	0.21	0.08	--	(0.10)
<b>Total cost of risk<sup>2</sup></b>	<b>\$5.71</b>	<b>\$5.25</b>	<b>\$5.70</b>	<b>\$6.49</b>	<b>\$7.30</b>	<b>\$7.70</b>	<b>\$8.30</b>	<b>\$6.40</b>	<b>\$6.10</b>

<sup>1</sup> Prior to 1994, other costs included outside services and captive costs (profits), subsequently included in premiums. <sup>2</sup> Because the survey used only complete responses for each category, sums for each year may not match totals.

Source: Risk & Insurance Management Society Inc.

## Updates

### LTD cap doesn't violate ADA: Court

Continued from page 2

This disparity prompted the plaintiff, known as Leonard F., who suffers from severe depression, to sue his former employer, Israel Discount Bank and later MetLife, the bank's LTD insurer, alleging that the policy violates the ADA (BI, Sept. 4, 1995).

Last February, Leonard F. settled his claim against Israel Discount Bank for an undisclosed amount. As part of the settlement, the bank agreed to adopt an LTD policy providing equal benefits for psychiatric and physical disabilities (BI, Feb. 23, 1998).

### Award against DaimlerChrysler

CHARLESTON, S.C.—DaimlerChrysler Corp. plans to appeal a \$259 million damages award in a product liability lawsuit related to a 1994 accident in which a child died.

A jury originally awarded the child's family \$12.5 million in compensatory damages and \$250 million in punitive damages. U.S. District Court Judge Falcon B. Hawkins in Charleston, S.C., earlier this month upheld the punitive award but reduced the compensatory damages by \$3.5 million.

Kenneth Gluckman, assistant general counsel for DaimlerChrysler Corp. in Auburn Hills, Mich., said "a large portion of the verdict is insured," and the automaker has adequate reserves to cover the uninsured balance.

The case stemmed from a lawsuit against Chrysler following the death of 6-year-old Sergio Jimenez II, who was thrown from his family's 1985 Dodge Caravan when the minivan was struck by another car. An attorney for the plaintiffs argued that the child's death could have been prevented if Chrysler had replaced a faulty liftgate latch.

Judge Hawkins wrote in his decision that Chrysler's engineering department was ordered in 1985 to study how to strengthen the rear door latch and support structure. "In this case there was evidence... that Chrysler had subsequent knowledge of problems with the latch and was unwilling to correct the design defect or notify consumers of the situation," the judge wrote.

A DaimlerChrysler litigation spokesman said "the jury was forced to reach a verdict without knowing the most critical facts—namely, that the driver caused the accident by running a red light, and the child would have lived if he was wearing his seat belt, as required by law... Because of these errors, the plaintiff's lawyers were able to present a highly misleading account of Chrysler's conduct."

The liftgate latch, Mr. Gluckman said, met all government standards at the time of its placement in new vehicles. This latch design has since been phased out as models have changed. Verdicts such as this send the message to manufacturers that "no matter what you do, you're at risk, and that's not a useful situation," Mr. Gluckman said.

Reese Joye, a senior partner at Joye Law Firm L.L.P. in North Charleston, S.C., who represented the Jimenez family, said if DaimlerChrysler is "putting profits before consumer safety, then lawsuits, hopefully, will have a way of correcting that problem."

DaimlerChrysler intends to appeal the verdict and is optimistic that it will be overturned due to trial errors, according to Mr. Gluckman.

### Briefly noted

Itasca, Ill.-based broker Arthur J. Gallagher & Co. has formed an exclusive relationship with Associated Risk Managers International, an insurance distribution network composed of more than 400 independent insurance agencies. The alliance will give Gallagher and ARM access to each other's broad array of products, programs and services, expanding the choices available to clients, the companies said... Shareholders of the struggling Australian multiline insurer GIO Australia Holdings Ltd. voted overwhelmingly last week to be acquired by AMP General Insurance Ltd. Shareholders accepted an offer for outstanding GIO stock of \$2.53 per share, down from \$3.05 last month, due to continuing losses in GIO's troubled reinsurance division, which has been put into runoff... The Reinsurance Assn. of America has admitted six reinsurance intermediaries as its first reinsurance broker affiliate members... A key GOP lawmaker has vowed to push legislation requiring parity in health insurance coverage for treatment of mental illness. Rep. Marge Roukema, R-N.J., cited a report released last week by U.S. Surgeon General David Satcher showing that many Americans suffer from diagnosable mental disorders but do not receive treatment. In a statement, Rep. Roukema said she will press House Speaker Dennis Hastert, R-Ill., and the Republican leadership "for immediate action on this issue when the House reconvenes in 2000."... All major health insurers in New Jersey have agreed to cover the costs for patients enrolled in cancer clinical trials, Gov. Christine Whitman announced. The move comes after a group of health insurers, legislators and drug makers joined together earlier this year to study the issue of expanding cancer clinical trials. It is estimated the move will cover between 150,000 and 175,000 New Jersey patients next year... New York Gov. George Pataki last week signed legislation modifying the assessment criteria for the state's workers compensation second-injury fund. Under the law, the second-injury fund assessments on New York insurers, self-insurers and policyholders will be based on premium rather than on claim payments... Mary Hennessy, formerly president and chief operating officer of Irving, Texas-based TIG Insurance Co., has been named president and COO of Overseas Partners Ltd., a Bermuda-based captive insurer affiliated with the United Parcel Service of America Inc... New York-based Atlantic Mutual Cos. is launching a surety division, Atlantic Mutual Surety, in January.

# New millennium calls for change

By **MYRON M. PICOULT**  
and **JODI PICOULT van LEER**  
Special to *Business Insurance*

'Twas the night before Christmas and all through the firm  
Every single employee was starting to squim.  
First: rumors of no Christmas bonus cash.  
Then: a swift cancellation of the holiday bash.  
And Almost Donothing, their revered CEO,  
Was down to his very last ho-ho-ho.  
No celebrating for him! He was focused and steady  
On making sure that his firm was Y2K ready.

He sat at computers that stood to confound him,  
Empty cartons of Chinese food scattered around him.  
He'd looked at the billing, was checking it twice  
To see if the millennium would be naughty or nice.  
Would power and phone lines be, upon midnight, clear?  
Would suppliers and vendors be in sync  
When pushed to the edge at the year's brink?

Donothing sat alone... but if he'd been asked  
He'd have told you that he was enjoying his task.  
After all, these worries about Y2K  
Beat thinking his company was slipping away.  
In fact, truth be told, it was downright unnerving  
To wonder why he even bothered preserving  
A company he was considering selling  
(Ah! Just the thought was so very compelling...  
Except for the prices, low as he'd feared,  
And the buyers, who'd seemingly all disappeared...)  
The computers blinked bright. "That's enough if you please,"  
Said Donothing, who then settled down to catch Z's.

When in the back room, there arose such a clatter  
He swiveled his chair to see what was the matter.  
He expected to find an IT geek standing there,  
Demanding Donothing get out of his chair.  
But what he saw instead just didn't compute...  
A jolly old elf... without his red suit.  
"It's casual day," Santa said. "And you know,  
Mrs. Claus is replacing the white fur with faux.  
Kids don't just want a  
guy tossing presents and checks—  
They want someone who's politically correct."  
He raised one white brow. "It wouldn't hurt you  
To try and get with the program, too."

Donothing scowled. "Well, I'll have you know,  
The Nearly Defunct Fire & Casualty Co.  
Is ready! Send on New Year's Eve!  
Just wait till you see what we have up our sleeve!"  
Santa shrugged, then walked to where his nemesis sat.  
He leaned over his shoulder and said, "Look at that!"  
Donothing looked... but the screen, it was blank.

"Ooh, yes. By all means, take that to the bank!"

Donothing turned pink. "Why, this year's a comeback!  
You know that we're finishing in the black.  
After last year's disaster, instead of just quitting  
We diligently stuck to our knitting.  
Now, OK, we've got... issues... but that is nitpicking.  
We raised prices, and I'll have you know that they're sticking."  
Then he said sotto voce, like an underworld crook,  
"If we have to, we'll just reunderwrite our book."

Claus reached into his pocket. "Please, excuse ol' Santa.  
But this bunk makes me crave a swift hit of Mylanta."  
He tipped back his head and coated his belly,  
Which shook while he drank, like a bowl full of jelly.  
"Now," he said, wiping his mouth with a shrug.  
"You and your cohorts... you lie like a rug.  
We both know you have to take a hit in the fourth quarter,  
Or the rating agencies will sink you underwater."

Donothing scrambled. "I can stay afloat!  
I've got an idea for a super lifeboat!  
I'll go to the Street," he brainstormed with glee.  
"And hire Steele M. Blinde to raise money for me.  
Or better yet... find us a financial buyer..."

"Which in your case, you bonehead, would surely backfire."  
Santa shook his head sadly, "Haven't you learned  
That when you play with matchmakers you're sure to get burned!  
And as for your lifeboat... I simply urge caution.  
Your quick fixes stink to Titanic proportion."

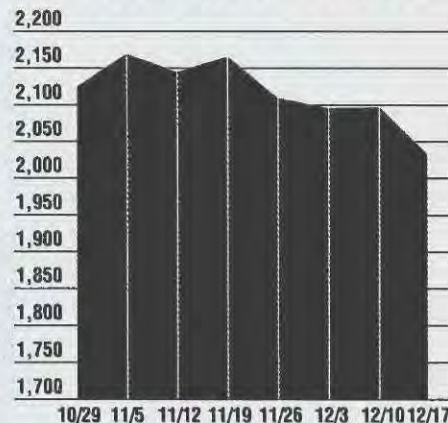
Santa grinned. "Investors are a savvy crew...  
They're more likely to believe in me, than to believe you.  
Look at how many times this year you've lied through your teeth,  
Saying things were fine, when they were rotten underneath.  
First quarter... you promised that prices would rise—  
Which turned out to be simply the first of your lies.

"Second quarter, you said more of the same—  
A premature statement, in that time frame.  
Third quarter, those prices finally increased  
But so did retentions, to say the least.  
And that leads directly to adverse selection...  
Which completely changes a business' complexion."

Santa turned toward the PC he'd earlier seen,  
Snapped his fingers, and something appeared on a screen.  
Estimates, dated a year! That's what Donothing was seeing...  
And they were just as high as he remembered them being.  
He'd done nothing about it... and now, a year later  
He still planned to do nothing, though the need was greater.  
"So," Santa mused, "Are you going to suggest  
That ignoring this problem was what you thought best?"

See *Millennium on next page*

## BI Insurance Index



Source: CNET Investor (investor.cnet.com) Boulder, Colo.

## PCS catastrophe options

As of Dec. 17	Call spread	Price bid/ask	Call spread	Price bid/ask
National Annual 1999	60/80	14.0/19.5	60/80	—
	80/100	0.4/—	80/100	-0.4
	100/120	—	100/150	-0.8
	150C	-12.0		
Eastern December 1999	10/20	-7.0	80/100	-1.9
	20/30	-7.0		
	40/60	-7.0		
	60/80	-1.8		
Southwest December 1999	40/60	-1.8	100/150	7.5/—
	60/80	-1.6	150C	6.0/—
	80/100	-1.4	190/195	0.3/0.5
			200/250	3.7/—

Total volume: 200 Total open interest: 6,737

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

Source: Chicago Board of Trade

## British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Legal & Gen	164	19.9	3.6	2.3	237-142
Royal & Sun	412	—	23.0	5.7	633-351

## Brokers

Brokers	Price	P/E	Div.	Yield	52-week high-low
Lmbert Fenchurch	140	13.9	4.2	3.0	142-58
JLT	244	11.1	12.0	4.9	286-166

Note: Prices are Dec. 17 closings; other numbers from Dec. 16.

Source: CNET Investor (investor.cnet.com) Boulder, Colo.

# BI Industry Stock Report DEC. 13, 1999, THROUGH DEC. 17, 1999

### BROKERS

	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	
Aon Corp.	NYS	37.94	8.39	1.51	46.69	26.06	3686
Clark Bards Holdings	NDO	13.13	-4.98	-22.28	21.00	11.63	164
E.W. Blanch Holdings Inc.	NYS	53.06	0.00	13.65	71.75	40.94	460
Gallagher Arthur J. & Co.	NYS	59.63	9.66	36.29	59.63	42.25	252
Hilt, Rogal & Hamilton	NYS	27.13	-3.98	-45.64	28.75	15.56	147
Kaye Group Inc.	NDO	8.00	-11.11	10.34	9.25	5.00	#N/A
Marsh & McLennan	NYS	85.38	-3.33	44.40	89.63	55.00	5408
Brown & Brown	NYS	39.69	8.73	13.60	40.25	29.31	102
BROKERS AVERAGE			-0.01	27.32			

### INSURERS/REINSURERS

ACE Ltd.	NYS	16.63	-1.12	-49.14	35.25	15.50	3633
Accel International Corp.	NDO	1.00	-8.57	-66.67	3.38	0.50	112
Acceptance Insurance Cos.	NYS	6.13	-12.50	-69.18	20.44	5.38	514
AEGON N.V.	NYS	93.75	1.35	-23.12	130.13	69.63	483
Aetna Life & Casualty	NYS	51.50	-2.94	-35.47	99.88	46.50	5173
AFLAC Inc.	NYS	45.81	-2.40	4.12	56.75	37.38	3101
Allmerica Financial Corp.	NYS	51.94	-1.19	-8.28	64.81	46.06	637
Allstate Corp.	NYS	24.44	-9.28	-36.53	41.00	22.88	15989
Ambac Financial Group	NYS	51.06	-8.51	-14.81	63.00	25.06	1379
American Financial Group	NYS	25.44	0.49	-38.24	43.88	25.06	386
American General	NYS	68.38	-3.87	-12.62	82.19	61.88	3078
American Intl Group	NYS	103.50	-7.33	-32.66	112.88	74.38	12655
American Safety Insurance	NYS	6.38	-4.67	-32.89	10.38	6.00	39
Argonaut Group	NDO	20.13	-0.92	-16.15	28.38	19.75	224
AXA-UAP Group	NYS	68.50	-5.84	-4.28	80.25	53.75	164
Baldwin & Lyons Inc.	NDO	21.50	6.83	-8.02	26.00	19.63	37
Berkley W.R. Corp.	NDO	20.88	-3.47	-38.15	36.25	20.63	476
Berkshire Hathaway Inc.	NYS	54700.00	-0.73	-19.91	81100.00	52800.00	3
Capital RE Corp.	NYS	13.88	0.45	-29.07	20.88	9.44	754
Capital Transamerica Corp.	NAS	10.25	-4.65	-42.05	19.50	9.50	85
Centris Group Inc.	NYS	12.44	1.02	32.67	14.06	7.50	90
Chubb Corp.	NYS	54.00	0.93	-16.84	76.38	44.00	2183
CIGNA Corp.	NYS	76.00	-4.40	-2.25	98.63	63.44	3550
Cincinnati Financial Corp.	NYS	31.56	-1.17	-11.56	42.50	30.63	2330

	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	
Citigroup	NYS	54.50	-2.90	61.68	58.25	31.69	50638
CNA Financial Corp.	NYS	39.13	-2.19	-0.48	45.31	33.00	274
CNA Surety	NYS	10.75	-7.03	-28.03	16.00	9.75	430
EMC Insurance Group Inc.	NDO	10.00	4.58	-21.57	13.38	9.25	304
ESG Re Limited	NDO	5.81	1.09	-70.66	22.25	5.13	235
Enhance Financial Services	NYS	15.56	-8.12	-48.55	30.38	15.50	855
Everest Reinsurance	NYS	22.75	-2.15	-37.99	38.94	20.50	1470
Fremont General Corp.	NYS	6.56	-8.70	-72.80	25.69	4.69	3188
Frontier Insurance Group	NYS	3.19	27.50	-74.50	17.25	2.38	3345
Gainsco Inc.	NYS	5.69	-1.09	-9.90	6.94	3.94	182
Harleysville Group	NDO	13.94	-2.19	-45.34	26.13	13.13	143
HSB Group Inc.	NYS	33.00	-5.55	-17.88	42.25	32.00	544
HCC Insurance Holdings	NYS	11.38	-4.21	-32.84	25.13	8.00	797
ING Groep N.V.	NYS	57.06	-1.51	-6.45	70.00	21.00	213
IPC Holdings Ltd.	NDO	14.75	-18.06	-35.16	23.63	14.25	324
Hartford Financial Services	NYS	43.25	-5.08	-22.51	66.44	36.50	4215
LaSalle Re Holdings Ltd.	NYS	12.38	-6.60	-40.00	22.50	10.88	409
Lincoln National	NYS	36.94	-8.37	-10.86	57.50	36.00	4792
MAIC Holdings Inc.	NYS	20.75	-5.68	-35.16	33.13	19.88	426
Market Corp.	NYS	147.50	-1.67	-18.17	193.00	143.25	55
MBIA Insurance Group	NYS	45.81	-7.80	-30.91	71.88	45.00	1996
Meadowbrook Insur. Group	NYS	5.25	2.44	-67.82	17.44	4.75	115
MMI Cos. Inc.	NYS	3.94	-1.56	-76.40	18.13	3.31	276
Mutual Risk Mgmt. Ltd.	NYS	15.63	4.60	-58.81	43.25	9.81	1109
Navigator Group	NDO	10.13	-4.71	-33.61	16.13	9.75	99
NYMagic Inc.	NYS	12.94	0.98	-38.02	21.38	12.00	20
Ohio Casualty Corp.	NDO	15.38	-2.38	-25.23	21.69	14.88	1012
Old Republic Int'l	NYS	13.13	1.45	-38.78	22.75	12.06	2266
Partner Re Ltd.	NYS	29.75	-3.84	-34.16	46.50	28.56	394
Penn-America Group Inc.	NYS	7.88	5.88	-14.86	11.44	7.00	34
PMA Capital Corporation	NDO	19.81	0.32	1.28	21.13	17.38	237
Philadelphia Cons. Holding	NDO	15.56	-0.80	-26.76	25.50	10.81	555
PXRE Corp.	NYS	11.88	15.85	-52.97	26.25	9.94	768
Reliance Group Holdings	NYS	6.44	10.75	-50.24	13.69	2.81	5687
ReliaStar Financial Corp.	NYS	38.50	-8.33	-13.97	49.81	31.69	2308

	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	
RenaissanceRe Holdings Ltd.	NYS	37.88	-2.73	4.84	43.19	30.00	242
Risk Capital Holdings	NDO	11.63	-1.06	-44.97	22.63	11.00	317
RLI Corp.	NYS	33.94	-0.18	1.69	38.81	27.88	44
St. Paul Cos.	NYS	33.06	4.96	-5.54	37.06	25.38	3489
SCOR	NYS	43.75	-4.50	-32.69	68.50	43.75	18
SAFECO Corp.	NDO	22.50	-4.00	-47.06	46.75	22.00	6686
SCPIE Holdings Inc.	NYS	32.69	0.97	8.73	36.06	23.69	NA
Sabells Bruce Group	NDO	1.88	-6.25	-46.43	6.25	1.63	98
Selective Ins. Group	NDO	17.44	-0.71	-13.89	22.50	17.25	487
Terra Nova Ins Co. Ltd.	NYS	29.25	1.74	20.00	32.63	21.25	358
Tokio Marine & Fire	NDO	58.75	0.00	-0.21	67.00	50.00	112
Torchmark Corp.	NYS	28.00	-7.05	-19.42	38.00	24.56	2304
Transatlantic Holdings	NYS	76.75	0.82	1.49	80.50	69.06	50
Travelers Property Casualty	NYS	31.00	-8.49	1.22	41.88	27.69	1654
Trenwick Group Inc.	NYS	17.19	-6.46	-45.65	35.25	16.44	201
Unico American Corp.	NDO	7.00	3.70	-39.30	13.75	6.38	36
United Fire & Casualty	NDO	19.38	-9.88	-41.78	35.50	19.31	65
Unitrin	NDO	36.00	-5.73	1.59	42.38	30.50	678
UNUM Corp.	NYS	28.06	-5.07	-53.18	62.50	26.00	7361
Vesta Insurance Co.	NYS	4.13	4.76	-28.26	8.38	3.38	388
XL Capital Ltd.	NYS	48.50	-2.76	-32.23	77.25	41.94	2762
Zenith National Ins.	NYS	20.50	4.46	-11.35	26.69	19.25	86
INSURERS/REINSURERS AVERAGE			-1.78	-24.35			

### HEALTH MAINTENANCE ORGANIZATIONS

Foundation Health Systems Inc.	NYS	9.06	-7.05	-17.61	20.06	6.25	1831
Humana Inc.	NYS	7.19	-4.96	-62.05	20.75	5.88	4702
Oxford Health Plans	NDO	11.25	-19.28	-19.64	24.25	9.75	11166
Pacificare Health Sys.	NDO	48.13	3.91	-32.69	100.38	31.13	2342
Safeguard Health Enter.	NDO	0.97	40.90	-72.83	5.25	0.44	234
Sierra Health Services	NYS	5.00	-36.51	-76.05	22.13	5.00	2408
United HealthGroup	NYS	50.75	-0.37	13.88	70.00	39.38	4189
Wellpoint Health Networks	NYS	62.69	5.36	-27.00	97.00	48.25	1440
HMOs AVERAGE			-2.25	-36.75			
ALL COMPANIES AVERAGE			-1.34	-11.26			

Top advancing issues: Safeguard Health Enter., Frontier Insurance Group, PXRE Corp. Leading decliners: Sierra Health Services,

# Millennium

Continued from previous page

Donothing played dumb. "But I didn't know for sure That estimates would be as high as they were the year before!"

"No? Seems easy to figure," Santa said with a snort. "Given the fact that reserves were so short. And reinsurance recoverables need to be written off. . . Or had you forgotten that, too?" Santa scoffed. "Plus, as Y2K issues sweep the nation LAE reserves must rise to offset litigation. While we're at it, how 'bout some portfolio shifts To give NII a much-needed lift? And as the year turns, you just might discover A nightmare that's rooted in Unicover."

With that, Santa did something totally shocking: He reached up and unzipped his casual smocking. While Donothing stood with his jaw at his knees, Santa stripped to his longjohns as quick as you please.

For an old guy he really was fit as a fiddle. . . His snowy white beard almost reached to his middle.

Santa grinned at Donothing. "I know what you'll say. . . But you're looking at Natural Santa 2K! The new, improved Santa! St. Nick's Millennium Mission! The Pure-Santa-Claus-Back-to-Basics Edition!" He winked, and he grabbed at the fat at his middle. "Bet you'd never have thought my surplus was this little."

"Santa," Donothing groaned, looking askance,

"This is great. . . but shouldn't you put on your pants?"

"There's a lesson, here, boy," said the jolly old elf. "You could stand to cut back to basics, yourself."

"Not a chance," said Donothing. "The best CEOs Never abandon their Armani clothes."

"Your options are limited," Santa warned, a beware.

"Might as well lay yourself metaphorically bare.

No more white knights are coming along. . .

If you think H.R. 10 will save you, you're wrong."

"Look, I know you've been stunned by the collapse of your stock.

I know you never expected investors to walk.

But investors want answers! True ones, and fast—

About how you plan to make shareholder value last.

This rebellion, Donothing, I doubt you can quell it.

For goodness' sake, I'm not even sure you can spell it."

Santa had succeeded. Donothing was scared.

He was shivering, his butt metaphorically bared.

"Santa," he whispered, trembling anew,

"Santa, God help me, what can I do?"

"Son," Santa said with a slight hesitation,

"Nearly all your decisions were based on self-preservation.

This time, the only way to save yourself

May be to have someone else put you on the shelf."

Donothing paled. "I know that I asked ya,

But I never thought it meant I'd be put out to pasture."

He fell to his knees and cried, "Oh, help me, Lord!"

Santa whispered, "You're better off begging the Board."

Then he scratched at his jaw, and said (and I quote) "You got something here that I can wear as a coat?" This past hour or two it's gotten much colder." Then wrapped Donothing's balance sheet around his shoulders. "It'll do. . . but it's awfully thin, I fear. . . Then again, you're not using it for anything here."

He crossed to the window, threw open the sash,

Hopped over the sill, and was out in a flash.

But Donothing heard, as he flew out of sight. . .

"Merry Christmas. . . and dammit, it's chilly tonight!"



Myron M. Picoult is a director and senior insurance analyst at Wasserstein Perella Securities Inc. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts. An archive of Mr. Picoult's columns for Business Insurance can be viewed on the World Wide Web at: [www.businessinsurance.com/ticker/headlines.html](http://www.businessinsurance.com/ticker/headlines.html) Jodi Picoult van Leer, his daughter, is the author of several novels, including her latest, "Keeping Faith." Her seventh novel, "Plain Truth," will be published in the spring of 2000.

# NAIC

Continued from page 2

formity within three years of the law's Nov. 12 signing date, according to a memo from Caroline Scott, NAIC general counsel.

Because reciprocity is the easier of the two to achieve, NAIC leaders are urging members to adopt it as a short-term goal, and consider the more popular goal of uniformity in the future.

"We are very confident that (the federal reciprocity requirement) can be addressed in three years," Mr. Nichols said at a press conference.

"I don't think there is any doubt that we can get it done," said Kansas Insurance Commissioner Kathleen Sebelius, the NAIC's new vp.

Encouraging words also came from the new president of the National Conference of Insurance Legislators.

"I expect NCOIL will be supportive of the NAIC's changes," said Clare M. Farragher, a Republican from Freehold, N.J., who serves as deputy speaker of the New Jersey Assembly.

At a luncheon held in conjunction with the NAIC meeting, she said she personally prefers uniformity to reciprocity, however.

"McCarran-Ferguson left regulation of all insurance to the states, where it should be," regardless of whether it impacts national or international business, Ms. Farragher said.

Other observers, however, are less optimistic about the NAIC's ability to achieve reciprocity by the deadline.

Joel Wood, CIAB senior vp-government affairs, gives state regulators "at best a 50/50 chance" that they will achieve passage in 29 jurisdictions before the deadline.

He predicts that state regulators will run into "tremendous resistance" in many states and will have to wage "turf battles" over individual states' extra licensing requirements, such as fingerprinting and proof of high school graduation. Also hampering the NAIC's efforts is the legislative calendar in Texas, which is not in session next year, he added.

The fate of the NAIC's reciprocity efforts is in the hands of agents' asso-

ciations in the individual states, according to two former insurance commissioners who asked not to be identified.

Ms. Scott, the NAIC general counsel, described in her memo the three key components to the federal act's reciprocity standards, which govern "the licensure of non-resident individuals and entities authorized to sell and solicit insurance within those states," including surplus lines agents:

- Limiting administrative procedure to: a request for licensure; an application that the producer submitted in his or her home state; proof that the producer is licensed and in good standing in the agent's home state; and payment of any required fee.

- Accepting the producer's satisfaction of his or her own home state's continuing education requirements.

- "If a home state has no continuing education requirements, then the non-resident state cannot impose a greater requirement," she said.

- Eliminating any requirements for non-residents, such as having a local place of business, as long as the agent

is located within the United States or its territories.

NAIC regulators' desire to include these key components in its Producer Licensing Model Act led them to table final action on the model until amendments could be added to include the components Ms. Scott outlined. Regulators are expected to adopt the model during a conference call vote later this month.

Even if regulators fail to get states to adopt common reciprocity requirements before the deadline, they could still ultimately win, Mr. Wood noted.

"Commissioners need to look at NARAB not as a threat but as an opportunity," because the NARAB provision provides "a tremendous empowerment of the NAIC," Mr. Wood said.

The new federal law also prompted a second key concern among regulators: adopting privacy requirements for all financial service entities.

To help craft those requirements, Mr. Nichols established a working group of regulators with expertise in various areas, including property/ca-

sualty and health.

In addition, the NAIC is taking steps to cooperate with other federal authorities, including the Office of Comptroller of the Currency, so that the various financial services are overseen by the appropriate regulator.

Also at the meeting, the NAIC:

- Gave interim approval to reducing the trust fund for U.S. surplus lines policyholders of Lloyd's of London to 30% of gross U.S. liabilities from 50% beginning early next year. Lloyd's, however, must increase the funding level of the Joint Asset Trust Fund by \$50 million to \$250 million.

- Adopted several measures in formal voting, including a white paper on ERISA as well as model acts on protected cells, stop-loss insurance and non-admitted insurance.

- Awarded second-round accreditation to insurance departments in Idaho, Kentucky and Oklahoma.

- Presented the Robert Dineen Award, the NAIC's most prestigious individual honor, to Maryellen Waggoner, deputy commissioner for the Colorado Division of Insurance. **BI**

# FTR FOR THE RECORD

## Fewer storms in 2000: Forecast

FORT COLLINS, Colo.—The East Coast and Caribbean Basin should experience fewer storms and hurricanes in 2000 than in recent years, according to the Colorado State University hurricane forecast team's initial prediction.

William Gray, a nationally recognized hurricane expert, and his colleagues are calling for a "moderate" season in 2000, predicting 11 named storms, seven hurricanes and three intense hurricanes.

While still above average, the 2000 forecast calls for fewer storms than occurred in 1995, 1996, 1998 or 1999.

The CSU team's record for 1999 was the best in the 16 years it has made seasonal forecasts. It predicted 14 named storms, nine hurricanes and four major hurricanes in 1999. At the end of the June 1-Nov. 30 hurricane season, there had been 12 named storms, eight hurricanes and five major hurricanes.

## Unicover settlement likely: Moody's

NEW YORK—The forces pushing members of the Unicover Managers Inc. workers compensation pool toward a settlement are strong and may be gaining momentum, says a special report on the Unicover facilities released this month by Moody's Investors Service Inc. in New York.

Among the reasons why the issue may be settled, rather than drag on for many years, is "virtually everyone involved in the de-

bacle has better ways to spend their time" and wants to remove the cloud hanging over their heads, said William Wilt, a Moody's vp and senior analyst who co-authored the report, "The Unicover Facilities—Can The Principal Parties Find A Way To Turn A Mountain Back Into A Molehill?"

With the rapid pace of evolution in the financial services industry, "management can ill afford to spend too much time fixing past problems instead of looking ahead," the report says.

The report is available on Moody's web site, [www.moody.com](http://www.moody.com).

## Watson Wyatt to throw Y2K party

Some places are really going to party like it's 1999.

Watson Wyatt Worldwide has come up with an interesting way to combine the two major themes of this New Year's Eve: celebrating the start of the year 2000 and worrying about the Y2K computer glitch.

Rather than force its computer systems personnel to leave their families and work that night, the benefit consultant will have a party at the Washington office for staff and their loved ones.

To keep tabs on its computers and make sure the change to 2000 goes smoothly, the company's computer personnel will need to spend New Year's Eve in the office. But the company's creative approach will let them bring along families and celebrate in the company's boardroom with catered food. The company is also providing nearby hotel rooms.

"We didn't want to make it a burden for people," said Mike

Singer, manager, data center team for Watson Wyatt in Washington.

If any problems do erupt, the key computer people will be on hand to control the situation. "If nothing happens, we will have a great party," he said.

## Entity coverage tailored for banks

ST. PAUL, Minn.—Entity Plus, an insurance coverage option for privately held depository institutions—including community banks, savings and loans, and credit unions—is available from The St. Paul Cos. Inc.

Designed for community institutions, Entity Plus can be used for depository institutions with less than \$1 billion in assets. St. Paul expects it will be particularly attractive to smaller community institutions with assets up to \$300 million.

Entity Plus provides directors and officers coverage, entity coverage and other options, such as employment practices liability coverage and miscellaneous services coverage.

In addition, it can be structured to separate the D&O liability protection from the entity protection and provide separate limits for other coverages needed by community depository institutions. Some of the other exposures covered by Entity Plus include private placement security claims, lender liability, and the sale and maintenance of credit life insurance.

## Information in brief

Standard & Poor's insurance ratings, available at no charge on the New York-based rating company's World Wide Web site, are now searchable. The site, [www.standardandpoors.com/ratings/insurance](http://www.standardandpoors.com/ratings/insurance), contains financial information and strength ratings for more than 4,000 insurers worldwide. **BI**

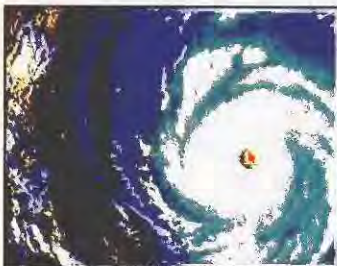
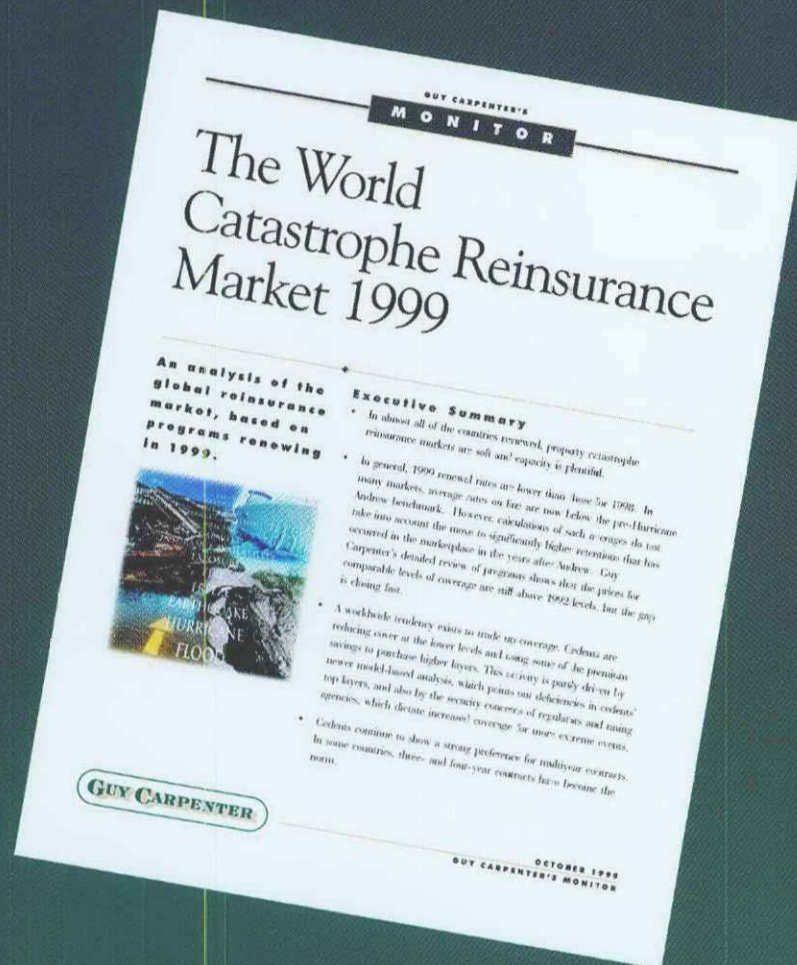


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# Will The Market Harden? How Will Rates On Line Change In 2000?



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