

Business Insurance

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

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Prior-approval rating laws to ease for most P/C lines in Georgia

ATLANTA—Many large commercial insurance buyers in Georgia soon will be able to take advantage of a new Insurance Department regulation that relaxes the state's prior-approval rating laws for most lines of property/casualty insurance.

The four-page regulation, which Insurance Commissioner John Oxendine signed last week, will let eligible buyers and insurers negotiate rates for most insurance lines, except workers compensation and errors and omissions liability coverages such as

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IRS to allow electronic notices for pension plans

By JERRY GEISEL

WASHINGTON—Employers would be able to send pension notices faster and cheaper under proposed Internal Revenue Service regulations that allow the power of electronic communication to replace the weight of paper distribution.

The new regulations, if adopted, could mean an end to the slow and cumbersome paper-driven systems that employers now must use to notify employees of the tax consequences of taking a pension distribution, the available distribution options and obtaining their consent to receive a distribution.

Instead, employers could use a seamless electronic system. For example, an employee could request a distribution by e-mail. The employer then could respond by e-mail, informing employees of the tax consequences of receiving a distribution and the various, if any, distribution options. The employee then, also by e-mail, could consent to the distribution and direct the employer where to transfer the distribution.

E-mail, though, would be just one communication option. Communication systems involving, for example, a combination of e-mail, the Internet and voice response systems also would be permitted.

Indeed, the regulations are so flexible that virtually any type of electronic communications system could be used as long as employees could receive information "in a manner no less understandable" than a written paper document.

Employers, though, would have to give employees who so request it the option of receiving notice and consent requirements on paper.

Meanwhile, an IRS notice—also released last week—affirms the legality of what has become the widespread use of electronic media to enable employees to enroll in pension and savings plans, designate rates of pretax and aftertax contributions and decide on investment allocations and change those allocations.

Benefit experts are applauding the new regulations
See IRS on page 41

Naming names a must

Ruling sets steps for suing Lloyd's in federal courts

By JOANNE WOJCIK

NEW YORK—While some attorneys say a new federal appeals court decision may make it harder for policyholders to sue underwriters at Lloyd's of London in federal courts, others say the decision provides some instruction that could make it easier.

The court ruled that to sue Lloyd's underwriters in federal court, a policyholder first must identify every name backing an underwriter on a policy in dispute and meet a diversity threshold by showing that each name

resides outside the policyholder's own state and is individually responsible for at least \$75,000 in coverage.

Otherwise, policyholders would be required to sue Lloyd's in state court or seek class-action certification, the New York-based 2nd U.S. Circuit Court of Appeals ruled Nov. 25 in *E.R. Squibb & Sons Inc. vs. Accident & Casualty Insurance Co. et al.*

The structure of the Lloyd's marketplace—which consists of syndicates made up of thousands of underwriting members known as names—makes this a high threshold to meet, especial-

ly when multiple syndicates are on a risk.

These new obstacles to coverage litigation could dissuade U.S. companies from buying insurance from Lloyd's, some policyholder attorneys say.

"This means you can't sue Lloyd's, so why do business with them?" said Robert Horkovich, managing partner at Anderson, Kill & Olick P.C. in New York.

But James Young, a partner with Christie, Pabuarue, Mortensen & Young
See Lloyd's on page 45

Lessons from Lockerbie

Disaster reshaped aviation industry

By SARAH GODDARD

Ten years after what has been described as the United Kingdom's worst peacetime disaster, aviation safety and liability are markedly different.

A decade ago today, Pan American World Airways Flight 103 exploded over the town of Lockerbie, Scotland, killing all 259 aboard and claiming 11 lives on the ground. The disaster, attributed to a bomb, remains one of the costliest insured aviation losses in history.

Liability losses totaled \$527 million, according to an estimate by Willis Corroon Aerospace, an aviation brokerage unit of Willis Corroon Group P.L.C. War risk underwriters, led by Lloyd's of London agency Janson Green Ltd., paid out \$32 million for the hull loss.

"The disaster itself and the litigation have played an important role

in improving safety and security standards," said plaintiffs' attorney Lee Kreindler. "They are now much better and tighter."

Mr. Kreindler, a partner at New York law firm Kreindler & Kreindler, represented about 100 families of Lockerbie victims.

While other acts of terrorism have helped shape the evolution of aviation insurance, since Lockerbie "the industry as a whole has endeavored to be safer with security as well as the general operation of aircraft," said Peter Williams, the current underwriter on Lloyd's Ariel syndicate, one of Pan Am's liability insurers.

But not only safety standards have changed as a result of the disaster.

When Pan Am was found guilty of willful misconduct, plaintiffs' lawyers welcomed the ruling as the start of the end of the Warsaw Convention passenger liability limits.

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API/WIDE WORLD PHOTOS

The 1988 explosion and crash of Pan Am Flight 103 in Lockerbie, Scotland, was one of the costliest insured aviation disasters.

Travelers, Winterthur form a global alliance

By MICHAEL PRINCE

Travelers Property Casualty Corp. and Winterthur International are joining forces to offer multinational companies one-stop shopping for both their U.S. and international risk management needs.

The two insurers last week announced an agreement to create Travelers/Winterthur International, which will combine the U.S. strengths of Travelers and the international network of Winterthur without a formal merger between the two companies.

Executives from both insurers will manage the alliance, with George Keller, president and chief executive officer of Winterthur International America Insurance

Travelers/Winterthur INTERNATIONAL

Co., serving as the chairman of the operating committee. Offices will be in New York and Chicago.

The new alliance is designed to meet the growing demand of large U.S. companies with global exposures, company executives

said. The alliance will target companies with global sales of at least \$200 million with \$500,000 in non-workers comp premiums in the United States and \$200,000 in premiums outside the United States. It will offer a full line of products encompassing property/casualty, specialty, workers compensation, financial and alternative risk.

"This is a true multinational, large-lines program," said John Stites, vp of Travelers in Hartford, Conn., and slated to become the vice chairman of the new alliance.

Customers need "a global service net-

work," Mr. Keller added.

The deal does not create an actual company. Instead, the two insurers have signed an agreement to work exclusively with each other in offering products to policyholders and to use the name Travelers/Winterthur International.

Travelers executives preferred signing an agreement to starting an overseas operation from scratch, as "the barriers to entry are significant," Mr. Stites said.

Those barriers include large start-up
See Alliance on page 43

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Updates

Georgia relaxing regulation

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medical malpractice.

As defined in the regulation, a "large commercial risk" is one that has a minimum of 25 full-time employees, more than \$3 million in assets and more than \$5 million in annual revenue. In addition, the policyholder's annual property/casualty premium must exceed \$100,000 from Georgia operations or exceed \$500,000 from multistate locations.

An Insurance Department spokeswoman said the regulation is expected to go into effect in mid-January.

The regulation states that it is designed to "recognize that the adherence to manual rules may not adequately service the unique needs of certain large commercial insurance risks and to permit, but not mandate, negotiated departure from manual rates."

Right to sue expanded

WASHINGTON—Certain "at-will" employees will enjoy expanded rights to sue former employers because of a unanimous Supreme Court decision last week.

The court ruled in *Michael A. Haddie vs. Jeanette G. Garrison et al.* that at-will employees—those who can quit or be fired at any time—can seek damages under the Civil Rights Act of 1871 if they are terminated.

Mr. Haddie, an employee of Augusta, Ga.-based Healthmaster Inc., had agreed in 1995 to testify before a federal grand jury investigating Medicare fraud. He was fired and subsequently sued his former employer, holding that Healthmaster and some of its officers had conspired to prevent him from testifying. He alleged he had been "injured in his person or property" by the termination.

But because Mr. Haddie was an at-will employee, both the U.S. District Court for the Southern District of Georgia and the 11th U.S. Circuit Court of Appeals said he had no cause of action. The Supreme Court disagreed, with Chief Justice William Rehnquist writing that the civil rights law was designed to prevent intimidation of and retaliation against witnesses in federal court proceedings.

"The terms 'injured in his person or property' define the harm that the victim may suffer as a result of the conspiracy. . . Thus, the fact that employment at will is not 'property' for purposes of the due process clause. . . does not mean that the loss of at-will employment may not 'injure' (petitioner) in his person or property' for purposes" of the law, Chief Justice Rehnquist wrote.

Airline offers crash compensation

BANGKOK, Thailand—Bangkok-based Thai Airways International Public Co. Ltd. will compensate the estates of the 101 passengers killed when Thai Airways Flight TG261 crashed Dec. 11, paying 3.6 million Thai baht (\$99,216) for each person.

Thai Airways also will pay compensation of 200,000 Thai baht (\$5,512) each to the 45 injured passengers and meet all hospital and medical expenses, the airline said in a statement.

The Airbus A310-200 was traveling to Surat Thani, Thailand, from Bangkok, when it crashed into a swamp, less than half a mile from the airport, during a storm.

Pilai Ehan, Thai Airways insurance manager, said its insurance companies are the Dhipaya Insurance Co. Ltd., the Deves Insurance Co. Ltd., and the Bangkok Insurance Public Co. Ltd., all based in Bangkok. The lead insurer is Dhipaya.

Thai Airways said in a press statement that it accepts full responsibility for the disaster.

Thamnoon Wanglee, Thai Airways president, said the transport and communications ministry had appointed a committee to investigate the accident.

Of the 45 survivors, there are 33 Thai nationals, three Germans, one Briton, three Australians, three Japanese and two Israelis.

Cruise ship losses insured

MIAMI—Royal Caribbean Cruises Ltd. is insured for losses from a cruise ship that ran aground last Tuesday.

Early estimates of the financial loss to the company from the accident are between \$9 million and \$14 million after insurance recoveries, said Ken Dubbin, vp/treasurer of the Miami-based cruise line. The company carries marine hull coverage, protection and indemnity, and loss of hire for the business interruption through a group of insurers in New York, Norway, France, Italy and at Lloyd's of London, Mr. Dubbin said.

The *Monarch of the Seas* hull sustained a tear 120 feet long and between 1 foot and 3 feet wide, a spokeswoman said.

No injuries have been reported among the 2,557 passengers and 868 crew members and concessionaires on the ship, she said.

The accident occurred after the ship made an unscheduled stop in St. Maarten for a passenger's medical emergency. The ship was leaving the island when it hit underwater rocks, and the captain ran it aground so it would be stable to evacuate the passengers, the spokeswoman said.

Royal Caribbean has given passengers full refunds for the cruise and a certificate for another seven-night Caribbean cruise. The line also paid for passengers' airfares home and for overnight stays in Miami or St. Maarten. The company has canceled all departures on the *Monarch of the Seas* through Feb. 14.

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Errors & omissions

• Due to an editing error, the directory listing for Buck Consultants Inc. in the Dec. 14 issue incorrectly listed the number of benefit consulting employees and professionals. The correct figures are 2,736 and 2,326, respectively. The listing also overstated the percentage of Buck's 1998 revenues from U.S. locations; the correct figure is 77%.

Owens Corning to settle most asbestos lawsuits

By ROBERTO CENICEROS

TOLEDO, Ohio—In the absence of tort reform and among other factors, Owens Corning last week reversed course and announced an agreement to settle most of the asbestos-related lawsuits filed against it.

About 176,000 asbestos cases will be resolved because of the

\$1.2 billion agreement, reached privately and out of court with more than 50 plaintiffs' law firms.

Insurance will cover a small portion of the settlement, a spokesman for the Toledo, Ohio-based company said. The rest will come from available cash and credit sources. The company's bank lenders have endorsed the plan.

For Owens Corning, the agreement will settle about 90% of the outstanding claims filed against it for the production of insulation containing asbestos. The \$1.2 billion will be paid out primarily in 1999 and 2000, but the settlement also addresses future cases.

For other asbestos manufacturers—which still have tens of thou-

See Asbestos on page 45

New professional designation

FRM program now open

By MICHAEL BRADFORD

NEW YORK—The Risk & Insurance Management Society Inc. is commencing its long-awaited Fellow in Risk Management program.

"The FRM will be the new credential that all risk managers will want to have," Amy Geffen, RIMS director



of professional development, said in a written statement announcing the program's launch. "It will increase their skills, enhance their stature and credibility as well as demonstrate a master of a common body of knowledge."

The FRM will be con-

ferred by a new RIMS subsidiary organization, the Global Risk Management Institute. The new institute will absorb the Institute of Risk Management of Canada and will be based in New York. It will operate a location in Canada in a city to be determined.

RIMS has worked for several years to put together the curricu-

See FRM on page 44

CNA exiting group medical

Business not meeting insurer's strategic goals, exec says

By MICHAEL BRADFORD

CHICAGO—CNA Insurance Cos. continues to narrow its focus by shedding its group medical insurance business.

The Chicago-based insurer is exiting the group medical line because it doesn't promise the returns or market dominance the company wants. CNA, though, will continue to offer various other employee benefits coverages, such as group life and disability insurance, as well as services to large self-insured employers.

CNA in October announced the sale of a large portion of its group medical business to insurer Ameri-

can Medical Security Group of Green Bay, Wis., for an undisclosed amount. That announcement followed the sale of small-employer group health business to Mutual of Omaha Cos. in August (*BI*, Aug. 24).

CNA soon may announce more selloffs of health-related businesses, according to Jae L. Wittlich, CNA's group operations president and chief operating officer.

The sales come at a time when the insurer is working to improve profitability. CNA showed 1997 net income of \$959 million, almost unchanged from \$958 million the year before. Net income fell in the first nine months of this year compared with the same pe-

See CNA on page 41

A caution on deregulation

Insurance departments still have important role: Regulator

By GAVIN SOUTER

NEW YORK—Commercial insurance deregulation will lead to more choices for policyholders, but it should not go so far that buyers are left unprotected, a New York regulatory official said.

Even sophisticated policyholders need the protection of insurance departments, and regulators should factor such policyholders' concerns into any com-

mmercial insurance deregulation, said Gregory Z. Serio, first deputy superintendent at the New York Insurance Department.

And regulators still must differentiate between large commercial policyholders and smaller commercial policyholders, which are more akin to personal lines buyers and are in need of greater protection, Mr. Serio said.

The ongoing controversy over

broker contingent commissions is a good example of how regulators still must watch out for risk managers, Mr. Serio said.

As the issue of contingent commissions, wherein brokers receive commissions from insurers once they meet set volume targets in addition to their regular commission, gained increasing attention, New York regulators had to act in response to risk managers' concerns, he said.

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Inside

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• Although shipowners mutuals continue to benefit from soft reinsurance rates, most P&I clubs will increase rates next year in light of rising claims costs. **PAGE 39**

• Changes in E.U. work laws mean European employers are likely to face increasing employment practices claims from disgruntled employees. **PAGE 39**

• Almost Donothing tries the patience of even Jolly Old St. Nick. **PAGE 47**

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year in review 1998

TOP STORIES

RISK MANAGEMENT

1. The Citibank-Travelers merger creates financial services giant
2. The industry grapples with Year 2000 computer problems
3. Insurers buy stakes in two major brokers
4. Consolidation continues to shrink insurance industry
5. The RIMS/QIC scorecard sparks controversy
6. Banking and insurance products converge
7. Cities take aim at gun manufacturers with lawsuits
8. The Supreme Court rules same-sex harassment violates law
9. A state court expands CGL coverage of environmental losses
10. RIMS expands membership beyond its base of buyers

EMPLOYEE BENEFITS

1. Group health care costs begin to climb again
2. The PBGC's financial condition greatly improves
3. HMOs begin to bail out of the Medicare market
4. The Supreme Court issues first ruling on COBRA coverage
5. Consolidation continues to cut ranks of health insurers
6. Federal legislators launch pension reform proposals
7. The Labor Department sues Time Warner over temporary workers
8. Controversy erupts over coverage of Viagra
9. CalPERS aims to control costs and improve quality
10. The Labor Department revamps claims processing deadlines

Risk managers are preparing now for what Y2K brings

By MICHAEL BRADFORD and JOANNE WOJCIK

Risk managers' eyes are on the millennium.

They're not peering into crystal balls, however. Rather, they are poring over their insurance policies. And they're doing everything they can to make sure their companies' computer systems will function after the last calendar page of 1999 is turned.

Preparations to exterminate the Year 2000 computer bug or make sure coverage is in place that will pay losses related to computer glitches were cited by many risk managers as the year's most important issue.

There are other concerns, such as the impact of mergers among insurers and brokers as consolidation continued in 1998. And looking at the landscape ahead, most risk managers predict very little change in soft insurance market conditions.

But the battle against the millennium bug is the one issue that risk managers agree consumed much of their attention throughout 1998 and will pester them for at least another year.

"Year 2000 was probably the biggest issue of 1998 and is likely to continue to be in 1999," according to Glenn Klinksiek, director of risk management for the University of Chicago.

"I would probably agree with that," said Gary Swinhart, director of risk management and benefits at CalMat Co. in Los Angeles.

The construction materials and property development company is addressing the exposure and is in good shape to avoid any Y2K problems, he said.

"Absolutely, Year 2000," said Richard W. Ryan, director of risk management at Franklin Resources Inc. in San Mateo, Calif. "Obviously it's just going to get worse. It's going to get very difficult in the next six to 10 months."

It's not just fixing the bug, it's making sure there's coverage to pay for losses if there are problems related to the inability of computers to properly read the new date.

Alan Lieban, risk manager at Litton Industries Inc. in Woodland Hills, Calif., said, "Litton's and corporate America's challenge is to secure coverage for Year 2000 exposures."

For Litton, it meant making sure insurers didn't exclude coverage for those exposures, he explained. "It was more of a case of avoiding expressed exclusions" than getting a specific Y2K insuring agreement, Mr. Lieban said. He worked with American International Group Inc. and other insurers to make sure Litton's coverage didn't contain such exclusions.

"Y2K coverage and claims issues, insureds trying to preserve coverage and insurers positioning themselves to limit exposure to Y2K claims" likely will make headlines in 1999, predicted Maury DeBont, risk management analyst for Edison International in Rosemead, Calif.

See Risks on next page

Health care pricing is top concern of benefit managers

By MICHAEL PRINCE and AMANDA MILLIGAN

Rising health care costs headed the list of 1998's most important events for benefit managers.

Benefit managers also cited the continued consolidation of health plans, complying with new laws and regulations, and the turmoil in the Medicare HMO market as important issues during the year.

After a few years with no increase or even decreases in health plan rates, most employers were hit with rate increases in both their managed care and indemnity plans during 1998.

Rate increases "were something that was on the back burner for a few years," said Elaine Morrow, director-corporate benefits for Amerada Hess Corp., an oil supplier based in New York.

Ray Brusca, vp-benefits at Black & Decker Corp. in Towson, Md., suggested that perhaps some health maintenance organizations are playing "catch up" after having earlier agreed to multiyear rate caps that in recent years did not allow them to pass along cost increases to employees.

Another reason cited for price increases has been the proliferation of expensive medical diagnostic tools. "Can we afford to have them in every doctor's office?" asked Jerre Harris, director-benefits for Thomas & Betts in Memphis, Tenn.

Perhaps more significant has been the typ-

ical 15% to 20% increase in costs to employers for prescription drugs. The increases are due in part to greater use of new and expensive brand-name drugs requested by employees who see the numerous television ads promoting the products.

"There is a lot of advertising on drugs that we didn't used to see," Ms. Harris said.

Although health care costs are rising, one benefit manager notes that the current increases don't match those seen earlier this decade.

"It's not double digits like it was in the past," said Michael Pikelny, corporate actuary and employee benefits consultant for Hartmarx Corp., a Chicago-based apparel manufacturer.

Some employers have moved aggressively to keep rates under control.

At Kohler, Wis.-based plumbing fixture manufacturer Kohler Co., moving to managed care is one way of holding down self-funded health care costs and continuing to provide quality care to employees.

Effective Jan. 1, 1999, all 19,000 union and non-union Kohler employees will be moved into HMOs and point-of-service plans, said Susan Allison, supervisor for Kohler's claims unit.

To combat rate increases, Marriott polled its employees to determine what they want out of a health plan.

Marriott learned that its employees wanted both streamlined plan administration and a prescription drug card program, said

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Risks

Continued from previous page

"Ultimately, Y2K claims will be decided by the courts, much like asbestos and pollution," he said. He referred to a recent move by several large companies to sign a mediation agreement with their insurers on how they will approach Y2K issues as having "some merit and promise."

While the Year 2000 computer problem occupied much of their time, other issues concerned risk managers in 1998.

While there seems to be "more and more concern mounting" about Y2K problems, "I think the biggest story has been the continuing consolidation in the brokerage business," said Michael Tawney, executive vp for risk management at Loomis Fargo & Co. in Houston.

"We've got two great big ones now," Mr. Tawney observed of broker choices. "I don't know what the lessening of brokers will mean if we return to a hard market."

A more immediate effect of consolidation is to reduce the risk manager's ability to find alternatives if a relationship sours, he pointed out. "It limits my ability to get mad, for legitimate reasons, and use somebody else."

Mr. Tawney—whose coverage is placed by Sedgwick, now part of

Marsh & McLennan Cos. Inc.—said he doesn't believe risk managers are seeing a lot of the efficiencies brokers promised when the wave of mergers began to take hold.

Ed Frackiewicz, director of risk management for Del Monte Foods in San Francisco, said, "The landscape is now set" and referred to J&H Marsh & McLennan Inc. and Aon Risk Services Cos. Inc. as "the Big Two."

In fact, Mr. Frackiewicz pegged the merger of Sedgwick with J&H Marsh & McLennan as the biggest risk management event of 1998.

Susan K. Moreland, risk management director for the San Francisco Newspaper Agency, said the megamergers "impact customer choices, delivery of services, brand differentiation and competition within the marketplace. I suspect all will deteriorate as a result."

Service is already "deteriorating rapidly," she added, without elaborating except to say that "the mergers are likely to help large buyers but hurt most everyone else."

Mr. Klinksiek of the University of Chicago said, "I have a certain amount of growing concern" about the impact of mergers. "Both our principal insurer and our principal broker have been involved in a merger and acquisition," he said, declining to name the companies.

From an economic perspective, industry consolidation could have a

negative impact, Mr. Klinksiek said, pointing to the laws of supply and demand. "The fewer providers there are, the more likely they are to control the market."

On the other hand, "this may expand the opportunities for other brokers that weren't major players before," he said.

Mr. DeBont of Edison International also experienced some deterioration of service after his brokers merged. "There were some changes in our service team and some disconnects with the level of service," he said.

By contrast, the wave of mergers and acquisitions has had no impact on the entertainment industry, according to Sue Boucke, insurance administrator at San Rafael, Calif.-based Lucasfilm Ltd. "The entertainment industry is fairly small as far as brokers and underwriters specializing in our area."

While consolidation offers buyers more services from bigger firms, the downside is that it can "hurt buyers because there are fewer brokers and underwriters to bid on the programs; therefore, no competition," Ms. Boucke observed.

Mr. DeBont said: "I think the megabroker has more power/clout with insurers, which is good for us. Bad for us is the reduction in broker alternatives, especially for a global company."

Not all buyers bemoan the shrink-

ing broker ranks.

Mr. Ryan of Franklin Resources said his company used a number of brokers before consolidations left it with J&H Marsh & McLennan as the lone intermediary. The consolidation, which occurred before he arrived at Franklin Resources, has made coverage placement more efficient, he pointed out.

It's hard to say how long consolidation can continue among insurers and brokers, Mr. Ryan remarked. "There have been so many consolidations that it will have to slow down some because there are fewer people to partner up."

Risk managers spent some time this year debating whether it is proper for insurers to pay contingent commissions to brokers.

"Risk management accounts will continue to demand quality and full disclosure of all firm revenue sources," said Mr. Frackiewicz. He predicted that "fee-for-service (compensation arrangements) will become more commonplace."

Ms. Moreland of the San Francisco Newspaper Agency said: "Anything that contributes to a less-than-best effort to place a piece of business in the most favorable market does not serve the interest of the buyer. I would prefer to know that the only motivation for placing business with an insurer is because that is the best alternative to the buyer."

Not all risk managers see contingent commissions as evil.

"To me, it's kind of like a bonus that can come and go," said Mr. Swinhart of CalMat. "I can't influence that."

He said he doesn't feel he has the right—partly because he is not a giant account—to approach a broker and demand that as a buyer he receive some small piece of a payment to a broker that placed his business.

"We use three different brokers," he said, which are paid under an arrangement that involves fees and commissions. "We never really got into contingency fees" with the brokers, Mr. Swinhart noted.

Some risk managers say a market firming in some lines could occur next year. No one is suggesting insurance costs will change dramatically.

Mr. Klinksiek said he thinks there will be "some tightening; for example, medical professional liability costs are going up." Historically, rising professional liability rates have signaled a market turn, he added.

Mr. DeBont said the market could begin to "even out due to unknowns of Y2K and how it will financially impact insurers."

Even though some insurance industry executives are making pronouncements about the need for "pricing integrity," major changes are not likely to arrive soon, said Mr. Lieban of Litton. "I believe it will remain competitive." **BI**

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**THE BUSINESS
INSURANCE EXPERTS.**



Benefits

Continued from page 3

Karen King, director of benefit operations in Washington. Using the survey results, Marriott reduced its HMO offerings to 140 from 162 and consolidated four different plans—two POS options, one indemnity and one catastrophic indemnity plan—into one PPO.

"We were looking at double-digit increases for some of our plans," said Ms. King. "We didn't want to be vulnerable to the HMO rate increases."

In addition, Marriott increased copayments by \$5 for doctor visits and non-generic prescriptions.

Despite cost-control efforts, benefit managers generally agree that rates will continue to increase

in 1999 and beyond.

"If anything I think it will get worse before it gets better," said Theawanna Sanders-White, manager, employee benefits for LEGO Systems Inc. in Enfield, Conn.

Beyond the rising costs, there has been growing employee distrust of managed care plans, said Richard Quinn, director-performance and rewards for Public Service Enterprise Group, a utility in Newark, N.J. Employees' loss of confidence has caused "a decline in the credibility of the concept of managed care," he said.

This drop in confidence "will have some significant long-term impact on our health benefit strategies," he added.

Benefit managers also cited mergers of health plans as one of the year's top stories. Mergers this year include Aetna Inc.'s an-

nouncement this month that it plans to buy Prudential HealthCare and its purchase of NYLCare Health Plans Inc. earlier in the year.

'Congress and others need to remember health care benefits are not a right,' says Scott Rich.

"With fewer players, we think the costs will go up," said LEGO's Ms. Sanders-White.

Still, some benefit managers say there could be a positive result to the wave of health care plan mergers.

Dennis Nirtaut, managing director of compensation and benefits for Arthur Andersen & Co. L.L.P. in Chicago, said the global economy mixed with the entrepreneurial spirit will keep competition alive.

"Everybody has to make sure they are running at peak effectiveness," Mr. Nirtaut said, discussing Aetna's acquisition of Prudential HealthCare. "If they don't do a good job, others will step in."

Benefit managers continue to express concern over government laws and regulations that affect benefits.

Their most recent concern is legislation passed in the closing days of the congressional session that requires employers to notify plan members that their health plans cover reconstructive surgery after mastectomies if the plans cover

mastectomies.

Ms. Harris of electrical manufacturer Thomas & Betts said the notification requirement adds no value to the plan but imposes an administrative burden on the company.

"It's amazing to me to see the waste of dollars," she said.

Scott Rich, director of corporate insurance for Flowers Industries Inc., a manufacturer of baked goods headquartered in Thomasville, Ga., said he's concerned about "legislation by body part," referring to earlier congressional benefit mandates on hospital stays following childbirth and mental health benefits parity, as well as the more recent mandate to cover reconstructive surgery after a mastectomy, if that is covered.

"Congress and others need to remember health care benefits are not a right," he said. "Every time they legislate benefits, it drives costs up, which drives people out of the system because they can't afford it," Mr. Rich added.

Legislation, such as the proposed Patient Access to Responsible Care Act, worries Marriott's Ms. King, because it would extend liability on employers who voluntarily provide health care coverage to employees.

"If we're going to be held liable for various medical management issues, I predict that employers will not offer medical coverage to employees," she said. The PARCA legislation died this year in Congress, but Washington observers expect the bill to be introduced again next year.

The growing popularity of Medicare HMOs, and many plans' withdrawals from the market in some areas, also were cited as an important issue during 1998.

The proliferation of plans is helpful, but "at the same time, it's confusing for the retirees," Ms. Harris said.

Despite an increase in the number of retirees enrolled in the plans, some prominent HMOs withdrew their programs in certain locations, leaving tens of thousands of retirees without access to other Medicare HMOs. "It's a huge issue," said Ms. Sanders-White.

The pullout has affected PSE&G, said Mr. Quinn, as the company heavily promoted Medicare HMOs to its retirees and provided incentives for people to use them.

"To continue to promote managed care in the face of adverse publicity... is getting more and more difficult," he said.

Another big trend for the year has been the increasing outsourcing of benefit administration, Mr. Quinn said. His company now outsources benefit plan administration to Hewitt Associates L.L.C. Benefit outsourcing allows employers to focus on benefit plan and strategy and "not on the day-to-day operations," he said.

Giving employees more information about investing and how to plan for retirement is one of the largest employee benefits-related issues dealt with during the year, noted Mr. Nirtaut of Arthur Andersen.

"We feel more compelled to give employees the tools to help them in this area," he said.

Employee education helped to calm employees during this year's volatility in the equities market, as few pulled their 401(k) account balances out of equity funds, said Ms. Harris of Thomas & Betts.

"We did something right, as we didn't see a run on 401(k) plans" to safer investments, she said. **[E]**



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Happy Holidays from BI

All the Whos down in Who-ville, having finished their day, fell asleep knowing Grinch had at last changed his way.

The Grinch, with a heart full of the holidays' cheer, remained eating Who-hash while rehashing the year.

In the year that is past, he was suddenly struck with the thought of mergers running wildly amok.

"There was Aon, EXEL, the Travelers Group, too!
Berkshire Hathaway, ACE, Aetna's purchase from Pru!



"Now, the Who-lights will darken as Who-decoration stays hanging, not unlike Superfund legislation.

"Health care cost seemed to rise very little this year but the trend will be up in the future, I fear!"

Then the Grinch gave a shrug as he sliced some roast beast...

"Y2K is a problem being dealt with, at least!"

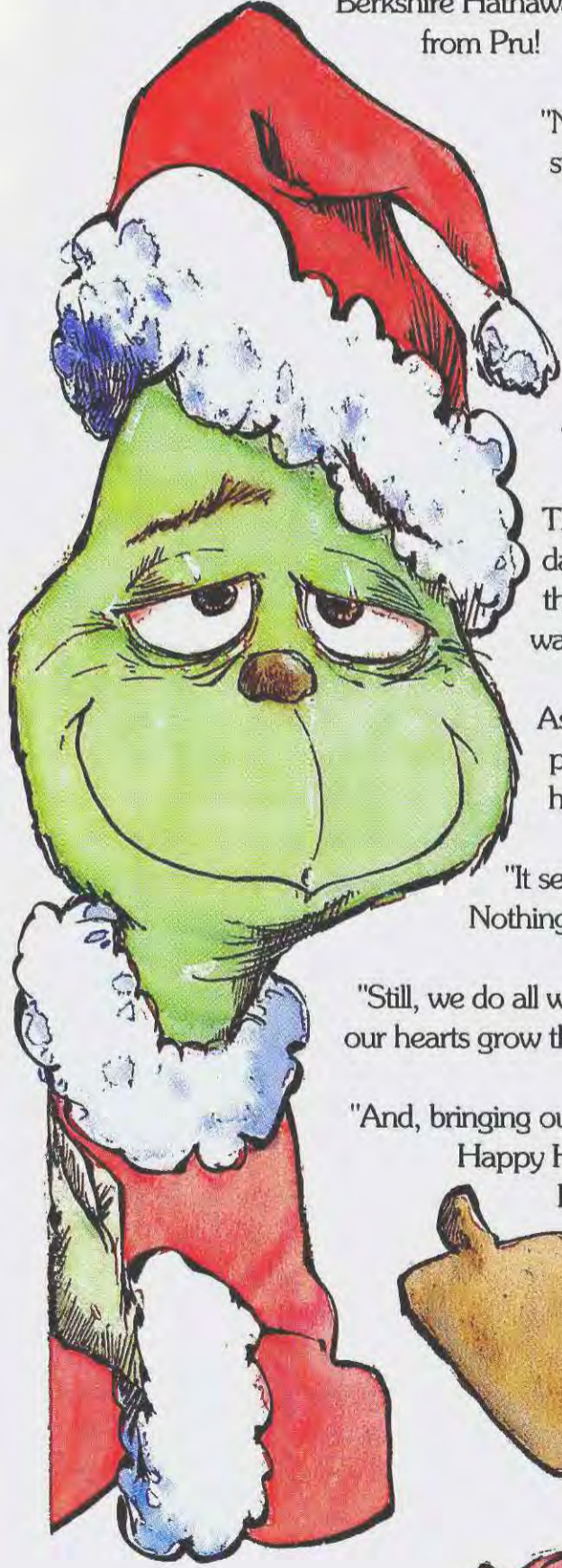
The Grinch chewed his Who-food and thought over the day, then offered a prayer for those caught in harm's way.

As he gave scraps to Max, and washed up the plates, he pondered the turnings of all of the year's fates.

"It seems overwhelming keeping track of the news! Nothing's ever clear-cut; there's so much to confuse!"

"Still, we do all we can and, touched by the season, our hearts grow three sizes without rhyme or reason.

"And, bringing our gifts to the table, we cheer:
Happy Holidays to all and a
Happy New Year!"



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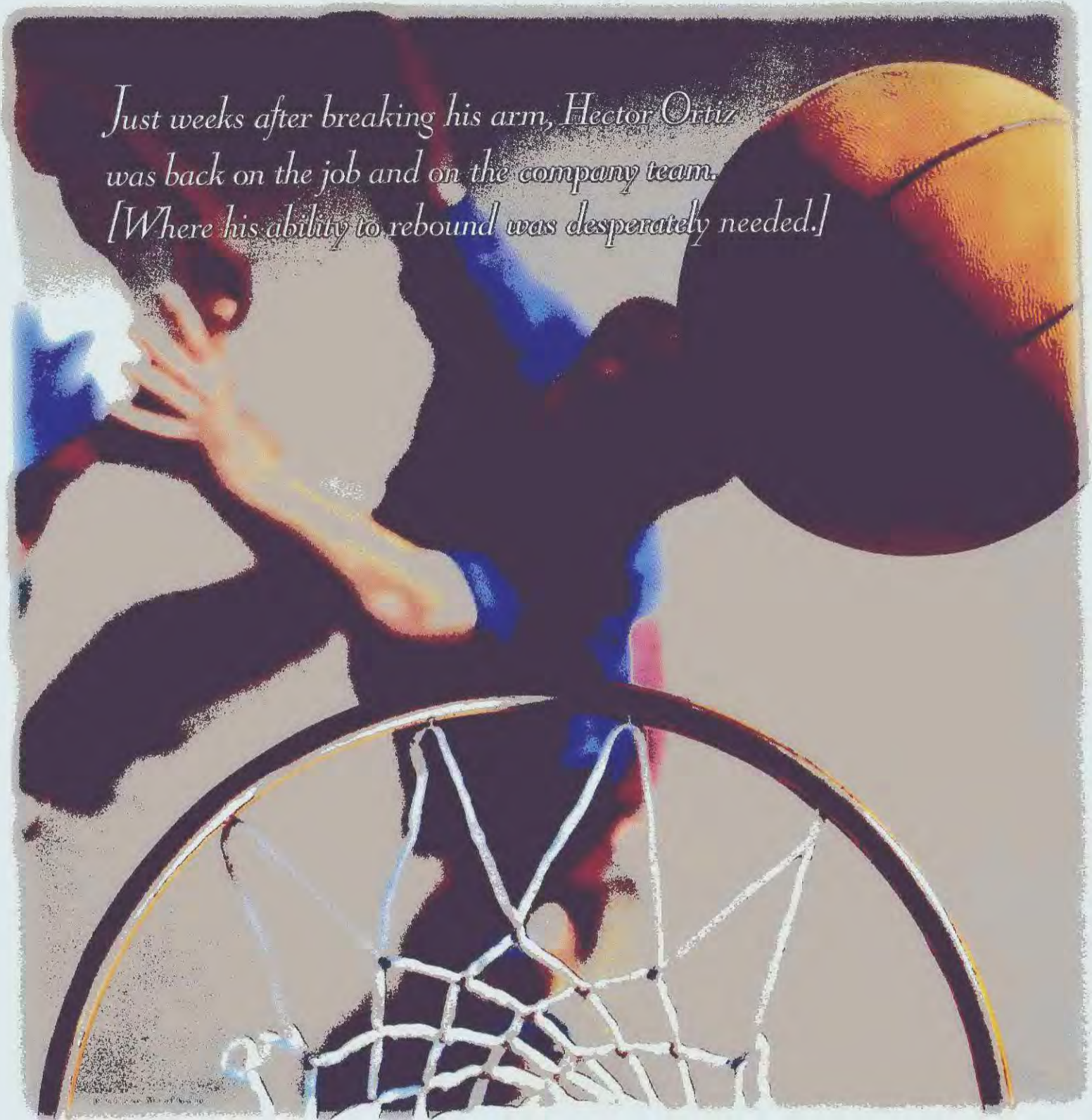


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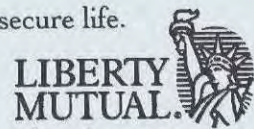
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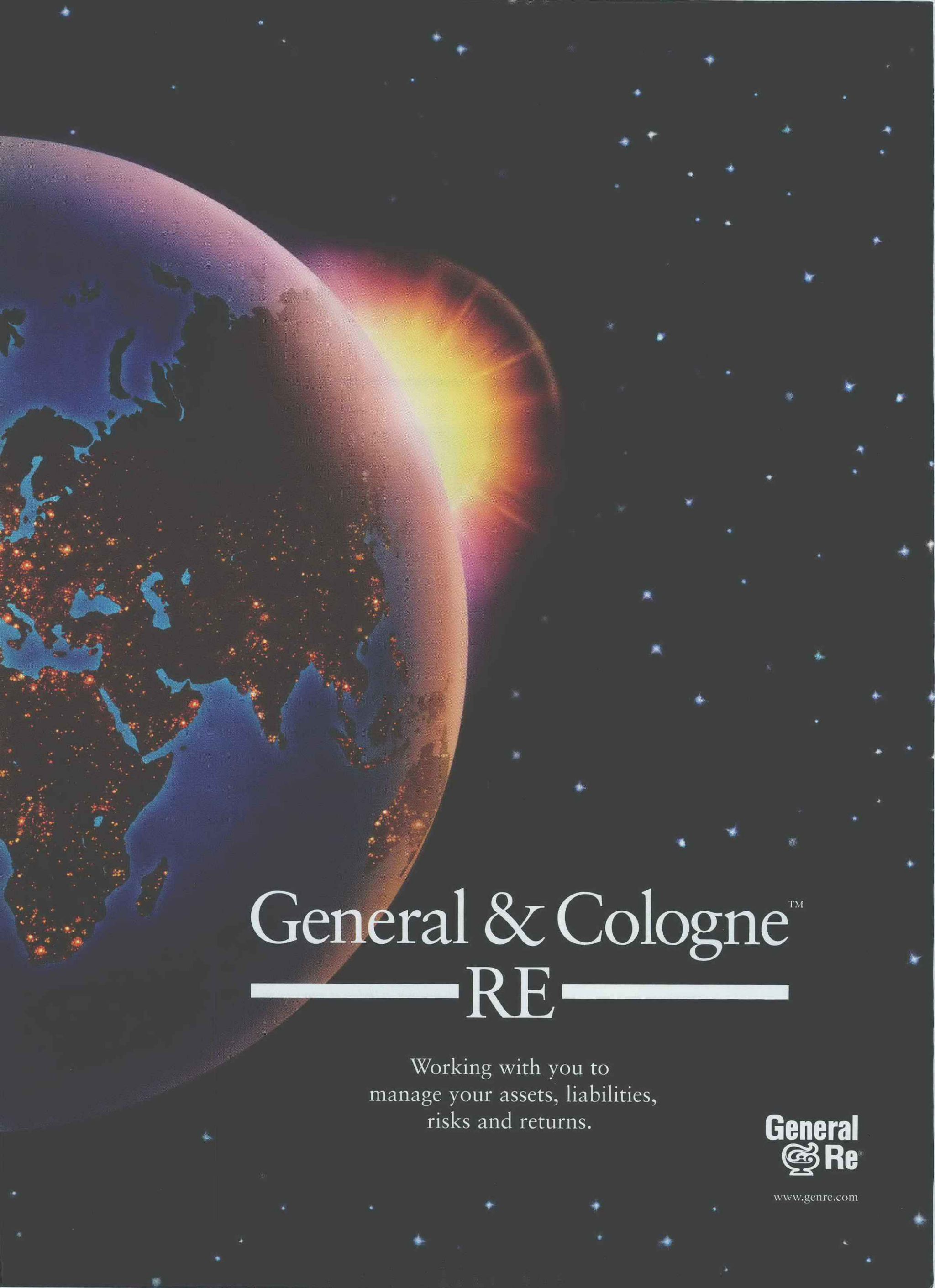
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Citigroup puts it all under one umbrella

Even at a time when "mega-mergers" occur with such frequency that they almost have become commonplace, this year's \$70 billion merger of Travelers Group and Citicorp stood out.

The deal was noteworthy not only for its size, but even more so for its significance as a possible harbinger of the insurance industry's future. Many regard it as a catalyst for some of the changes expected in the world of insurance and risk management.

The ultimate impact of Citigroup Inc.—the name of the combined entity—likely will take years to unfold.

But industry observers say they expect it to speed a trend toward integration of financial services industries

that's already under way.

In addition, the deal could increase the pace of risk securitization and, by creating a "financial supermarket," add additional fuel to a movement to expand the definition of risk management through an enterprise-wide "holistic" approach to addressing risk.

The merger also has been cited by many as a factor in the quickening pace of demutualization of mutual insurance companies. Some such companies are looking to restructure into stock companies to provide maximum flexibility and access to capital as they try to survive and grow in a rapidly changing business environment.

Announced in April, the Travelers-Citicorp merger became reality this

fall, when Citigroup began trading on the New York Stock Exchange.

Under the deal, each company's



shareholders own half of the newly combined company.

In looking at the changes under way in the financial services industry, clearly John S. Reed and Sanford I. Weill, co-chairmen and chief execu-

tive officers of the new entity, and their organizations saw the benefits to be gained from a merger as far offsetting any possible risks.

Not the least of those risks is that the companies merged even without the passage of federal financial modernization legislation that would eliminate a Depression-era prohibition against the affiliation of banks, insurers and securities firms.

And, as it turned out, H.R. 10, the bill that would have eliminated the Glass-Steagall Act ban on bank and insurance company affiliation, died in this year's Congress.

Without such legislation, Citigroup enjoys a two-year grace period on the banks in insurance ban under the federal Bank Holding Company Act.



That grace period can be extended to a total of five years with permission of the Federal Reserve Board.

But, while the financial modernization legislation failed to pass this year, its ultimate passage is widely perceived as inevitable, with the insurance, banking and securities industries all moving to prepare themselves for the change.

Among other things, many proponents of the change argue the move would bring the laws under which U.S. financial services companies operate more in line with those in other countries. Doing so would increase U.S. companies competitiveness in a marketplace that's growing ever more global, they contend.

Operating under Travelers' familiar red umbrella logo, Citigroup is a huge new face in the global marketplace, serving more than 100 million customers in 100 countries, according to the company.

Combining Travelers business with Citicorp's provides obvious opportunities to cross-market banking and insurance services to the newly combined base of personal lines and small commercial customers.

Although Travelers spun off Travelers Property Casualty Corp. in 1996, it continues to own a majority share of the insurer.

For larger commercial customers, the move could provide new risk financing opportunities, linking the insurance underwriting expertise of one entity with the financial expertise and market presence of the other.

With a move already afoot among many organizations toward enterprise-wide risk management, in which risk is managed across the entire spectrum of a company's exposures, Citigroup offers the potential of a one-stop shop for traditional property/casualty coverage. It also offers potential vehicles for handling such risks as foreign exchange or commodity price exposures, or even securitizing risks.

The integration of financial services demonstrated by the Citigroup deal does raise some regulatory questions. But, while a new move to pass financial modernization legislation might prompt some new calls for federal oversight of insurance, the most likely outcome seems to be continued oversight of various financial service industries by function.

In such a scenario, even after federal law is amended to allow the affiliation of banks, insurers and securities dealers, federal banking regulators would continue to regulate an integrated entity's banking activities, state regulators would continue to oversee its insurance activities and the federal Securities and Exchange Commission would supervise its business as a securities dealer.

—By Rodd Zolkos

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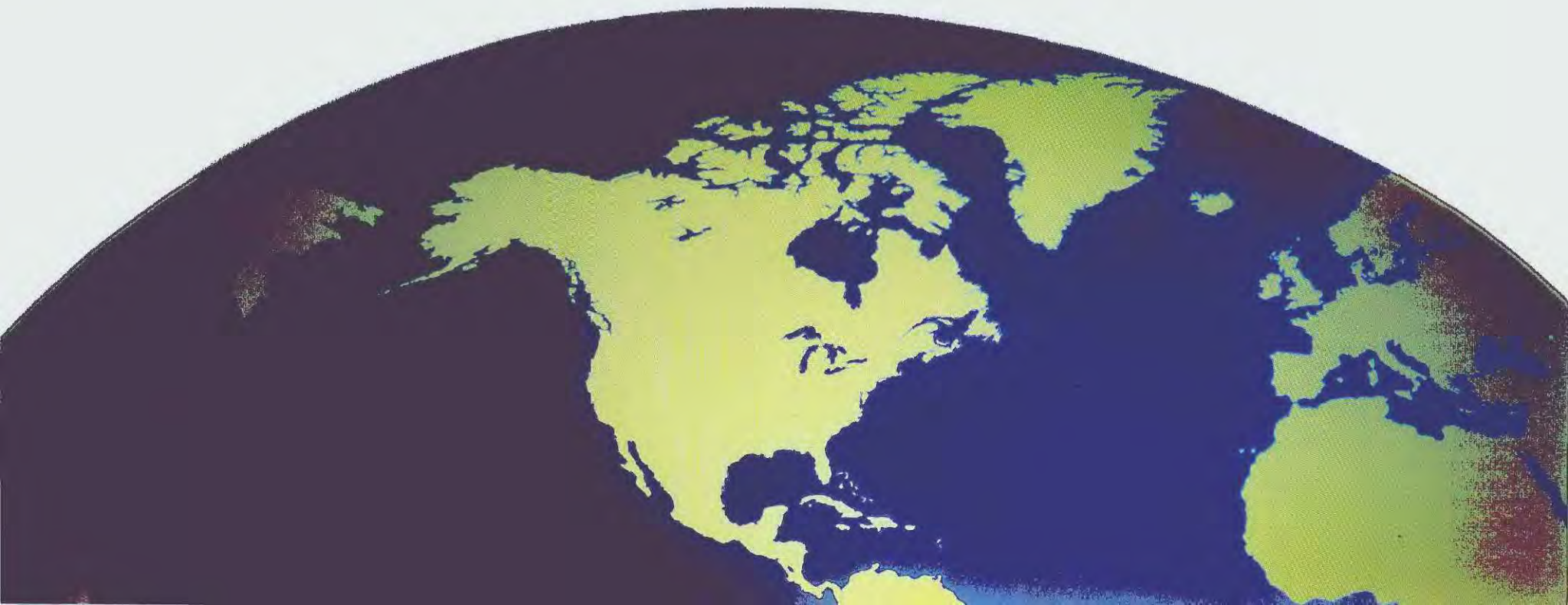
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Industry drawing battle lines on Y2K



Risk managers, the insurance industry, lawmakers and the Supreme Court this year grappled with computer millennium bug issues that have developed despite America's multimillion-dollar effort to exterminate the Year 2000 problem.

Attorneys began outlining likely coverage defenses that insurers would try to use. Chief among those are: because the computer bug has been a long-known problem, any related losses would not be fortuitous; a general liability policy is triggered only when a third party has suffered bodily injury or a property loss; and because the computer causing the loss likely was installed years ago, policyholders did not provide insurers time-

ing for multiyear contracts that would cover losses beginning with the first wave of computer-related losses—which are expected in 1999—and continuing through 2000.

Reinsurers largely were assessing cedents' Y2K risk exposure case by case and walking away from accounts with significant exposures. Others asked for assurances that cedents

would not try to classify all of their Y2K losses as a single event in an effort to minimize their retained losses.

Business' Y2K liability exposures were somewhat minimized under the federal Year 2000 Information and Readiness Disclosure Act. By extending antitrust protections to business, Congress hoped the act would encourage businesses to share information on their Y2K compliance efforts.

As a further inducement to companies to share such information, the act bars plaintiffs from using certain statements companies have issued about their problems in achieving Y2K compliance as evidence in lawsuits involving non-securities-related liability claims. The act applies to both federal and state laws. The act

also relieves companies of liability under those laws if the companies issued erroneous assessments of their Y2K compliance status.

But the act does not protect companies against lawsuits alleging securities fraud, breach of contract, or losses resulting from product and service failures. Business' protection against frivolous Y2K-related and other securities fraud lawsuits against directors and officers, though, was bolstered under a 1998 securities reform law. That law strengthens a 1995 securities reform act.

Months before the earliest date Y2K problems were expected to develop, courts were being asked to resolve Y2K evidentiary and liability issues.

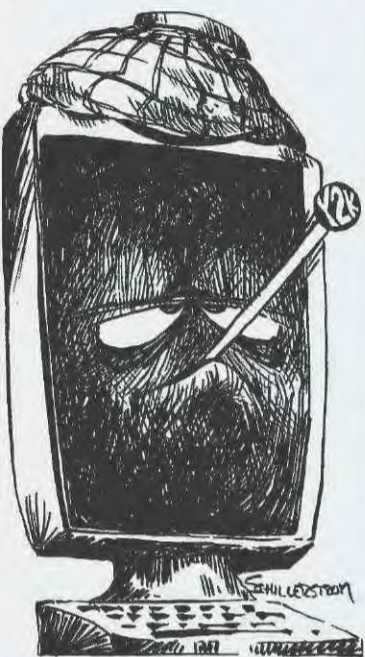
The U.S. Supreme Court earlier this

month heard arguments over whether it should hold the testimony of computer experts expected to testify in millennium bug-related litigation to the same high standards the court established in 1993 for scientists who give expert testimony. Insurers have asked the court to extend its criteria to such applied science experts, whose testimony on why a system failed could have a significant impact on coverage issues.

In what attorneys say is the first coverage lawsuit over the computer millennium bug, an insurer is seeking a declaratory judgment that it does not have to indemnify or defend a policyholder facing a Year 2000-related breach-of-contract lawsuit.

And Andersen Consulting has filed a lawsuit that one attorney said could determine consultants' liability for the Y2K problems their clients face.

—By Dave Lenckus



ly notice of claims. The Insurance Services Office Inc. in April began offering general liability insurers Y2K exclusions, which virtually all U.S. jurisdictions had approved by year end. ISO offered total exclusions as well as options that provided some limited coverage.

But policyholders began asking if a new Y2K exclusion meant the policyholders were covered for Y2K-related losses under older policies without the exclusionary wording.

At year end, reinsurers reported that mainly small and midsize insurers were adding the Y2K exclusions to policies.

Larger general and professional liability insurers were trying to assess their policyholders' Y2K exposures through answers to questionnaires that accompanied policy applications.

That tactic, though, raised policyholder concerns over whether their insurers could use policyholder misjudgments expressed in the questionnaires to deny coverage.

Most, though not all, directors and officers liability insurers and attorneys acknowledged that D&O policies would cover Y2K-related losses.

To avert future coverage disputes, some insurers have offered—for additional premium—to preset the percentage of policy limits that would respond to third-party claims. That would eliminate disputes over how much executives, who are covered by D&O policies, and their organizations, which are not covered, are to blame for a loss. Other D&O insurers began offering policies designed to cover Y2K risks, including business interruption losses.

But some attorneys say policyholders may be able to negotiate for much of that coverage at the time of a claim without paying additional premium.

Meanwhile, insurers went search-

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Vertical integration touches brokerages

As the brokerage industry continued to consolidate throughout 1998, two of the world's largest brokers took a slightly different route.

Instead of merging with competitors, London-based Willis Corroon Group P.L.C. and San Francisco-based USI Holdings Inc. announced within the same week that each broker would be acquired by a group of investors that includes several insurers.

Risk managers generally welcomed the insurer investments for the purpose of promoting choice in the rapidly consolidating brokerage world. But questions surfaced about whether such vertical inte-

gration moves were actually strategic deals to control the placement of insurance products.

Despite the potential for conflicts of interest, executives from both USI and Willis vehemently denied that the deals were anything more than a means to enable the brokers to thrive amid intense competition and consolidation.

The insurer investors "have no say or influence over our affairs. They do not sit on the board," John Reeve, executive chairman of Willis, said in October. "There are no particular special arrangements with the five carriers as part of the transaction," he added.

USI Chairman and Chief Executive Officer Bernard H. Mizel ex-

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1998
3
RISK MANAGEMENT

pressed similar sentiments. "Nobody has a controlling vote in this company. The management of USI is overseeing the company," he said.

For Willis, the deal with Trinity Acquisition P.L.C., a consortium led by U.S. private equity firm Kohlberg Kravis Roberts & Co. L.P., ended years of speculation over the broker's future. Willis

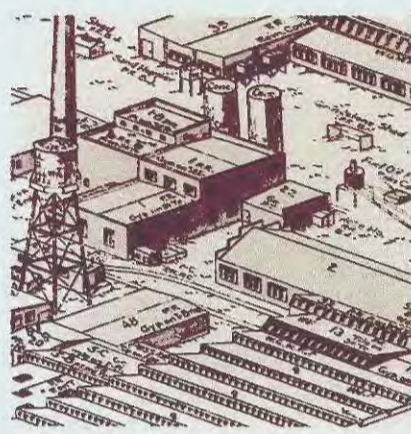
was frequently rumored to be an acquisition target or to be merging with Sedgwick Group P.L.C.

At the time of the deal, Willis executives said they had spent the previous 18 months looking at various options, including a merger, an acquisition, a strategic alliance with insurers or other financial services organizations, and continuation as a public company.

In the end, KKR issued a \$1.56 billion offer in July to acquire a majority stake in Willis. About \$320 million of the investment came from five insurers: Guardian Royal Exchange P.L.C., Royal & Sun Alliance Insurance Group P.L.C., Chubb Corp., The Hartford



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Financial Services Group Inc. and Travelers Property Casualty Corp.

But the rumors didn't stop there.

One month after Willis announced the Trinity offer, Marsh & McLennan Cos. Inc. announced it was going to acquire Sedgwick. Sedgwick's stock price—compared to Trinity's offer for Willis, which involved a 12% premium for shareholders. The disparity prompted concerns that Willis' shareholders may not accept Trinity's original offer. Rumors were exacerbated when Trinity announced it would extend its offer for another two weeks, leading to speculation that a counterbid for Willis might emerge.

But the Willis/KKR deal closed in the fall. In October, executives from Willis and KKR expressed their satisfaction in continuing to operate Willis as an independent rival to the industry's two global giants, Marsh & McLennan and Aon Corp. Officials of both companies, however, said they will not rule out another change in Willis' ownership down the road.

At about the same time the Willis/KKR deal was announced, USI Holdings, the world's 11th-largest broker based on 1997 revenues, announced plans for a consortium of seven insurers and Chase Manhattan Corp. to buy a majority stake in the broker.

CNA Financial Corp., Chubb Corp., the Equitable Cos., Orion Capital Corp., Provident Cos. Inc., Travelers Insurance Cos. and Zurich Centre Investments Inc. each made private equity investments in USI. The terms of the transaction, however, were not disclosed.

"This is the first time in the history of our industry that the major financial services companies have all joined hands as equity investors in a distribution system," Mr. Mizel said at the time.

The investments will enable USI to meet its objective of offering a diverse assortment of financial products and services, in addition to traditional insurance, to its clients, he explained.

In addition to the insurer investments in Willis and USI, EXEL Ltd. agreed to acquire a 25% stake in surplus lines broker Tri-City Brokerage Inc. in early July. And in September, Orion Capital Corp. offered to buy PennCorp Financial Group Inc.'s interest in Acordia Inc., the world's sixth-largest broker.

—By Sally Roberts

Insurance industry continues to consolidate

Consolidation remained the name of the game for brokers and insurers in 1998, as many megadeals were reached throughout the year.

The continuing saga of brokers becoming megabrokers—itsself last year's No. 1 story—played out once again this year, as the world's largest broker, Marsh & McLennan Cos. Inc., announced in August that it would acquire the world's third-largest broker, Sedgwick Group P.L.C.

The move greatly expanded M&M's lead over archrival Aon Corp., the world's second-largest broker, and it ended much speculation over Sedgwick's future. But it also added to risk managers' concerns about the ultimate effects—notably the potential for diminished choice and less marketplace competition—of broker consolidation.

Nor did Aon put its acquisitive ways on hold this year, as it agreed to acquire European brokers Groupe Le Blanc de Nicolay and Gil y Carvajal early in the year.

Those deals, on the heels of its December 1997 purchase of German broker Jauch & Huebener KGaA, bolstered its reinsurance brokerage strength, though it remains the No. 2 retail broker.

While it did not take part in the megamerger activity, Willis Corroon Group P.L.C. did make several investments.

At the start of 1998, Willis bought a 30% stake in Jaspers Wuppessahl In-

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dustrie Assekuranz, the third-largest broker in Germany. As with its 1997 investment in French broker Gras Savoye S.A., Willis has reached an arrangement with Jaspers Wuppessahl to increase its shareholding over time and to eventually become the majority shareholder.

Willis, which always had been active in the soon-to-be-acquired rumor mill, put an end to the speculation in July when it announced that Trinity Acquisition P.L.C., a consortium led by the U.S. private equity firm of Kohlberg Kravis Roberts & Co. L.P., had issued a \$1.56 billion offer to acquire a majority stake in the world's fourth-largest broker.

Mark A. DeLillo, president of the Risk & Insurance Management Society Inc., said the key issues raised by broker consolidation are whether the trend results in a lack of choice for buyers and whether the megabrokers' clout gives them undue influence in the insurance marketplace.

Risk managers must "make a determination as to whether mergers and acquisitions have a material impact on their programs and the way business is conducted. From that

point, the market will dictate what's appropriate," he said.

Consolidation wasn't limited to brokers. In July, the National Assn. of Insurance Brokers merged into the much larger Council of Insurance Agents & Brokers in July, giving the brokers a single voice on Capitol Hill.

On the other side of the coin, while the Travelers-Citigroup merger was the year's biggest and, in many ways, most daring insurer merger, it was far from being the only merger of note.

In January, The St. Paul Cos. Inc. agreed to buy USF&G Corp. for \$2.8 billion, creating the nation's eighth-largest property/casualty insurer.

Fewer than six months later, Berkshire Hathaway Inc. offered to acquire General Re Corp. in a \$2.2 billion stock deal that will give Gen Re enormous new resources while removing the pressures of being a public company.

In late July, the three Factory Mutual insurers—Allendale Mutual Insurance Co., Arkwright Mutual Insurance Co. and Protection Mutual Insurance Co.—agreed to merge into a single entity to be called Factory Mutual Insurance Co., thus completing a century-long trend toward consolidation among what had once been more than 40 Factory Mutual insurance companies.

In October, Employers Insurance of Wausau agreed to become part of the Liberty Mutual Group, ending its relationship with Nationwide Group, which is focusing on personal lines

and financial services. That partnership between the mutuals creates a workers comp powerhouse.

And earlier this month, Fairfax Financial Holdings Ltd. announced it would purchase TIG Holdings Inc. for \$840 million. The deal will end the uphill battle TIG has been fighting to turn itself around in a soft market since its initial public offering in 1993.

Fairfax's purchase of TIG comes nine months after it agreed to buy Crum & Forster Holdings Inc. for \$680 million. That deal marked Xerox Corp.'s exit from the insurance industry 15 years after it bought Crum & Forster for \$1.6 billion.

There were also the mergers that didn't work out, notably the aggressive courtship of American Bankers Insurance Group Inc. by two suitors.

American International Group Inc. made the first move in January, announcing a \$2.2 billion deal for American Bankers. Cendant Corp. made a counteroffer later that month, which resulted in a bidding war. AIG subsequently walked away from the deal, which ultimately collapsed in October after Cendant discovered internal accounting irregularities.

In August, AIG instead paid \$18 billion to acquire SunAmerica Inc., giving it a key player in the retirement savings market.

The urge to merge was not limited to U.S. insurers, either.

In late winter, British insurers Commercial Union P.L.C. and General Accident P.L.C. announced



merger plans, creating the United Kingdom's largest multiline insurer and a new international powerhouse called CGU.

And in Bermuda, EXEL Ltd. in March agreed to purchase Mid Ocean Reinsurance Co. Ltd. for \$2.2 billion. In addition to boosting its property catastrophe reinsurance capabilities, the Mid Ocean purchase also made EXEL a major force in Lloyd's of London. A few weeks later, ACE Ltd. purchased CAT Ltd. for \$711 million. That deal expanded ACE's property catastrophe reinsurance business into new areas.

—By Sally Roberts and Mark A. Hofmann

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Insurance industry not hitting home runs: Score card

Risk managers were not gushing with praise for insurers and brokers in a survey that produced the first industry quality score card earlier this year.

In fact, buyers of insurance products and services indicated they were largely unhappy with industry efforts to meet their needs. Overall, risk managers gave insurers and brokers low marks in performance and satisfaction.

The score card, developed by the Risk & Insurance Management Society Inc. and the Quality Insurance Congress, was a much-anticipated compilation of marks from risk managers. The results were based on 1,702 responses gathered and evaluated by

the Katie School of Insurance at Illinois State University at Normal.

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Stephen M. Wilder, RIMS president during the 1997-1998 term, touted the score card as a way to measure objectively the level of quality risk managers receive from their providers. It will be updated periodically and is intended to encourage in-

surers, reinsurers, brokers and third-party administrators to improve the quality of their products and services.

When the score card was presented at this year's RIMS conference in San Diego, insurers and brokers began to get an idea of how their brokers really felt about them.

Mr. Wilder said at the conference that the results pointed out "who are the quality providers and who aren't. And while our goal is to create continuous improvement in the industry, we can't ignore the fact that there are people who didn't score very well."

Brokers scored a little better than insurers and reinsurers in the performance category, with an overall grade of 73 on a scale of 100, compared with 68 given to the underwrit-

ers. Brokers earned a satisfaction score of 69; insurers and reinsurers were given a 66.

Third-party administrators scored even lower, earning a 65 for performance and a 60 in satisfaction.

The score card, however, also indicated that not all buyers were unhappy with the individual performances of their providers. Across all categories, 4.2% of vendors received a satisfaction rating of 100. Among brokers, 5.3% were given a grade of 100; while 3% of insurers and reinsurers earned a perfect mark. Of TPAs, 5.5% were given a 100.

The score card listed only those companies that received enough evaluations to make a grade meaningful.

Willis Corroon Group P.L.C. had



the highest overall scores among brokers, getting an 80 on performance and a satisfaction grade of 76. The broker quickly issued press releases noting that it had earned the highest scores in the survey.

Other brokers that made the score card, in descending order, were Hobbs Group L.L.C., Aon Group Inc., J&H Marsh & McLennan Inc. and Sedgwick Group P.L.C.

Of the insurers list, Associated Electric & Gas Insurance Services scored highest with an 80 for performance and a 78 in satisfaction. Other insurers that earned marks were, in order: Swiss Re America, The St. Paul Cos. Inc., CIGNA Corp., Reliance Insurance Group, Travelers Inc., Allendale Insurance, CNA Insurance Cos., Chubb Corp., Royal & SunAlliance Insurance Group, Zurich Insurance Group and American International Group Inc.

TPAs were not graded individually.

Soon after its release at the RIMS conference, the score card became a focus of discussion. Risk managers, insurers, brokers and others had different takes on what the score card meant and might accomplish.

One risk manager suggested that the score card could lead to improvements in the quality of insurance products and services if those who were ranked paid attention to buyers' input. Another said the score card might have a particular impact with risk managers at smaller organizations who would quickly decide to go with the top finishers in the rankings.

Insurers and brokers had mixed reactions. While Willis Corroon rushed to publicize its top ranking, other providers weren't as eager to call attention to the score card.

J. Patrick Gallagher, president and chief executive officer of Itasca, Ill.-based broker Arthur J. Gallagher & Co., said during a conference session he was "disappointed in the way the whole thing was handled." The broker, a QIC member, was not ranked.

Mr. Gallagher said that of all the brokers in the United States, the survey seemed to collect only enough data to rank five. Such a survey would have to include the possibility of a 5% deviation in the results, and the brokers that were ranked were scored so closely together that the ranking is meaningless when the deviation is considered, he said.

Liberty Mutual Group, which was not on the insurer list, expressed support of the survey and indicated it will work with the QIC to help shape updates.

RIMS recently released the Quality Toolkit, which will teach professionals how to use the score card.

—By Mike Bradford

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Mergers were not the only headlines in 1998

One of the biggest stories of 1998 was a familiar one: the big getting bigger.

Merger and acquisition activity accounted for three of the top 5 risk management stories of 1998 (see stories, beginning on page 12).

Not all of the top stories of the year, however, revolved around consolidation. Rounding out the top 10 stories were new risk financing options, developments that increase the liability of businesses, a court ruling that expands liability coverage, as well as an expansion of the risk management community's largest organization.

Coming in at No. 6 was a series of events that demonstrate increased

activity in the capital markets and growing convergence between the capital markets and risk financing.

Throughout the year, numerous insurers and reinsurers developed risk financing programs with the use of capital markets instruments, or investment.

In May, Reliance National Insurance Co. offered a new twist on risk securitization by purchasing an option to issue multiperil-linked insurance notes, thus providing the insurer with a guaranteed reinsurance cost without giving up the potential to obtain further savings in the soft reinsurance market.

Reliance National was not alone in looking for new ways to accomplish long-term goals, either.

In late August, Swiss Reinsurance Co. entered into an unusual reinsurance arrangement with an unnamed reinsurer involving a basis swap for U.S. windstorm damage.

A few weeks earlier, Robert R. Lusardi, executive vp and chief financial officer of EXEL Ltd., announced that a \$200 million retrocessional reinsurance program was put together more quickly by capital markets and alternative market reinsurers than the traditional reinsurance market. The deal covered hurricane and windstorm risks of EXEL subsidiary X.L. Mid Ocean Reinsurance Co.

The capital markets also scored in Germany, where insurer Al-

bingia Versicherungs A.G. is exploring the use of risk securitization to provide roughly 25% of the multibillion-dollar insurance program for future World Cup soccer tournaments.

Many reinsurance companies in 1998 launched special capital markets units, which is seen as a sign that the companies expect non-traditional financial instruments to play a prominent role in future insurance and reinsurance transactions.

According to Peter A. Gentile, president and chief executive officer of Gerling Global Financial Products Inc. in New York, the risk securitization developments are a natural extension of the ongoing



convergence of banking and insurance.

"This is not a process that occurred only over two or three years," he said. "This is a process that occurred over 10 or 15 years. Each year the two groups get closer and closer to each other."

A non-traditional use of product liability laws ranked as the year's No. 7 story, as New Orleans filed a lawsuit against handgun manufacturers under state product liability laws.

In its Oct. 30 lawsuit, New Orleans sought to recover the costs of handgun violence in the city by seeking an undetermined amount of money—estimated by observers to be in the tens of millions of dollars—from gunmakers for allegedly producing "unreasonably dangerous" products. The city contends that gunmakers have the technical know-how to disable guns that get into the hands of unauthorized people, such as children, but have failed to implement such safety precautions.

Other cities are considering following New Orleans' strategy, though variations among state product liability laws make it impossible for carbon copy suits to be filed against gunmakers in every jurisdiction. Chicago and Cook County, Ill., for example, quickly filed their own suit against gunmakers, but charged the defendants with representing a "public nuisance" by flooding the market with handguns rather than with violating product liability laws.

The year's No. 8 story also involves a courtroom battle—this one in the nation's highest court. In early March, the U.S. Supreme Court ruled in *Joseph Oncale vs. Sun-downer Offshore Services Inc.* that Title VII of the Civil Rights Act of 1964 applies to same-sex sexual harassment as well as opposite-sex sexual harassment.

Mr. Oncale, a worker on an offshore oil rig, had suffered repeated sexual harassment, including threats of homosexual rape, from co-workers. He quit his job and sued the coworkers and his employer under Title VII, which makes it illegal for an employer "to discriminate against an individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, sex or national origin." But lower courts said Mr. Oncale had no recourse under the act, because he and his alleged harassers were all men. The unanimous Supreme Court disagreed with the lower courts, and sent the case back for reconsideration.

Employment law experts said that the decision probably would not mean significantly increased employment liability for businesses.

"This case involves an area of sexual harassment that has not been particularly problematic. It happens; there are cases out there, but that's not where the majority of claims against employers have arisen," said Stephen A. Bokor, executive vp of the Washington-based National Chamber Litigation Center Inc.

See Stories on page 22

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GUY CARPENTER

Stories

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However, the high court revisited Title VII on the last day of its 1997-98 term, issuing two additional decisions that do broaden the grounds for sexual harassment lawsuits against employers. In *Beth Ann Faragher vs. the City of Boca Raton*, the justices ruled 7-to-2 that a former lifeguard could sue her employer for allowing the creation of "sexually hostile atmosphere" even though she never

complained while working for the city and despite the fact that the city had a written policy against harassment. In *Burlington Industries Inc. vs. Kimberly B. Ellerth*, the justices ruled by the same 7-to-2 margin that a former Burlington employee could pursue a suit alleging "quid pro quo" harassment—in which an employee is pressured to submit to a superior's sexual advances to avoid retaliation—even if she had not complained and had not suffered any retaliation when she rebuffed the unwanted advances.

The courtroom also was the setting for the year's No. 9 story. The Washington Supreme Court on Oct. 1 ruled that the personal injury liability provisions of general liability insurance policies can cover environmental losses.

The decision in *Kitsap County vs. Allstate Insurance Co. et al.* marked the first time that a state supreme court had ruled that the personal injury portion of the CGL policy covered environmental liabilities. Experts said the ruling could help policyholders skirt pollution exclusions in their

liability policies and allow them to tap insurance policies to cover the cost of government-ordered cleanups.

The case revolved around the question of whether pollution-related trespassing and nuisance claims filed by property owners against Kitsap County, Wash., amounted to covered personal injuries under the primary and excess general liability policies that 19 insurers had written for the county over 30 years. The Washington high court ruled that they did, but insurers can still raise

other defenses at a future coverage trial.

The only other state supreme court that has dealt with the question, the New York Court of Appeals, ruled in 1994 that personal injury endorsements did not cover pollution-related property damage claims. But two U.S. Circuit Courts of Appeal ruled earlier in the decade that environmental liability claims could indeed be covered by the personal injury provisions.

The year's No. 10 story is the Risk & Insurance Management Society Inc.'s decision to expand its membership beyond risk managers to include insurers, brokers, consultants and other professionals in a new membership category called Associates of the Society. The new membership category, which was established in October, allows associates to enjoy most of the benefits of membership, though they cannot hold office or chair society committees.

In creating the new category, RIMS followed the example set by many other professional societies. Associates will pay annual dues of \$400—\$100 more than the annual dues charged full members. But like full members, they will receive discounts on the society's annual conference registration fee and other offerings.

"Looking to the 21st century, I think this is a tacit acknowledgment that risk managers will be working with an ever-expanding group of professionals with different backgrounds and different areas of expertise," said Linda Lamel, RIMS executive director.

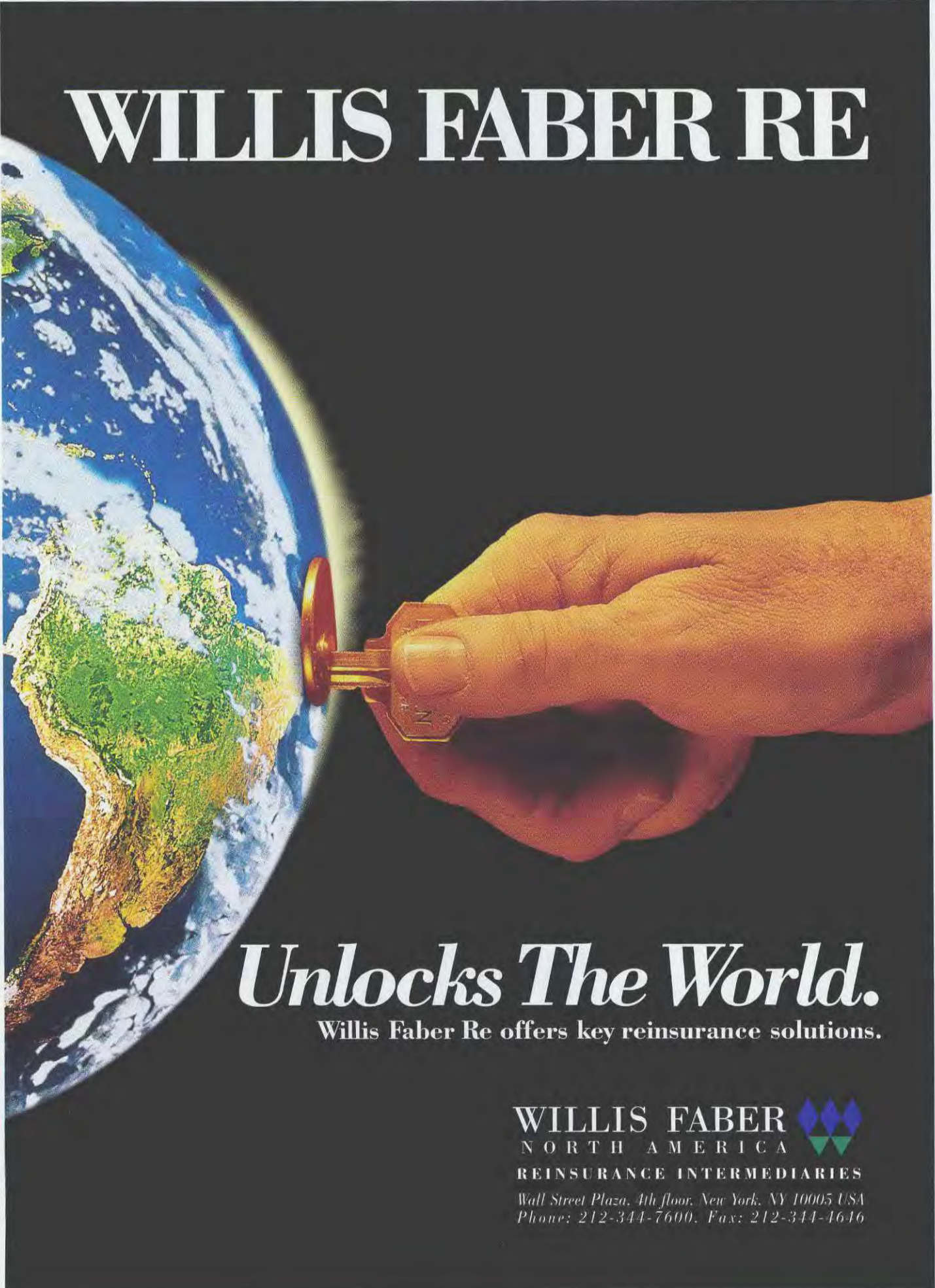
The move came as the society's membership increased by 26 to 4,313 in 1997 from 4,287 a year earlier, ending a period of decline.

—By Mark A. Hofmann

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Health care costs on the rise again

It couldn't last. Over time, prices rise; that's the general rule. Somehow, health care costs managed to ignore that rule in recent years. Although the reprieve was only for a limited time and came after years of huge cost hikes, it was good while it lasted.

Those years of declining costs have drawn to a close, however, and employers in 1998 were hit with increases not seen in five years.

"There's an increasing recognition out there that the era of zero premium increases is over," said Jay M. Gellert, president and chief operating officer of Woodland Hills, Calif.-based Foundation Health Systems Inc., during a March conference call

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EMPLOYEE
BENEFITS

with analysts.

The trend became clear at the start of 1998, when William M. Mercer Inc.'s survey of health care costs showed that prices fell in 1997. That was the good news. The bad news was the study showed that many health maintenance organizations suffered large losses in 1997 and

that this would eventually lead to price hikes in 1998.

"Given that many of the HMOs—and HMO-based POS plans—in the country posted losses in 1997, it seems unlikely that they will be able to hold down rate increases over the next few years," the survey predicted.

The point became explicitly clear in February, when Kaiser Permanente posted a \$270 million loss for 1997 and announced plans to raise rates.

"It looks like we're seeing the end of the buyers' market in health care, and it's going to take a more sophisticated approach for employers to effectively get real value out of their health care dollars going forward,"

said Steve Richter, practice leader in Watson Wyatt Worldwide's Sherman Oaks, Calif., office.

The losses suffered by managed care companies have forced a change in strategy. For a number of years, HMOs have been lowering prices, trying to gain market share at the expense of profits. The result has been large losses for many health care plans. This year saw the transition, where HMOs turned away from gaining market share and returned to looking at the bottom line. This trend, many benefit consultants say, will continue into 1999 and beyond.

"This is the recovery from years of market-share underwriting," said John Erb, area vp at Gallagher Ben-



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efit Services in Boca Raton, Fla., earlier this year.

In 1998, HMO rates typically rose from 1% to 8%, with most increases in the 3% to 5% range. For indemnity plans, the rate hikes were in the 8% to 15% range. Forecasts for 1999 put increases somewhat higher, with typical HMO rate increases in the 4% to 7% range and indemnity rate increases in the 10% to 15% range.

Increases varied by HMO. Kaiser raised midyear renewals an average of 11%, while another HMO, Harvard Pilgrim Health Care in Brookline, Mass., had a 3% to 5% increase for midyear renewals.

But not all employers were willing to pay more so that an HMO could make up for previous losses. When Kaiser asked the California Public Employees' Retirement System to pay a 12% rate increase earlier this year, the second-largest health care purchaser in the country balked. It had agreed to pay other HMOs 5% increases, and it refused to give Kaiser its requested increase for 1999. After months of negotiations, the two eventually agreed on a 10.75% increase for 1999.

Another reason for the rise in premiums in 1998 has been an increase in cost of prescription drugs. Many health plans say their prescription drug costs have jumped 15% to 20%, as new, more-expensive drugs have hit the market and as consumers demand those drugs because of the influence of pharmaceutical industry advertising.

"Emerging drug therapies are having a tremendous impact on costs," said Dana Benbow, vp-underwriting at Prudential Health-Care Group in Roseland, N.J., earlier this year.

Also, the migration of employees from expensive traditional indemnity plans to lower-cost HMOs has generally ended. So employers can no longer save money through the shift of employees to HMOs from indemnity plans as they did in the past few years.

In response to the rising costs, employers such as CalPERS are negotiating harder with health plans, and they sometimes turn to benefit consultants for help in that area.

"Once you get used to little or no increase in health care costs, you work really, really hard to try to find ways to keep it down to a single digit or low single digits," said Michael Gulotta, president and chief executive officer of ASA Inc., a benefit consultant in Somerset, N.J.

And with the rates projected to climb higher still in 1999—and possibly for years after—employers should sharpen their bargaining skills.

—By Michael Prince

Insurer Topics

A special editorial section
sent exclusively
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programs help
promote business

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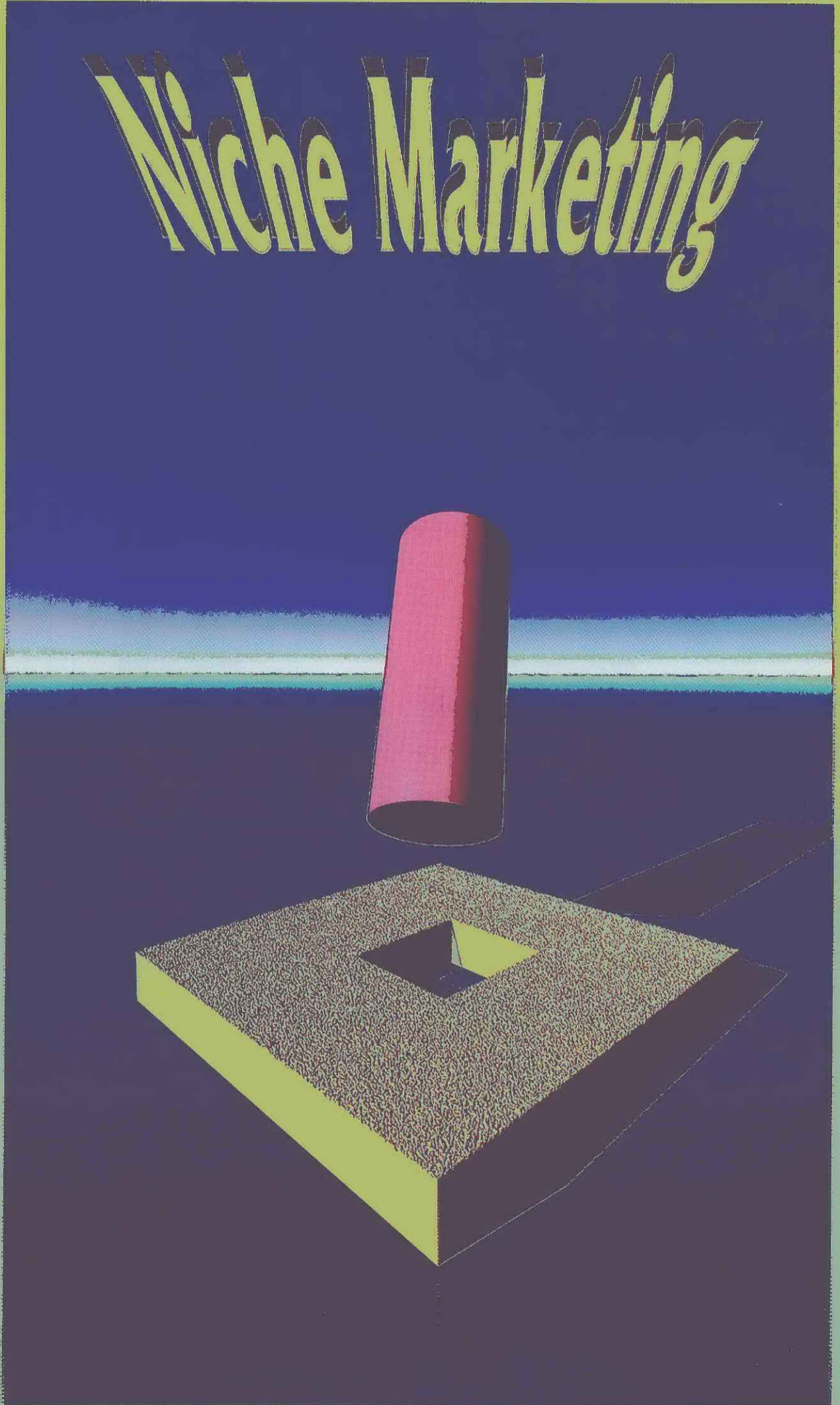
Insurers need
long-term strategy
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of disability benefits
aids insurers, claimants

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Niche Marketing



Putting faith in an insurance venture

By DAVE LENCKUS

In forging a commercial insurance program that reaches out to members of one of the fastest-growing religions in the nation, Omar Clark Fisher hopes he is building much more than an affinity group.

If Mr. Fisher's fledgling effort succeeds, it will beget both a unique licensed insurer and an off-shore reinsurance facility that would support its U.S. affiliate as well as similar insurers abroad.

Both facilities would abide by certain financial tenets that the Islamic faith prescribes but that only a few insurers worldwide—and none in North America—follow.

The facilities, which Mr. Fisher and one of his chief consultants also compare to some erstwhile U.S. financial institutions, would closely resemble mutual insurers.

Under his plan, which Mr. Fisher says an Islamic religious scholar has approved, the captive will be formed and begin writing the affinity group's risks on a fronted basis in mid-1999. In a few years, it will begin reinsuring similar insurers worldwide. The reinsurance business will remain in Bermuda, while Mr. Fisher brings the primary insurance operation onshore.

Reliance National Insurance Co. of New York is underwriting the affinity group program until Mr. Fisher can marshal enough investors to form the captive. The in-

surer then would front the captive.

But unlike the flourishing Muslim community of business owners and professionals being wooed, the affinity group program's premium volume is just creeping along.

"These things take time," Mr. Fisher said.

The 13-month-old program, which currently does not follow Islamic financial principles, has been slowed by a lack of awareness in the Muslim community, Mr. Fisher said.

In addition, Mr. Fisher said he is unwilling to "strong arm" potential policyholders into purchasing coverage by playing on their faith's "moral imperative" principle. That principle calls on Mus-

lims to abide by Islamic financial tenets unless they have no realistic opportunity to do so.

The program also lost some business because of a few initial backroom problems between Reliance National and its managing general agent.

But Mr. Fisher and risk finance analysis consultant Harry Shuford maintain that a market exists to support the project.

There is little scientific data on the size of the growing U.S. Muslim population. But various Islamic organizations estimate the number at 6 million to 8 million, with immigrants accounting for up to 60% of those numbers. If that population estimate is accurate, then Islam closely rivals Judaism as the nation's second-largest religion.

For Mr. Fisher's project, just as important as the size of the Muslim community is its work ethic. Islamic groups and Mr. Fisher say Muslim immigrants, in particular, generally are highly educated, medium- to high-wage earners who typically either are professionals or run their own businesses.

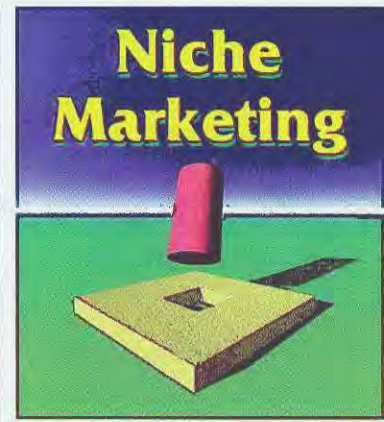
No single ethnic group makes up the U.S. Muslim community, but African-Americans, South Asians and Arabs comprise more than 70%. One becomes a Muslim by uttering and believing two statements that profess one's faith in God, or Allah in Arabic, and the belief that the 7th-century prophet Mohammed was God's messenger.

The 48-year-old Mr. Fisher, a Boston native who said he grew up a devout Episcopalian, "embraced" Islam in 1980 while working as a telecommunications systems project in Egypt. He first encountered the Islamic faith in 1978 during a study tour of the Far East.

Mr. Fisher began examining Islamic banking and finance principles more closely from 1987 through 1992, when he worked in the Middle East section of the Overseas Private Investment Corp. OPIC is the U.S. agency that offers political risk coverage to businesses that establish operations in developing countries.

Among other precepts, the principles prohibit certain investments, no matter how potentially profitable. For example, because Islam forbids gambling as well as consuming pork and alcoholic beverages, Muslims cannot invest in casinos and certain food and beverage companies. Islam also bars passive income, or earning a fixed return on capital. Although some securities investments are permissible, investments in U.S. Treasury Bonds, for example, are not.

Mr. Fisher left OPIC in 1992 to establish what he said was the first U.S. equipment leasing company that operated in accordance with Islamic finance principles. But the



equipment was insured through the conventional insurance market. That inconsistency existed because there was no other insurance alternative.

In December 1996, Mr. Fisher executed the first phase of his plan to provide Muslims that insurance alternative. He formed Takaful Management Services L.L.C., a Palisades Park, N.J.-based management and marketing company that is spearheading the affinity group program and the efforts to create the Bermuda captive and onshore insurer, or takaful in Islamic.

The company's World Wide Web site defines takaful essentially as a mutual insurer and states that the roots of the concept are described in Islam's holy book, the Qur'an, or the Koran, as it is also known.

TMS selected Reliance National to underwrite its affinity group program. Reliance National in early 1997 had just formed its multi-cultural business group to service the property/casualty needs of various underserved minorities and cultural groups. The takaful project, though, stands apart from the other cultural programs, because Reliance National is warehousing the takaful program only until it grows large enough to head out on its own.

Berkley Risk Services L.L.C. currently is Reliance National's MGA and program manager for the takaful program. The Minneapolis subsidiary of Greenwich, Conn.-based W.R. Berkley Corp. is responsible for underwriting, rating, policy issuance and all backroom work.

Reliance National contracts with various vendors to handle claims and provide loss control services.

The program is trying to attract the property/casualty business of various risks:

- Retail establishments, including restaurants and hotels that do not have bars.
- Gasoline stations with mini food marts. While Reliance National writes the above-ground coverage for those policyholders, various subsidiaries of Zurich-American Insurance Group cover the underground storage tank risk.
- Professional offices.
- Livery services.
- Mosques and Islamic centers and schools.

Because Reliance National is assuming the affinity group's risks, the program currently does not operate according to Islamic prin-

Continued on next page

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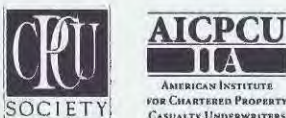
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Continued from previous page
ciples. But that is not problematic for the program, said Mr. Shuford, a senior partner with Corporate Risk Consulting Group L.L.C. in Glen Gardner, N.J. Indeed, that assures the non-Muslim agents who are marketing the program that it "is in full compliance with all U.S. insurance laws and regulations," he said.

In addition, he said, the Islamic religious scholar who approved the project last August determined that the program was an acceptable means to eventually provide Muslims with Islamically acceptable insurance through the Bermuda captive and then an onshore insurer.

The program received a favorable Islamic jurisprudence opinion—or *afatwa*—from Sheikh Justice Taqi Usmani in Lahore, Pakistan, according to Mr. Fisher. The sheikh is the vice chairman of the Fiqh Islamic Academy in Jiddah, Saudi Arabia. The academy is an advisory body to the Islamic world on Shari'ah, a codification of Islamic law based on revelations from the Qur'an and the sayings and practices of Mohammed.

Once the affinity group's business is moved to the Bermuda captive, the takaful program would begin operating in accordance with Islamic principles—at least for the portion of the risk that the captive retains. Before that phase of the project can begin, the program's premium volume has to reach about \$3 million, and Mr. Fisher has to raise a minimum of \$1 million in capital and surplus.

Because a takaful essentially is a mutual insurer, Mr. Fisher's project is bucking the insurance industry's demutualization trend. Mr. Fisher also compared it to the insurance exchange Benjamin Franklin set up in Philadelphia more than three centuries ago.

But the Bermuda company also would be stock-chartered in form, because it would be capitalized by outside investors. Mr. Shuford noted that the model is similar to the savings bank model that was popular in the United States 150 years ago.

As in a mutual, policyholders would share in underwriting profits and investment earnings. In addition, under Islamic principles, the takaful has to be "transparent" to policyholders, Mr. Fisher said. That means policyholders must be able to see every penny of income and fees the takaful earns and how it is spent or allocated.

Mr. Fisher said he envisions the Bermuda captive operating as a hybrid of two distinct types of takafuls. Only policyholders would share the Bermuda takaful's underwriting profits, while policyholders, TMS and the captive's investors would share investment gains.

Mr. Fisher said he is unsure how the takaful would return profits to policyholders after the insurer makes necessary additions to reserves and capital. A policyholder advisory committee likely would decide on whether policyholders

would take annual dividends or future reductions in premiums.

But if heavier-than-expected losses develop, then the Bermuda captive likely would have to be modified. Mr. Fisher said it probably would be restructured so it could assess shareholders, rather than policyholders, to cover losses.

Messrs. Fisher and Shuford said they hope that in three to five years the captive will be generating around \$5 million of premium—the amount of business they say is necessary to bring the captive onshore as a licensed insurer. Because of seasoning requirements, the takaful—which would be named Takaful USA Insurance

Co.—at least initially would be licensed in a single state, Mr. Shuford said.

While the U.S. Muslim community is fairly concentrated, about two-thirds is spread across 10 states: California, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Texas and Virginia. The takaful likely would arrange for other insurers to cover Muslim risks where it is not licensed, and then it or the Bermuda-based reinsurance facility would reinsure those risks, Mr. Shuford said.

Within five years, Mr. Fisher said he hopes to have raised about \$10 million in capital for the Bermuda

reinsurer so that it can reinsure takafuls around the world.

Messrs. Fisher and Shuford said market opportunities abound for their planned reinsurance facility. Besides the U.S. takaful, the reinsurance facility's client base would be about 18 other takafuls that currently can reinsure with only the conventional market, they said. Those takafuls are located mainly in the Middle East and Far East.

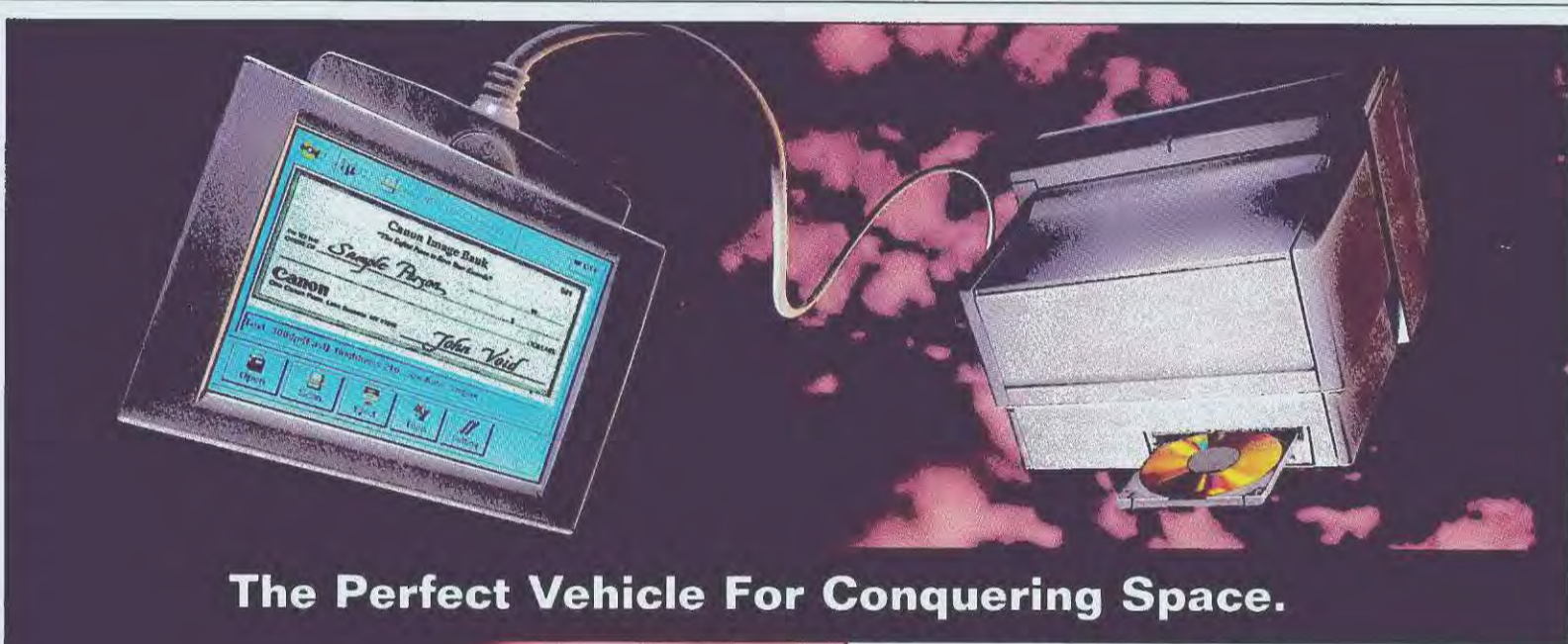
Mr. Fisher would not talk much about how his investment-raising efforts are faring. He said only that he expects the affinity group program will move into the Bermuda captive around mid-1999 and that

he wants to capitalize the facility far beyond the \$1 million minimum requirement. "We have an offering memorandum for \$6 million," he noted.

"We've had substantive discussion with individuals and institutional investors in the U.S. and the Mideast," Mr. Shuford said.

But to date, the program has attracted fewer than 50 policyholders, Mr. Fisher said. The less than \$200,000 of premiums the program has generated represents less than 7% of the \$3 million of premiums needed under Mr. Fisher's plan to set up the captive.

Mr. Fisher acknowledged that
See **Takaful** on next page



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Takaful

Continued from previous page
the program's plodding pace is a concern.

The project's future, though, is more promising than its premium volume would indicate, according to Mr. Fisher.

More important than big numbers now is showing the Muslim community that the program can service a variety of risks, he said. He noted that current policyholders include a mosque, a computer training center, a doctor's office, an insurance agent's office, a retail carpet chain of 11 stores and a delicatessen.

Problems that had cost the pro-

gram business also are no longer factors, he said. Early in the program, Berkley and Reliance National encountered technical problems interfacing following Berkley's installation of computer software that the insurer insists all of its MGAs have. The resulting delays in issuing policy quotes cost the program some business, said Mr. Fisher and Doug Pfeifer, a Berkley vp. Earlier this month, Mr. Pfeifer said he expected Berkley to have resolved by the end of last week the few remaining problems. He also characterized those problems as "nothing unusual for a startup program."

However, as the program moves toward assuming risk,

Berkley is evaluating whether it will continue as Reliance National's MGA. Mr. Pfeifer said he would make that decision in about two months. Meanwhile, Reliance National is searching for a replacement.

The program's new business outlook is promising, according to Mr. Fisher.

The premiums that would be generated by program applicants total \$500,000, more than twice the program's current premium volume, he said.

And the program has won 70%—an extremely high hit rate—of the business that it has wanted to and has been able to quote, according to Messrs. Fisher and Pfeifer.

In addition, Mr. Fisher said he expects to reach his goal of having 30 program agents by the first quarter of next year.

But Mr. Fisher is most excited about the relationship the program has struck with the U.S. operations of the United Bank of Kuwait P.L.C. The bank has developed a program—which resembles a lease-to-own arrangement—that allows Muslims to purchase homes in accordance with Islamic principles.

The takaful program is one of the insurers, though its participation is minor at this point, that the bank has selected to insure the property it is financing.

"This is very exciting," Mr. Fisher said, not only because the

bank's program could mean a boon in business for the takaful project but also because "it begins to fill out the panoply of financial services the Islamic community is looking for."

He also noted that if the relationship blossoms—and if Congress amends banking and insurance laws—the takaful program would be an early player in the convergence of the insurance and banking industries.

"I'm very confident we can get there," Mr. Fisher said.

Reliance National likes Mr. Fisher's plan enough that the insurer has invested a "small amount" in TMS to support the takaful project, a Reliance National spokeswoman confirmed. **BI**

There's gold in them there snowflakes

By RICHARD TROUT

And the forecast: a chance of snow and free jewelry. If it does snow at least 7.5 centimeters (2.96 inches) on Jan. 1, 1999, at Crowley's Jewellers & Goldsmiths in Edmonton, Alberta, any customer who bought jewelry from Nov. 1 through Dec. 26

will receive a 100% refund of the cost of that jewelry, excluding taxes.

While this scenario would delight customers, it also would make Crowley's happy, because the jeweler is insured for any such payouts.

Weather insurance to cover business promotions is gaining popularity as more retailers hear about this opportunity for publicity and

big boosts in sales, such as Crowley's saw recently.

Such specialty coverage not only can help merchants spur sales, but it also is a profitable source of business for agencies and insurers.

Although jewelry stores are currently the primary market for this insurance niche within a niche, other retailers are getting lured by the potential for a sales bonanza. And other weather events, such as wind, rain or temperature, are being used as triggers for claims.

Because last year's business promotion at Crowley's paid out as a result of more than three inches of snowfall during the 24 hours of Jan. 1, Crowley's experienced a tremendous amount of publicity and a significant upsurge in sales, between 40% and 50% for the entire year, said Mary Martin, co-owner of Crowley's. Ironically, the business promotion wasn't as successful during the promotion's buying period—sales went up about 20%—because Edmonton had a mild winter until New Year's Day.

"The sales increases (at Crowley's) have been remarkable," said Grant Sheppard, account executive for Sheppard Insurance Service Inc. in Edmonton, which placed the jeweler's promotion policy at Lloyd's of London.

After the payout on last year's promotion was publicized, Crowley's February sales exceeded its December sales, Mr. Sheppard said, which is "an unheard-of situation."

Crowley's promotion last year was the first such policy for the Sheppard agency. "Since that time, it has grown naturally on its own, by referral and word of mouth, so that this year during the same period—the Christmas sales period—I have 15 of these going on" across Canada, he said. The agency doesn't run a promotion in the same city that would be in competition with another client, Mr. Sheppard added.

"One of the wonderful things about this type of promotion is that it really raises the profile of the merchant in that it creates quite a bit of goodwill," he said. Sheppard Insurance did another promotion

for Crowley's in April against rainfall occurring in May, and that also was a tremendous success even though the trigger didn't occur, Mr. Sheppard said. The publicity alone is enough to increase sales for both merchants and insurance agencies.

This year, Crowley's Jan. 1 promotion is nearly identical to the one last year, though the store "has added a secondary promotion whereby one of its clients has an opportunity to win half-a-million dollars, just to sweeten the deal for this year," he said. A receipt from the promotion's sales period will be selected at random, and that customer will pick one of four envelopes, which may contain the prize, he said.

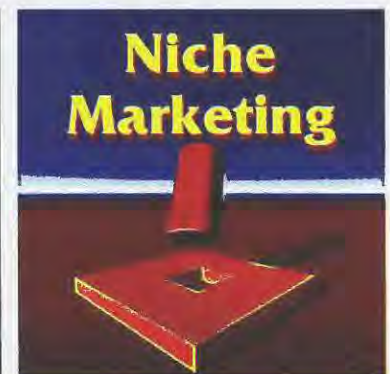
Most of the business promotions that Sheppard Insurance backs involve jewelry stores, but other clients include car dealers, snowmobile dealers and travel agencies.

"One of the beautiful things about this type of promotion is that a lot of imagination goes into it. If you can come up with a concept, chances are you can find an underwriter who is willing to do it," Mr. Sheppard said.

As far as any potential pitfalls to engaging in this type of promotion, he said the company doing the promotion should make sure the recording period is very clear to the customers. A competitor of Crowley's ran a similar promotion last year, but that store's 12-hour time span for recording the snowfall was unclear in advertisements, and the promotion didn't pay out, resulting in "a fair bit of bad press," he said.

Retailers need to have in place certain security controls, Mr. Sheppard said. These include having an accurate record of the sales and having the original buyer of the product return to the store with the receipt to get his or her refund.

Business promotion policies based on the weather are fairly innocuous, said Mr. Sheppard. "There really isn't any moral risk to the product itself because I don't think anyone has found a way to control the weather yet," Mr. Sheppard observed.



Frank Tassel, president of Admiral Insurance Agency in Lynn, Mass., said his company's business promotion policies are used primarily for jewelers, furriers and furniture stores and usually involve snow as the weather event.

"It has to be a field where there is a large markup. For the average store, it doesn't work well," he said, as premiums typically range from 1% to 5% of sales, depending on the deductible.

For an event such as snow, the client picks a local weather station where the snow can be measured and a cutoff date for the promotion's buying period. Mr. Tassel said weather insurers have to set the date "at least seven days prior to the weather event" because, otherwise, the customers could predict with some accuracy what the weather will be on the trigger day. "If you forecast a snowstorm the day before, then people would go out and buy Rolex watches by the gross," he said.

In addition, Admiral won't set the same trigger date for clients that are within a 50-mile radius; that way, no two stores will be competing against each other, Mr. Tassel added.

Admiral isn't the only agency a business can turn to in an effort to encourage monstrous sales during the holidays—or anytime, for that matter.

"One thing that differentiates us is our ability to provide extremely high limits of insurance," said Laurie Tillman, president of Good Weather Insurance Agency in Salem, Mass. The agency is the national program manager representing Reliance National Insurance Co. "We have clients who purchase in excess of 5 million-dollar limits for large car dealers, for example. That very high
See Promotions on page 24F



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Mar 16	Risk Management Consultants
Apr 6	401(k) Plan Administrators
Apr 27	Captive Managers
May 25	Environmental Risk Management Consultants
Jun 8	Alternative Risk Financing Facilities
Jun 15	EAPs & Dependent Care Resources and Referral Services
Jul 20	Agents & Brokers
Aug 3	Prescription Benefit Managers
Aug 17	Property Loss Control Consultants
Aug 31	Leading Reinsurers Worldwide
Sep 7	Surplus Lines Insurers & Wholesalers
Oct 5	International Insurers & Benefit Networks
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Promotions

Continued from page 24D

capacity is an important feature at our firm," Ms. Tillman said.

Insurance for business promotions is used by store owners in order to differentiate themselves from other stores during high sales periods, such as the week before Christmas, she explained. But promotions also run during months with slow sales periods, like March, to encourage sales. "In particular, car dealers use it for that purpose because they have times that are extremely slow," Ms. Tillman said.

The main concern agents and insurers need to keep in mind "is making certain that they ensure the right limit of insurance—that it's based on the actual sales of the client during that time," she said.

"The other concern is making certain that the client doesn't advertise something that the contract would not respond to," or leave something out of the advertisement, she said. For ex-

ample, an ad might not state where the weather event will be monitored, leaving customers to make their own assumptions. "The promotion has to coincide with the terms of coverage," Ms. Tillman emphasized.

Customized Worldwide Weather Insurance Agency in Manhasset, N.Y., has been selling weather insurance since 1988 and does business promotions for almost any type of business, said Christie Liberio, director of marketing. Customized Worldwide places policies for businesses that sell clothing, sporting equipment, snowmobiles, snowblowers, air conditioners and lawn mowers. But if the agency has a specialty in this area, it is car promotions, Ms. Liberio said. Her agency places policies for Toyota dealers all across the nation. Customized Worldwide also offers weather coverage internationally. It's now doing a jewelry promotion in France, she said.

"The most popular promotion is through snow on Christmas

Eve, Christmas Day, New Year's Eve or New Year's Day," Ms. Liberio said.

The agency also has programs for wind and rain throughout the year and temperature promotions on the Fourth of July

An insurer's chief concern is to ensure that limits are based on a client's actual sales, says Laurie Tillman.

weekend.

"We have a jeweler in Wyoming whose sales went up 200%" during a sales promotion for snow on Christmas day, she said. "Everyone that has done a promotion has said that their sales have gone up for the period that they did the promotion anywhere from 25% to 200%."

Specializing in weather insurance for business promotions involves a great deal of administra-

tive work, Ms. Liberio said. "This can't be done in an eight-hour day," Ms. Liberio said. "It's typically a 10-, 12-hour project, and it has to be kept on top of. You've got to be prepared to do the work."

"We have hundreds of promotions running at this time, and we have a separate department of people that just take care of that," she added.

As an example of the administrative challenge, Ms. Liberio cited her company's wedding day program, which is underwritten by Jewelers Mutual Insurance Co. of Neenah, Wis. If it snows or rains on the wedding day of couples who sign up for the program, they can be fully reimbursed for the price of their wedding rings and engagement rings.

"Depending on the jeweler, anyone can come in at any time to sign up for the program, so it's highly administrative-intensive," she said. Also, the claim can be sent in at any and all times. "You've got to be pre-

pared to take that on," Ms. Liberio warned.

To obtain a promotion policy, a company must estimate how much it expects to sell during the promotion's time period and then pay a deposit premium on that limit, she said. Customized Worldwide asks the client to low-ball the expected sales figure, she added.

Once the estimated sales figure is reached, the client may increase its policy limit accordingly. That way, the client does not pay a premium on sales that do not occur, Ms. Liberio stressed.

Although Customized Worldwide first used weather insurance to promote businesses during major holidays such as Christmas and New Year's, it now uses promotional policies all year long for almost any occasion. "We've got people running promotions for the anniversary of the store, the store owner's birthday, obscure holidays and Canadian holidays," Ms. Liberio said. **BI**

Long-term strategies necessary for growth: Speakers

By MICHAEL PRINCE

Despite the grinding soft market, insurers can profitably grow if they have a long-term strategy, two insurance executives say.

Success comes not from grandiose ideas, but from "blocking and tackling," or handling the basic tasks, said John Degnan, president of Chubb Corp. in Warren, N.J.

The insurance industry is

"awash in capital," he said, leading to mergers for cost savings. Although this strategy is common, "the jury is still out," on whether it has lowered costs, he said.

Instead of growth through consolidation, Chubb has pursued a five-point strategy for internal growth. These points "constitute a pretty good prescription for success," he said.

Mr. Degnan spoke at a conference in New York earlier this month, sponsored by PricewaterhouseCoopers, titled "Managing

Change in the Property-Casualty Industry."

First, insurers need to focus on what they do best, he said. For Chubb, this meant staying with specialty lines rather than offer-

'There is still ample room for highly focused financial companies,' says John Dengan, president of Chubb Corp.

ing a one-stop-shopping approach. A company should avoid deals that undercut its focus, he said.

"There is still ample room for highly focused financial companies," Mr. Degnan said.

Second, insurers need disciplined capital management, he said. Mr. Degnan said he prefers an approach in which excess capital is returned to shareholders through a stock buy-back program.

The third point deals with the importance of cost control, which he regards as critical. A company needs to be as lean as possible without cutting service levels, he said.

The two other points of Chubb's strategy deal with the need to grow profitable premium, which he says is "still the No. 1 challenge facing this industry."

To grow premiums requires a global reach. In the past, only the largest policyholders had international operations, but now even midsize companies are global. In this new environment, the need to become global is "dangerous to ignore," he said.

The final point is the importance of specialization and innovation. Growth is inhibited by lack of innovation, and breaking into new areas is great way to expand. And by specializing, insurers can serve customers in that segment better than anyone else, he said.

Another industry executive, Donald Kramer, vice chairman of ACE Ltd., also outlined his program for achieving growth.

ACE is growing through a number of strategies, he said. Despite market conditions, the Bermuda-based insurer has seen its gross premiums grow to \$1.2 billion this year, which is a 185% increase since 1995. Also, total assets and operating income have jumped dramatically, as has net income per share, which has risen 67% in the past three years, he said.

Behind this growth lies a strategy, Mr. Kramer said.

Insurers should grow by losing market share, he said. "In a soft market, you have to have the guts to let business go," he said. If the risks of the business don't meet their target return on earnings, ACE will drop unprofitable business, he said.

The second point is to enter areas where there already have been losses and competitors are fleeing. He dubbed this the "specialize in selling barn doors" strategy.

ACE was founded on this strategy—the company was formed when other insurers pulled out of the excess liability market in the 1980s. He also mentioned that his former company, Tempest Reinsurance Co. Ltd., now owned by ACE, was formed after Hurricane Andrew pushed many insurers out of the catastrophe

market.

"Profits are earned by taking risks," he said. "The rest is just window dressing."

But because ACE takes low-frequency, high-severity risks, it can't just write a few policies; the insurer needs to write many, he said.

Mr. Kramer also advises to "always look a gift horse in the mouth" when looking for acquisition targets. "If someone offers you an insurance company for nothing, watch out. The price may be too high," he cautioned.

Mr. Kramer said ACE turned down a number of prospective deals, despite a low asking price, because it was still a bad deal due to the target's large potential losses. Instead, he said, acquisitions should be made on the basis of a growth strategy rather than on price.

Finally, Mr. Kramer said if selling to a competitor, view the transaction as buying into the competitor rather than selling out to it. For example, Mr. Kramer came to ACE when it purchased Tempest. Rather than only taking cash for the deal, Tempest took ACE stock and became large investors in the combined entity.

Growth through acquisitions also is an important strategy, he advised.

"Standing still is an active strategy, not a passive one," Mr. Kramer said. He does not favor such a strategy, however.

Over the past few years, the consolidation that has swept the reinsurance industry, making the largest even bigger, has created a considerable disparity of size in reinsurers among the top 10. **BI**

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Commutation of disability claims can benefit all

By John R. Buckley

THE CLAIMS departments of disability insurers usually have been regarded within the industry as expense areas.

But, when claims departments focus on the reserves held and the ability to lessen reserves through commutation of disability benefits, insurers can see a low-cost customer service function able to add millions of dollars per fiscal quarter to the bottom line.

Certain realities drive this process.

In the disability business, as in the lives of all—clients, policyholders, claimants et al.—certain persistent and unavoidable rules are evident: things change, even for the contract holder who is disabled; it is impossible to plan for everything; and new opportunities and circumstances present themselves and shape the insureds' thinking.

These rules offer compelling reasons for claimants to consider and periodically reconsider commutation of their benefit streams. All of these rules allow the insured to reshape, reform and tailor his or her current situation to available fiscal realities. Insurers need the tools to recognize that change when it happens.

If the disability insurer can recognize the change in attitude or circumstance, then an opportunity exists for all parties involved: the insured, his or her family members, company stockholders and policy owners affiliated with a person covered by a disability contract.

Keeping in mind the need to balance the commutation among these stakeholders, insurers must strive to deliver additional value—for example, fill a longer-term fiscal need, provide security to heirs, endow relatives or institutions targeted by the insured or provide estate guarantees.

This additional value only appears after the insured's current fiscal realities are examined. A "commutation team" should be employed to ensure that the insured and his or her advisers are thinking about these issues. The team simply asks the rhetorical questions that prompt consideration.

Certain elements comprise the commutation team:

- A company commutation representative who has responsibility for 200 to 400 ongoing commutations.
- An external financial representative very familiar with the various financial vehicles available at the moment. This individual also should know structured settlements and have time to offer extensive phone education to the insured's advisers when requested.

- A staff able to glean only the commutation-relevant information from the adjudication record to produce a faxable summary of relevant data.

- Administrative help to prepare and control the transmission of legal documents according to

company standards.

- And medical and legal assistance to determine the correct present value of the disability claim.

To accomplish this, think of commutation as a pull sale vs. a push sale. Attempt to link commutation with the insured's long-range financial thinking.

Suggest the possibilities of commutation of the existing benefit stream during calls to the claimant. Offer to have conference calls with advisers and the insured, and provide alternatives to other advice

IT Perspective

they may be receiving.

For long-term customer service reasons, it is better to:

- Speak to and recognize the necessary discounts in discussion with the insured and his or her advisers.

- Couch discussions with a willingness to conduct them over time.

- Include the caveat that "this

customer service program may end without notice."

- Suggest that discussions heretofore have been designed to uncover a need the insured has that commutation will try to fill with cash, a structured settlement, a combination of the two or just good customer service.

As the modestly discounted present value of the claim peaks and wanes according to company formula, so do the peaks and valleys of the insured's personal realities, driven by luck, financial windfall or

setbacks.

It is advantageous to be among the advisers from whom the insured gathers ideas and suggestions when any of the above occur.

Again, life's realities provide the customer service and business opportunity. And there are five great business realities:

The first is that most insurance companies will miss these opportunities because they mentally disconnect claims work from customer service.

See **Disability** on next page

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Disability

Continued from previous page

Once an insurer has identified and screened out the 10% to 20% of fraudulent and "incorrect interpretation" claim filings and has determined the company's liability on the "good" claims, it may be more profitable to see a claim as more a customer service effort than an adjudication determination.

Done professionally and with a compassionate ear, claims management becomes the ultimate in customer service. Done well, as we all know, it creates customer satisfaction, and satisfied customers tell their friends. This is true especially in the professional groups; good/better/excellent customer service builds the customer base.

Because a customer service initiative does not typically return premium to the top line, it fails to generate much corporate enthusiasm. Commutation, however, brings profit, fiscally rewards all stakeholders and helps meet the needs of an insured and his or her family.

The second reality is that it is difficult for most disability insurers to think of commutation as a parallel customer service activity that is not driven by offer and acceptance but rather by relationship-building with the insured and his or her advisers.

Over time: the insured will grow to accept the rights of other stakeholders; the insured's fiscal need and his or her family will become better understood; and confidence in the answers provided by the commutation team grows. The team can determine if the insured's advisers are framing the advantages and disadvantages for the identified need correctly or not. Tactics developed by the team can ensure the insured is aware.

Change of the process of anger, denial, adaptation and acceptance is fast for some claimants and more lengthy for others. A supportive relationship in place provides continuing customer service for the insured as he or she adapts to the new realities, whenever they might be.

The third reality is that as an industry we have allowed ourselves to become process-bound. We think

of claims as files, and the claim is where the file is. The disability business has become somewhat limited in our ability to respond to customers by massive mainframe systems and reliance on paper files.

This is inexpensively and quickly corrected by: constructing tools for parallel adjudication audiences on stand-alone or server-linked PC platforms; assigning commutation team members to targeted prospects; adopting a gradual movement toward flexible and inexpensive PC/server-driven tools; abandoning the singular file adjudication path for a parallel philosophy that capitalizes on moving the file forward when the customer is ready; and insurers realizing that commutation can occur whenever the insured concludes commutation has value.

Although some claimants are financially sophisticated enough to evaluate the value added by commutation to their financial situation almost immediately, most go through several cycles of the acceptance process before they can make a decision.

That is as it should be. Given the program outlined in this paper, a book of 200 to 400 files will generate \$1 million to \$1.5 million in reserve release, and \$3 million to \$5 million of present value decrease. The idea is to keep the "commutation tank" filled with 200 to 400 offers to discuss commutation. To build such a "book" of commutation possibilities takes about 1 1/2 full-time employees three to six months, depending upon their familiarity with off-the-

shelf software and ability to build relationships over the phone with targeted claimants.

The fourth business reality is that the custodian of the record is the person who triggers serious commutation evaluation, not someone in finance or leadership poring over reserve and present value listings.

Typically, the claimant begins to consider his or her future. The "file custodians" listen for the customer to begin expressing future desires and dreams in less fatalistic or bitter terms. The custodian suggests that perhaps an alternative funding stream could be made available.

Here are some examples of customer service-focused listening that signals a potential commutation opportunity:

- "Significant other" working part or full time?
- Insured working at new occupation?
- Gifts received or windfalls?
- Reduced or eliminated expenses: "House is paid off," "Closed the business," "My wife (or insured) is now getting Social Security."
- Other coverage kick-ins. Always ask for what other coverage the insured has by mentioning Social Security. "How long is the benefit period on your other disability coverage?" "Do you have any income slated for post age 65 for you and your wife?" "What financial things will happen at age 65?" "Would you like to discuss other options you may have available for your retirement years?"
- Always listen for insureds' "philosophy" changes: "Kids are

out," "No more travel," "Gonna travel more," "I'm selling this house—too tough to care for."

• Listen for reports of death of spouse or family member that signal: "I'm not able to get out as much as I used to." "My father, mother, aunt, uncle, etc. left me \$XXX in a life insurance policy." "The other insurer finally paid off on my accident claim." "That other coverage is starting to pay."

• Desire to fund others or other things: "I wish I could give money to my old school." "I'd like to fund a grandchild's education." "How can I save this benefit stream for...?"

Instead of looking backward to what was, the custodian begins to hear the future in terms of what could be. Therein lies the opportunity to help all the stakeholders.

Beginning with an early conversation to exchange information, the team member randomly chats with the insured about anything from sports to the one item that most people think positively about: children. This breaks the ice. Finding common ground/experience is critical to dampening any bad experiences that occurred during adjudication. These initial calls are:

- General in nature and made after the custodian of the file has introduced the person offering commutation.
- Never hurried—no attempt to offer cash over the phone.
- Designed to uncover interests, concerns and evidence of future planning that would signal an

acceptance of the disability paradigm.

• Followed quickly by a letter signaling interest in helping the insured root out all opportunities for himself or herself and his or her families; building on any commonality of concern or altruism for their family; building ideas for having their current benefit stream reconfigured into something that better wraps around their plans.

The letter also should indicate a commitment to maintaining the insured's confidentiality and should provide no specific offer; rather, it should indicate a willingness to seek funding if agreement can be reached on the fiscal need.

The letter also should sometimes include specific illustrations built around the spouse's age and gender, retirement plans, age and gender of the children, etc.

A consistent, customer-service-focused effort pays consistent dividends for the entire stream of stakeholders.

The fifth great reality is how easy and inexpensive it is to take in-house claims or customer service unit and build a similar, \$1 million-a-quarter claims reserve reduction program. BI



John R. Buckley is president of Disability Claims Resolutions L.L.C. in Wyndham, Maine.

IT Briefs

New ISO practice

NEW YORK—Insurance Services Office Inc. has established a data management consulting practice for insurers and other participants in the property/casualty insurance market.

ISO's Data Management Consulting Services will allow insurers, reinsurers, independent rating bureaus and regulators to tap ISO's data-management expertise and receive services customized to their needs.

The data management consulting practice expands ISO's existing consulting operations, which include actuarial consulting, consulting on policy forms and rules, consulting on catastrophe management and financing, and consulting on regulatory filings.

ISO's statistical database contains more than 5.5 billion records for 17 lines of insurance.

For more information, call ISO customer service at 800-888-4476.

Safer trucking

Stickers on trucks asking about the driver's performance and giving a toll-free number to report any problems work to decrease accidents and reduce loss costs, a study shows.

The study released by Hanover Insurance Co. of Worcester, Mass., tracked 445 vehicles in 11 fleets for a

year. The fleets varied by size and type and included local and long-haul operators.

Study results showed accident frequency dropped to 18 accidents per 100 vehicles from 23 per hundred, a reduction of 22%. Loss dollars, meanwhile, declined 52%, despite 14% more vehicles in the fleets.

Based on the test, Hanover is encouraging use of the program throughout Hanover and its sister company, Citizens Insurance Co. of America.

According to Steve M. Miller, loss control manager for commercial auto insurance with Hanover, the program helps unsafe drivers modify their driving behavior. Most commercial drivers are good drivers, but about 10% to 15% drive aggressively—tailgating, weaving in traffic and speeding, Mr. Miller said.

Such driving often prompts people to call the 800 number on the stickers. Because many unsafe drivers realize they could get in trouble from such complaints, they reduce or stop their aggressive driving.

According to Mr. Miller, insurers should work closely with their customers in implementing such programs. To get the best results, Mr. Miller said, the driver-monitoring stickers should be part of an integrated fleet management program that incorporates sound safety, good driver-qualification procedures, ongoing maintenance and regulatory compliance.

CPCU officers

MALVERN, Pa.—The Chartered Property Casualty Underwriters Society elected national officers for the 1998-99 term during the society's annual meeting and seminars held in October in San Diego.

William E. Sleeper, president of Sleeper, Sewell & Co., an independent agency in Dallas, was elected president. Mr. Sleeper has served as the society's vp, regional vp and director of the South Central Region.

Named president-elect was Marsha D. Egan, assistant vp at CNA Insurance in Reading, Pa. A CPCU since 1980, Ms. Egan has served as national secretary-treasurer and national vp.

Bruce D. Williams was elected vp for 1998-99. Mr. Williams is executive vp-specialty programs at Glatfelter Insurance Group in York, Pa. He served during the past year as a chairman for the group's ethics and professionalism strategic committee.

Stephen P. Puntasecca will continue to serve as national secretary-treasurer of the society, serving the last year of a three-year term.

Elected regional vps of the Society were Marianne E. Rogers, Northeast Region; James R. Nau, Southeast Region; John G. DiLiberto, North Central Region; Robert L. Hitch, East Central Region; Maureen C. McLendon, South Central Region; and Jerry W. Peden, Western Region.

In addition, the following officers

are serving their first year of a three-year term on the board of directors: Joseph F. Menschik and William F. Traester, Northeast Region; Kenneth W. Cook and Denis P. Bilodeau, Southeast Region; John R. Groves and Arlene F. Hawes, North Central Region; Jerome R. Clark and Patrick V. Wippel, East Central Region; Richard A. Gerrond and Cary Phillips Jr., South Central Region; and Dean L. Middour and Randolph G. Wilcox, Western Region.

Also at the October meeting, James S. Sherlock received the American Institute for CPCU and Insurance Institute of America's 1998 Jack F. Derrickson Award for Outstanding Course Leadership.

The award goes each year to a teacher whose students pass national CPCU and IIA examinations at a rate higher than the national average, who receives excellent evaluations from program sponsors and students, and who has a command of course content and the ability to convey knowledge to students.

Also taken into account is whether the instructor shows a personal interest in students that fosters development of their self-esteem, encourages their interest in learning and professional development and motivates them to complete their educational program.

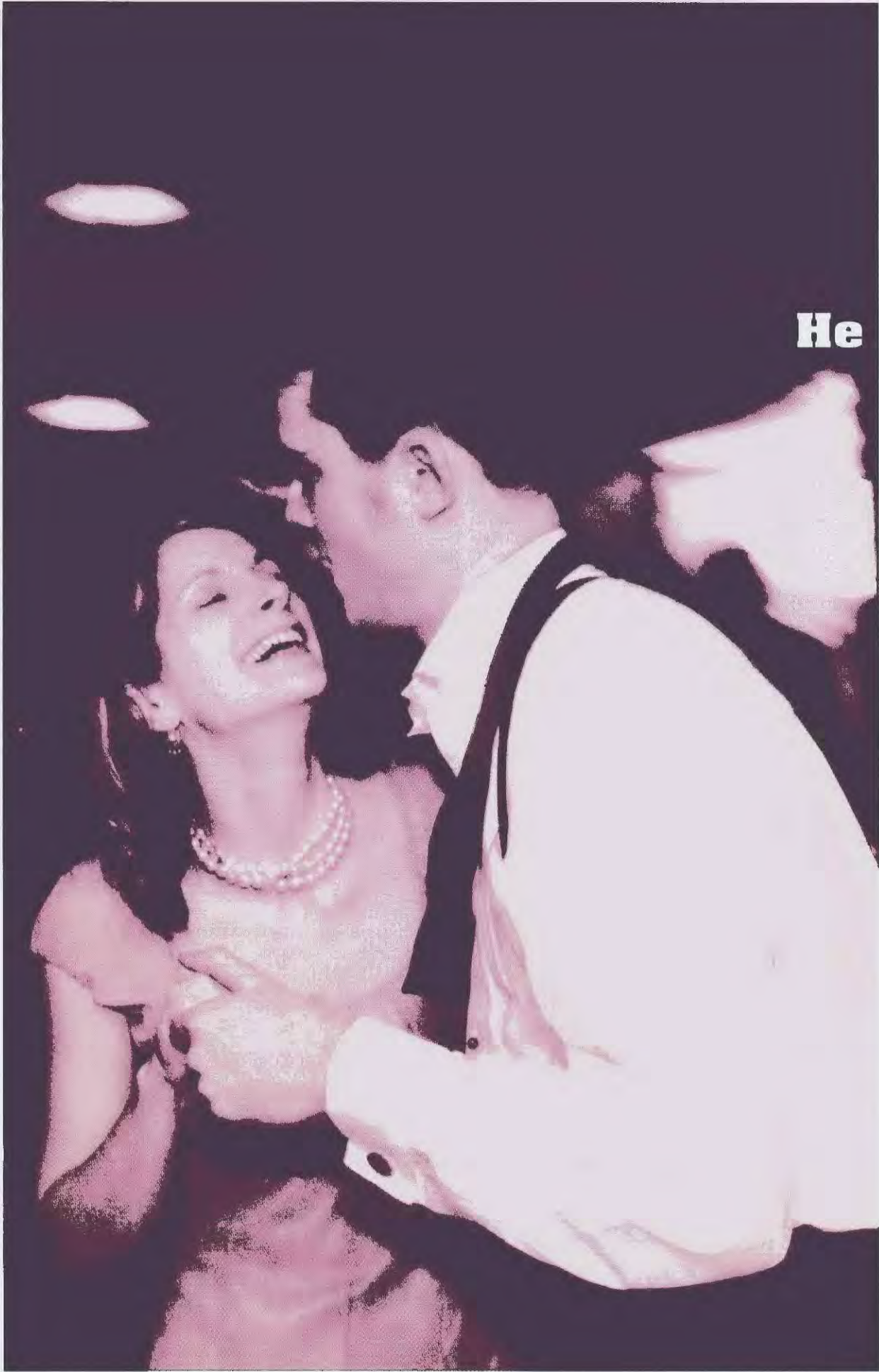
Mr. Sherlock is principal consultant-training department at CIGNA Property & Casualty Cos. in Philadelphia. BI

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LEXINGTON INSURANCE COMPANY PIONEERS IN REVOLUTIONARY PROTECTION

Legislation, economy boost PBGC surplus

Once seen as a near-certain candidate for a federal bailout, the Pension Benefit Guaranty Corp. has roared back.

In March, the agency, which guarantees basic benefits promised to workers and retirees enrolled in defined benefit plans, reported a \$3.48 billion surplus in its single-employer insurance program.

That was not only a dramatic increase from its 1996 surplus of \$869 million but a sea change from just a few years back, when the agency's deficit neared the \$3 billion mark. The deficit triggered the concern that a massive infusion of federal funds would be needed to prevent the agency from going belly up.

The agency's turnaround didn't just happen; it is the result of the convergence of several factors.

One factor was legislation passed in 1994 by Congress. That measure requires employers with underfunded plans to accelerate contributions to the plans. It also boosted the PBGC's income by raising the premiums employers with underfunded plans must pay the agency.

And the 1994 law also mandated the use of a conservative mortality

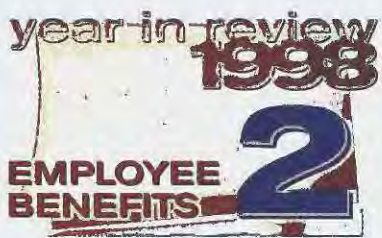


table to end abuses such as employers significantly underestimating their employees' life expectancies. The underestimation minimized plan liabilities and reduced the contributions of those employers to the plans.

Certainly, the 1994 law has, at least to a limited extent, buoyed the agency by increasing its premium revenue and boosting plan funding levels. But other factors—at least over the short run—have been far more important in PBGC's improved financial health.

The robust economy has enabled the PBGC to rack up big investment gains, swelling the value of its assets. The PBGC recorded nearly \$2.75 billion in investment income last year, up from \$927 million in investment gains in 1996. Its investments portfolio earned a 21.9% rate of return, compared with an average rate of re-

turn over the past 10 years of 12%. It achieved a 37.6% return on its equity investments, a huge improvement over its 10-year rate of return of 14.1% on equities.

The booming economy has aided the PBGC in another way. With the economy healthy, fewer companies with underfunded plans are failing. That has meant smaller losses for the PBGC.

The PBGC's financial health is of importance not just to the agency but also to employers. As the agency's deficit widened in the 1980s and early 1990s, Congress on several occasions had to raise the premiums that employers with defined benefit plans pay the PBGC.

But with the PBGC's much improved health, premium increases appear to be a thing of the past. Indeed, one benefits group, the ERISA Industry Committee, has called for a reduction in PBGC premiums, which start at \$19 per participant, with an additional surcharge for employers with underfunded plans.

Amid the agency's improved fortunes, David Strauss, its executive director, urged caution. The "perfect conditions" that led to the agency's turnaround cannot, he explained, be

expected to last forever.

Warning against a "precipitous" premium cut, Mr. Strauss said the agency needs a cushion for the economy's inevitable downturn, when its assets will be worth less, its investment income reduced, and the likelihood of more losses from terminations of underfunded plans will grow.

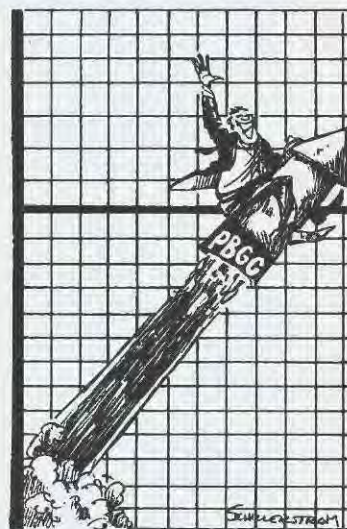
Mr. Strauss drew support from the General Accounting Office, Congress' investigative arm, which said in a report issued last month that the PBGC still faces threats to its long-term financial stability.

"An economic downturn and the termination of a few plans with large unfunded liabilities could quickly reduce or even eliminate the PBGC's surplus," the GAO said.

Another threat to the PBGC's good health is the continuing decline in the number of employers with defined benefit plans. Since 1985, the number of plans insured by the PBGC has dwindled by more than 60%, a decline that is eroding the PBGC's premium base.

But Mr. Strauss is sounding the call for a revitalization of the defined benefit plan system.

To that end, he has floated such ideas as linking 401(k)s to defined



benefit plans and increasing the maximum benefits that can be funded through defined benefit plans, a change that would make senior executives less interested in terminating company plans.

Such changes would require congressional approval. But with legislators increasingly aware that a good portion of the Baby Boom generation lacks sufficient savings for retirement, the odds of those ideas one day becoming enacted into law could be better than ever.

—By Jerry Geisel

Medicare HMO pullouts cause some jitters

Medicare HMOs, which have gained momentum over the past several years, are showing signs of strain.

With medical and drug cost increases outpacing this year's 2% hike in fees the HMOs receive from the government for treating Medicare patients, some of the plans kicked into survival mode in 1998 and began exiting certain markets.

By fall, pullouts by Medicare HMOs were accelerating, with many heavy hitters on this list. The Health Care Financing Administration estimated that more than 440,000 Medi-

field. The plan pullouts affected just 6.5% of the more than 6 million individuals enrolled in Medicare HMOs.

Still, if the exodus of Medicare HMOs continues, employers could lose a tool that many only now have begun to tap to help cut their retiree health care costs.

Some employers have found that paying Medicare HMO premiums for retired workers costs them far less than providing indemnity plans that supplement the traditional Medicare program. And many retirees like Medicare HMOs because they often offer richer benefits than provided through their employers' supplemental plan.

So far, though, employers that offer Medicare HMOs to retirees have found the pullouts of plans to have caused—at least for now—more jitters than serious problems.

For example, Bethlehem Steel Corp., which has about 21% of retirees in Medicare HMOs, said only a small number of retirees were affected by the pullouts, with most of those retirees able to switch to other HMOs.

Still, the pullouts shook retirees' confidence in the Medicare HMO program, while putting an administrative strain on Bethlehem Steel to give retirees up-to-date information on Medicare HMOs that were still available.

The big names in the HMO market that said they were withdrawing Medicare HMOs from certain markets included: Foundation Health Systems, PacifiCare HealthCare Systems, Aetna U.S. Healthcare, Humana Inc., United HealthCare Corp., Centennial HealthCare SeniorCare, Oxford Health Plans and Anthem Blue Cross & Blue Shield.

In the wake of these announcements, the Washington-based American Assn. of Health Plans urged Congress to keep Medicare HMOs and other health plan options under the Medicare+Choice law viable by making "midcourse corrections" to the fee structure outlined in a 1997 budget law. The fees are based on the cost of the traditional Medicare program in a given region. The law was supposed to correct inequities in the fee system by providing higher

increases to rural areas and areas where Medicare's costs have been lower, and lower increases to high-payment areas. However, due to certain budget neutrality provisions, the net effect of the law has been to limit most rate increases to about 2%.

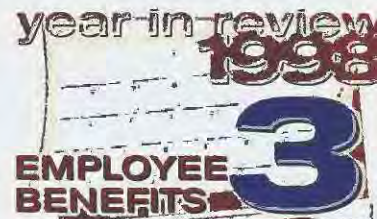
With a similar increase expected in 1999, AAHP President Karen Ignagni warned that HMOs would pull out of more markets next year if changes are not made.

To help reduce the effect of the service cuts on Medicare beneficiaries, the Clinton administration said in October it would expedite the process for HMOs that want to enter markets where no other Medicare

HMO operates.

At the state level, Medicare HMOs also faced problems. In Massachusetts, the HMO industry locked horns with state regulators on the issue of prescription drug benefits. The plans said they had to reduce benefits to keep the cost of coverage affordable.

State regulators, though, said Medicare HMOs were bound by a 1994 state law and regulation requiring them to offer unlimited or no prescription drug coverage. The matter went to court and a federal judge decided in favor of the HMOs, ruling that a 1997 federal law preempted the state mandate. In the wake of that ruling, Massachusetts



HMOs announced prescription drug benefits caps—for individual policyholders—next year ranging from \$500 to \$800. Group policyholders, though, still could purchase higher limits. Massachusetts politicians vow to revisit the issue next year.

With the Medicare+Choice provisions of the Balanced Budget Act of 1997 are certain to be on the next congressional session's agenda.

—By Roseanne White



care beneficiaries were affected by the service cuts, with about 50,000 having no other managed care options, according to a spokesman.

But as some HMOs were jumping out of markets, other were jumping in. For example, PrimeCare Health Plan Inc. of Wauwatosa, Wis., expanded into the employer market from the individual retiree market. Kaiser Permanente, even though it plans to close two plans in upstate New York, is stepping up its Medicare HMO marketing efforts to employers.

Some HMOs and benefit consultants said that pullouts, benefit cuts and premium increases are small in terms of the overall Medicare HMO

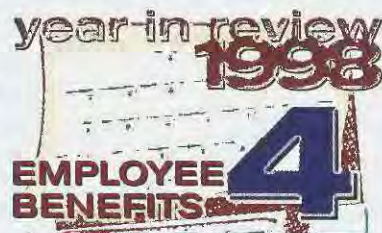
Ruling concludes conflict on COBRA coverage eligibility

Why would an employee want to pay hefty premiums for COBRA health care continuation coverage if he already was covered as a dependent under his wife's group health insurance plan?

For James Geissal, a 62-year-old employee of Moore Medical Corp., the answer was simple: as a cancer patient who expected high medical bills, he wanted the best and broadest coverage possible.

Mr. Geissal had coverage as a dependent under the federal care plan his wife, Bonnie, received through her job at Trans World Airlines Inc. Mr. Geissal kept the TWA dependent coverage after he lost his job at Moore and became a COBRA beneficiary.

But did Mr. Moore have a right to continuation coverage if he already was covered under another plan? Courts have grappled with the issue for years as they tried to interpret what many felt was murky language in the Consolidated Omnibus Budget Reconciliation Act of 1985.



coverage to employees who quit or are terminated. Employers, though, can drop COBRA coverage when former employees obtain coverage from other group plans, such as when an employee gets a new job.

A source of confusion, though, as well as litigation, has been whether an employee loses the right to See COBRA on page 28

This year, though, that uncertainty came to an end: the Supreme Court unanimously ruled in June that individuals have a right to COBRA coverage even if they are insured under other group health insurance plans.

That decision, the first one the high court has ever handed down on COBRA, resolved what had been a gray area of the federal statute: whether a terminating employee who has coverage from both his or her own employer and a spouse's employer has the same right to COBRA coverage as employees who have coverage only from their own employer.

Under the COBRA statute, employers must extend health care



EMERGENCY PROCEDURE

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YEAR IN REVIEW

COBRA

Continued from page 26

COBRA coverage if he or she is a spouse's covered dependent at the time of eligibility for COBRA.

In a literal reading of the statute, Supreme Court Associate Justice David Souter ended the confusion: COBRA coverage ceases when an individual "first becomes covered" under a group health care plan after he or she elects COBRA and not in situations, like Mr. Geissal's, where the individual had the additional coverage prior to opting for

COBRA.

"Because he was thus covered before he made his COBRA election and so did not 'first become' covered under the TWA plan after the date of election, Moore could not cut off his (Mr. Geissal's) COBRA coverage under the plain meaning" of COBRA, Justice Souter wrote.

For some employers—no one knows exactly how many—the Supreme Court decision meant they had to revamp their plans to extend COBRA coverage to employees who had other group health care coverage in place at the time they elected COBRA.

And some employers faced requests from former employees for COBRA coverage that was previously denied.

Still, the cost impact of extending COBRA coverage to employees who had other group coverage at the time they terminated employment should be relatively low for several reasons.

First, few employees opt for dependent coverage if they already have individual coverage through their own employers because the cost of dual coverage is so high.

In addition, the likelihood that former employees would be willing

to pay COBRA premiums—which are 102% of their former group health care plan's costs—in addition to dependent coverage is even less likely.

"When something costs \$150 or \$200 a month, it often becomes a 'no thank you' deal," said Ed Susank, a consultant with William M. Mercer Inc. in Washington.

Still, there are some individuals, as the *Geissal* case illustrates, who will want COBRA coverage even if they already have coverage through a spouse's health care plan.

For example, there may be individuals who have access to health

care plans that provide very different benefits, such as one plan that covers the cost of infertility treatment while the other does not.

Typically, though, individuals opting for dual coverage have or expect to incur significant medical expenses and want the most coverage available.

Indeed, Mr. Geissal, a cancer patient who is now deceased, expected high medical bills and wanted the best health insurance possible, said his attorney, Sheldon Weinhaus, a principal with Weinhaus & Dobson in St. Louis.

—By Jerry Geisel

Health care merger activity continues

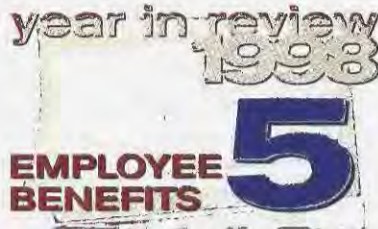
Employers saw their health care plan options dwindle in 1998 as insurers and HMOs continued to gobble up one another.

Aetna Inc.'s announced acquisition this month of long-struggling Prudential HealthCare is only the latest in a long series of mergers and acquisitions in the health care industry that has seen the biggest insurers and HMOs become gargantuan and many of the smaller ones swallowed up.

Aetna has led the pack in its drive through acquisition to become the dominant health care insurer.

Its purchase of Prudential HealthCare—valued at about \$1 billion—has made it by far the nation's largest health insurer, with 22.4 million members, including 18.4 million in managed care plans. The transaction will rank Aetna U.S. Healthcare among the top three managed care companies in the United States.

That acquisition, expected to close by the second quarter of 1999, came on top of Aetna's purchase in July of NYLCare—New York Life



Georgia's largest health insurer, as part of its continuing strategy to grow outside of California.

• The drug store chain Rite Aid Corp. bought PCS Health Systems Inc., one of the nation's largest prescription benefit managers, from drug maker Eli Lilly & Co.

Not all mergers and acquisitions, though, came off as announced.

Humana Inc. backed out of merging with United HealthCare Corp. after United reported that it would take a significant charge against earnings due in large part to problems related to its Medicare HMO operations.

There was no mystery behind the motivation of those wanting to make acquisitions: by becoming even larger, insurers hope to gain more clout in dealing with providers as well as being able to offer to employers ever larger managed care networks.

And for smaller insurers and HMOs, faced with the prospect of ever-larger competitors, selling out seemed to make the most sense.

"You can't be in health care half-heartedly. In order to be in this busi-

ness, you need to build the number of lives under management aggressively," said Don Gasparro, managing director of The Apex Management Group in Princeton, N.J.

And once word—true or not—that an insurer or HMO is on the selling block, merger or acquisition sometimes became inevitable, as employers are reluctant to stay with a health care plan operating in a climate of uncertainty.

For example, Prudential HealthCare, long viewed as a takeover candidate, struggled with retention of membership.

"They had to be sold to go forward and survive," said Richard Sinni, a consultant with Watson Wyatt Worldwide in New York.

But whether health care industry consolidation benefits the buyer became a hotly debated issue.

For example, employers complained of severe service disruptions that followed Aetna's purchase and integration of U.S. Healthcare.

Perhaps more substantively, benefit managers worried that an ever-smaller number of plans from which to choose could erode their ability to negotiate the best rates with insurers and HMOs.

"The concern is rates will go up because there's not many other places to get quotes from," said



Michael Pikelnny, corporate actuary and employee benefits consultant at apparel manufacturer Hartmarx Corp. in Chicago.

Others, though, noting the hundreds of remaining health insurers and HMOs, say there will have to be a lot more consolidation before competition is significantly eroded.

Plenty of competition still exists, noted Todd Richter, a health care analyst for Morgan, Stanley Dean Witter in New York.

Whether that still will be true in the future—if the wave of mergers and acquisitions continues—remains to be seen.

—By Joanne Wojcik

Carvill

Reinsurance Intermediary

INDEPENDENCE
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SINCE 1977

Atlanta Bermuda Chicago London Stamford

Government takes more active role in benefit issues

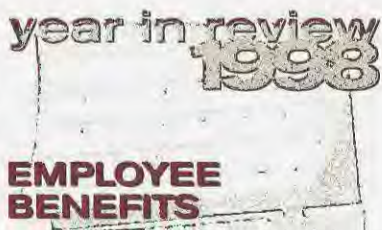
The top benefits story of 1998 was the latest variation on a long-familiar theme: the change in health care costs.

Just as the top story was a variation on a theme, so were many of the other top 10 benefits stories of the year. Half of those stories involved—some more than others—the role of the federal government in employee benefits.

While employers for years have complained about congressional interference in the benefit arena, they welcomed at least one of this year's congressional benefit initiatives: the efforts of legislators to develop proposals intended to encourage employers to offer pension plans, which was ranked as the No. 6 benefits story of 1998.

For much of the 1980s and early 1990s, with almost annual frequency, Congress passed legislation making it more expensive for employers to administer their pension plans, while decreasing the size of the benefits that could be funded through the plans.

But that began to change in 1996.



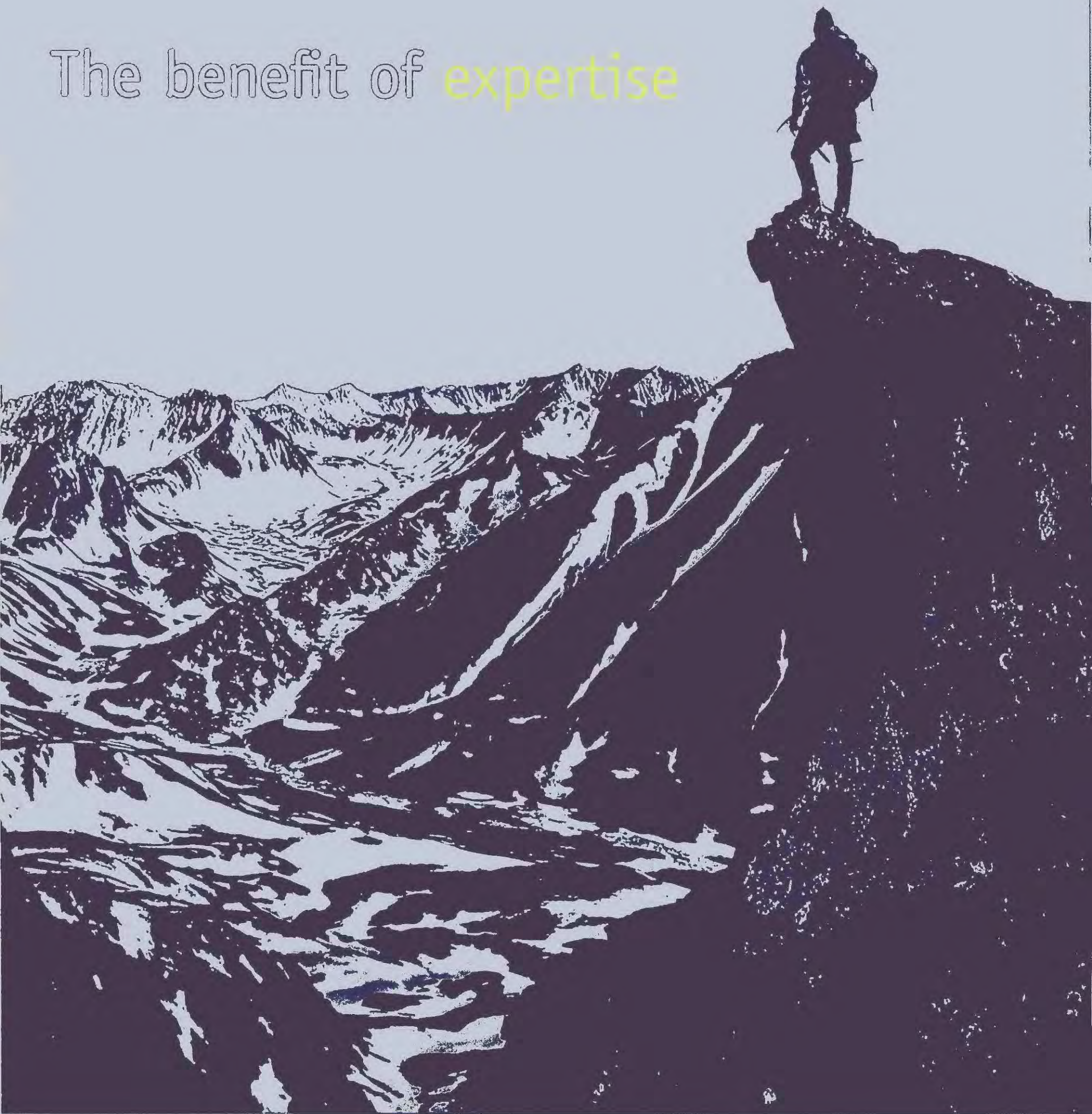
Concerned about the continuing decline in the number of pension plans sponsored by employers, Congress passed legislation that modestly reduced some administrative burdens. One year later, Congress followed with passage of yet another modest pension reform measure.

But legislators in 1998 tried to go much further. In May, a bipartisan group of congressmen introduced legislation they referred to as the "Retirement Security for the 21st Century Act."

The measure represented a dramatic break from years of legislation that cut benefits while adding layers of administrative complexity.

For example, the bill would have
See Top 10 on page 30

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Top 10

Continued from page 28

boosted by 50% the maximum annual deferrals employees can make to 401(k) plans to \$15,000 from \$10,000, while raising to \$235,000 from \$160,000 the amount of an employee's compensation that can be included when calculating pension benefits. The bill also would have allowed employees over age 50 to contribute an additional \$5,000 a year to their 401(k) or other savings plan, while also liberalizing tests used to determine whether or not 401(k) plans discriminate against rank-and-file employees.

Two months later, a group of senators launched their own effort at pension reform legislation. That bill would have liberalized pension nondiscrimination tests and provided tax

credits for small employers starting pension plans. It also would have eliminated some of the red tape associated with employees receiving pension benefits in distribution when they retire. In addition, the bill would have made it easier for employees moving from the private to the not-for-profit sectors to transfer funds between 401(k) and 403(b) plans.

Time ran out on both bills. But the sponsors are expected to make a more concerted effort to gain passage during the next congressional session, as legislators become more and more aware of the need now to take steps to boost retirement plans and savings before the huge Baby Boom generation begins to retire in large numbers.

The No. 7 story of 1998, a Labor Department suit against Time Warner Inc., also could play out next year.

In November, the department sued

Time Warner, Time Inc. and its various subsidiaries and divisions, alleging that they misclassified workers as temporary employees or independent contractors. The misclassification resulted in denying those workers participation in benefit plans, according to the suit.

The Labor Department also alleged that the companies "manipulated breaks in service" so that temporary workers could not meet the length of service that would put them in an employee class eligible for plan participation, the complaint said. Time Warner denies the charges.

The Labor Department suit comes at a time when more employers are turning to temporary or contract employees to, at least in part, hold down benefits costs. Typically, such workers are not eligible for benefits, such as health and pension plan coverage, that full-time employees receive.

The outcome of the suit could provide new guidance for employers in determining which employees can be excluded from their benefit plans.

The No. 8 story of 1998, fallout from the use of the anti-impotency drug Viagra, is one that has evoked interest not just among benefit managers, but among the general public as well.

Viagra, developed by Pfizer Inc. to treat erectile dysfunction, was approved by the Food and Drug Administration in late March. Immediately thereafter, sales skyrocketed, though sales volume in the last few months has dropped somewhat.

But the popularity—and cost—of Viagra triggered a big debate in the benefits community, one that continues today.

Employers and pharmacy benefit managers wrestled with developing a coverage policy. Express Scripts/Val-

ue Rx, a major PBM, recommended to its clients that, if they choose to cover the drug, coverage be limited to six Viagra tablets per month.

On the other hand, Hershey Foods Corp. decided to approve coverage of Viagra in its self-insured plan, though it required either employee or doctor's to telephone for "prior authorization" to the drug administrator before pickup.

At least one HMO, Oxford Health Plans Inc., denied coverage, triggering a suit seeking class-action status.

The current controversy over Viagra likely is a portent of what is to come in the future. As the pharmaceutical industry aggressively develops and markets more products that can improve lifestyles, employers will need to decide whether the purpose of their health care plans is to provide coverage for such products.

The No. 9 story involves the attempts of the California Public Employees Retirement System to control its \$1.5 billion health care bill.

One of those efforts involves direct contracting with medical providers, which CalPERS has been exploring. Direct contracting, CalPERS officials say, could lead to improvements in quality while lowering costs.

Other employers already have gone the direct contracting route. For example, the Minneapolis-based Buyers Health Care Action Group directly contracts for \$165 million in health care a year for 130,000 enrolled participants.

Benefit experts, though, have mixed feelings on whether direct contracting will become widespread. Some note that few employers would want to incur the administrative expenses inherent in direct contracting.

On the other hand, employers who feel that their health care plans aren't delivering value and quality may decide that direct contracting is the only way to assure both.

Rounding out the top benefit stories of 1998 are proposed Labor Department rules that would impose new, shorter deadlines on health care plans for processing claims and notifying participants whether they will cover procedures.

The rules would require:

- For benefit determinations, a plan would have 72 hours in an "urgent care" case to notify a beneficiary whether coverage would be provided for a procedure or service. For non-urgent care, the deadline would be 15 days.

- In the case of a service that already has been performed by a provider, a health care plan generally would have 15 days to notify a participant—typically through a written explanation of benefits—of the payments it will make, whether the claim will be denied, or whether more information from the participant or provider is needed before a payment decision can be made.

The proposed rules would replace 1977 regulations that say health care plans must handle claims as quickly as possible but no later than 90 days after their receipt. The current regulation does not distinguish between initial benefit determinations and claims processing.

The proposed regulations are yet another example of how the health care system has changed. Twenty years ago, when traditional fee-for-service was king, few questions were asked of providers before they performed procedures.

In today's managed care world, procedures, especially costly ones, often must first be evaluated by network reviewers.

The sometimes slow speed of that evaluation process has triggered many complaints from employees, leading to renewed Labor Department rule-making. **BI**

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10 who made news throughout '98

year in review
1998

NEWSMAKERS

As chairman and chief executive officer of CNA Insurance Cos., **Dennis H. Chookaszian** has been a leading voice on issues from new technology to risk securitization.

So it came as a surprise when he announced that he would retire March 31, 1999, turning over the helm to his longtime colleague, CNA Chief Operating Officer Bernard Hengesbaugh.

CNA, the two men explained, needed a strong operations person to implement strategic moves mapped out by Mr. Chookaszian, who saw his role as that of a futurist and long-term planner. The move will not change CNA's overall strategy, which has included expansion as a multiline insurer, development of new businesses such as employee leasing and insurance derivatives and decentralization of management authority, the two said.

Mr. Chookaszian's resignation caps a career that saw him move from management consulting at accountant Touche Ross & Co. in the 1970s to CNA chief financial officer. He became president and COO in 1990 and chairman and CEO in 1992.

What Mr. Chookaszian, 55, will do next is uncertain. He will retain a role at CNA as chairman of the executive committee of parent CNA Financial Corp.

Sen. Alfonse D'Amato's use of a frequently tapped legislative maneuver—attaching an unrelated amendment to a must-pass budget bill—will provide better health care coverage to women who have undergone mastectomies, while leaving employers with more paperwork.

In 1997, he introduced legislation to require health care plans to provide coverage for breast reconstruction following a mastectomy and additional surgery to produce a symmetrical appearance. Sen. D'Amato, R-N.Y., said his legislation was needed because scores of women had been denied coverage following mastectomies after their insurers ruled reconstructive surgery was cosmetic and not medically necessary.

Sen. D'Amato's proposal went nowhere. But as the 106th congressional session was ending, he got permission from the Senate GOP leadership to attach his measure to a sprawling budget bill. That measure, needed to keep the federal government running, later was passed by the House and Senate—with the D'Amato amendment.

For most employers, the D'Amato amendment will have no impact on plan design because coverage for reconstructive surgery after a mastectomy is typical. But employers do have to communicate the new mandate to employees, a chore employers aren't pleased about—especially those already providing coverage.

For years, **Maurice R. Greenberg** has been leading American International Group Inc. into new territories, but in 1998 he ventured far from AIG's core property/casualty insurance business.

With the \$18 billion purchase of SunAmerica Inc., AIG entered one of the world's fastest-growing businesses: retirement savings.

Hailed by observers as another bold but well thought-out move, the SunAmerica deal was seen as adding diversity as well as giving AIG another cross-selling opportunity.

But Mr. Greenberg did not get everything he wanted in 1998. In an acrimonious takeover battle for American Bankers Insurance Group, AIG was bested by rival Cendant Corp., a travel and real estate conglomerate. But even in defeat AIG won a consolation prize, having written a substantial breakup fee into the original deal. Cendant's own bid eventually failed after the company revealed financial difficulties.

As the year was drawing to a close, Mr. Greenberg's influence throughout the industry was recognized as The College of Insurance named him 1998 Insurance Leader of the Year.

In his inaugural address in 1994, New Orleans Mayor **Marc Morial** told a gathering in a convention center named for his father there was "a new sheriff in town."

In October, this "sheriff" made a bid to clean up his town. But, instead of calling his foes out in a dusty main street, Mr. Morial chose the 1990s version of a showdown—litigation, specifically a product liability suit against handgun makers seeking to recover millions of dollars the city has spent as a result of handgun violence.

New Orleans' suit is expected to lead to a wave of similar litigation by other cities, in the same manner that states sued tobacco manufacturers. Indeed, already Chicago has filed its own suit against gunmakers and distributors.

For Mr. Morial, the handgun suit brought national prominence to an urban leader who, though popular enough to draw nearly 80% of the vote in his re-election bid this February, was probably best known as the son of former New Orleans Mayor Ernest N. "Dutch" Morial.

Given his upbringing, it's little surprise that Mr. Morial, 40, gravitated toward politics, and, after practicing law, in 1991 was elected to the Louisiana Senate. He made his first bid for mayor in February 1994, emerging from a seven-candidate primary with a spot in a two-candidate runoff he won the following month.

Rep. Charlie Norwood lost his battle to get Congress to pass his version of patient protection legislation, but he may not have lost the war.

Last year, the Georgia Republican entered the national spotlight through his sponsorship and vocal advocacy of legislation that took dead aim at managed care. His bill—the Patient Access to Responsible Care Act—clearly struck a responsive chord as nearly half of the members of the House signed on as co-sponsors.

The Norwood bill, though, triggered a counterattack by insurers and employers. They formed a coalition and spent millions in advertising attacking the legislation, especially its most controversial provision: opening health plans to punitive damages.

Facing that attack, Rep. Norwood gave up his crusade for PARCA. But, he gained the commitment of the House GOP leadership to support patient protection legislation, albeit without his punitive damage provision. That support translated into House passage of legislation this summer.

The Senate, though, amid much partisan divi-



Mr. Greenberg

sion, later failed to follow suit, and patient protection legislation died.

But with President Clinton and both parties interested in curbing what they see as managed care plan abuses, the crusade that Rep. Norwood helped to launch surely will continue next year.

Margaret E. O'Kane is a consumer advocate committed to raising the quality of the most important product we all purchase—health care.

Under her leadership as president, the National Committee for Quality Assurance made further strides this year to bring employers and employees information to select the managed health care plans that provide the best preventive medicine, treatments and service.

She defines health care value as the "amount of improved health" that consumers experience for the dollars spent. That definition, she says, implies a transformation of health care from a system focused on treating sickness to striving to enhance wellness.

The Washington-based NCQA in July introduced a new report format that uses terminology more easily understood by consumers and combines performance and accreditation data to provide a more complete picture of plan quality. These reports also will be the first to convey data audited to NCQA standards.

Ms. O'Kane said the new report "marks the start of a new era of accountability in managed care." In its second annual "State of Managed Care Quality" report in September, the NCQA emphasized that plans that publicly and consistently report performance measurements outperform plans that don't.

Lloyd's of London Chief Executive Ron Sandler has taken on a larger profile since the departure of Sir David Rowland as Lloyd's chairman at the end of last year.

Mr. Sandler snared headlines this year when he suggested to a gathering of Lloyd's names that their days may be numbered in the increasingly corporate capital-dominated market. The ensuing uproar—including names' calls for Mr. Sandler to resign—overshadowed some of the changes happening at Lloyd's.

Although Mr. Sandler has always said market forces will shape the new Lloyd's, he has been providing the framework for those forces. His desire to see Lloyd's extend its reach resulted in offices in South Africa and Australia, and opportunities in other regions are being investigated. He also is encouraging new and cheaper ways of doing business. As a result, Lloyd's will allow captives to start trading Jan. 1, and central costs to market practitioners are being slashed. With most regulation expected to shift to the Financial Services Authority in 1999 and widespread restructuring, the Corporation of Lloyd's is slimming down and cutting costs.

Margaret Stanley, health benefits administrator for the California Public Employees Retirement System, grabbed national attention when she announced CalPERS might evaluate direct contracting with medical providers.

In a March 20 symposium speech in San Francisco, she said exploring direct contracting could help control costs and reduce benefit plan exposure to destabilizing market forces, such as mergers.

Medical groups and hospitals are rooted in the community and are there for the long haul, she said. But, HMOs keep merging, and purchasers want greater stability in their plans, she said. From April to June, she led CalPERS through a two-month standoff with Kaiser Permanente.



Ms. Stanley

CalPERS threatened to freeze enrollment of new members in Kaiser plans unless the HMO cut its rate hike. Kaiser did.

CalPERS spends \$1.5 billion annually on health premiums and provides health benefits for more than 1 million employees, retirees and dependents.

CalPERS has said it is still interested in direct contracting, but so far, it has not moved forward with the idea.

When **David Strauss** last year was named executive director of the Pension Benefit Guaranty Corp., he hit the ground running.

He moved to eliminate the "Top 50" list of the worst-funded pension plans, a publicity tool that Mr. Strauss and many others thought had long outlived its usefulness. Later, to the applause of employers, he curbed the administrative burden of complying with PBGC premium audits.

Mr. Strauss has stayed in motion this year. He continued to take practical steps to make it easier for employers to run their pension plans. Last week, the PBGC adopted a rule that will eliminate duplicate work for employers when they pay PBGC premiums.

And Mr. Strauss continued to take a high-profile position on the PBGC's premiums. He warned against cutting rates, noting that the conditions leading to the agency's surplus—an absence of terminations of underfunded pension plans, a strong economy and high investment returns—can't last forever.

But it is through his current project—revitalizing the defined benefit plan system—that he could make his greatest mark. Mr. Strauss, former deputy chief of staff for Vice President Al Gore, has been sounding the call for new rules to make defined benefit plans more attractive for employers.

Some of those ideas include linking 401(k) and defined benefit plans and boosting the maximum benefits pension plans can offer.

Those ideas could resonate next year with a Congress and administration increasingly concerned about retirement income issues.

Sanford I. Weill, a master of mergers and acquisitions, has taken on his biggest challenge with the blockbuster combination of Travelers Group and Citicorp into Citigroup Inc.

The biggest financial services merger in history was completed in October, making Mr. Weill co-chairman and co-CEO of Citigroup with Citicorp's John S. Reed. The combined company will reach an estimated 100 million customers in 100 countries, offering property/casualty, life and annuity products; mutual funds; and credit card, banking, investment and real estate services.

Citigroup's creation is only the latest in a long campaign of acquisitions that Mr. Weill began in 1988, when his Commercial Credit Co. took over Primerica Corp. Primerica went on to acquire Travelers, Aetna Inc.'s property/casualty business, Salomon Inc. and units of Shearson.

Citigroup's road hasn't been entirely smooth: Management turmoil led last month to the resignations of Citigroup President James Dimon and others. And the company has announced a \$900 million restructuring charge. But some parts of the combined companies, specifically consumer businesses, are already reporting cross-selling benefits from the merger.

And Mr. Weill has a track record of making things work.



Mr. Chookaszian



Mr. Morial

PHOTO: DAVID HITTLE



Ms. O'Kane

PHOTO: DAVID HITTLE

PHOTO: DAVID HITTLE



Sen. D'Amato



Mr. Sandler



Rep. Norwood



Mr. Weill

A look at the year in risk management news

JANUARY:

■ American International Group Inc. announces a \$2.2 billion acquisition of American Bankers Insurance Group Inc. However, late in the month, Cendant Corp. makes a counteroffer, which results in a bidding war. AIG later walks away from the deal, which ultimately collapses in October after Cendant discovers internal accounting irregularities.

■ The Risk & Insurance Management Society Inc. and The Quality Insurance Congress launch a project to evaluate the quality of insurers and related service providers. The first quality "score card" is released at the RIMS conference in April.

■ A severe ice storm in northern

New England and Quebec causes insured losses approaching \$1 billion, most of which are in Canada.

■ The battle over Electric Mutual Liability Insurance Co.'s 1995 move to Bermuda goes back and forth during the year. In January, a Massachusetts court rules EMLICO's move to Bermuda was illegal. State regulators then file to place EMLICO in receivership. Bermuda liquidators counter with a suit in federal court to keep control of it. In September, a state court rules against a Massachusetts receivership. By then, however, all reinsurers that fought EMLICO's move have settled, effectively ending challenges to the redomestication.

■ The Home Insurance Co. proposes Chapter 11 bankruptcy reorganiza-

tion in a deal that regulators say will provide more money to pay claims. The plan is approved in June.

■ U.S. Court of Federal Claims rules that premiums a company's subsidiaries paid to its wholly owned captive are deductible.

■ The St. Paul Cos. Inc. announces it will buy USF&G Corp. for \$2.8 billion in a deal that will create the nation's eighth-largest property/casualty insurer.

■ The Council of Insurance Agents & Brokers and the National Assn. of Insurance Brokers announce exploratory talks on a merger. The combination becomes a reality in July.

FEBRUARY:

■ The New York Transit Authority

forms the first captive insurer domiciled in New York under a new captive law that took effect Jan. 1.

■ Aon Corp. acquires Groupe Le Blanc de Nicolay and Gil y Carvajal Group. These deals, on the heels of its December purchase of Jauch & Huebener, bolster its reinsurance brokerage strength, though it remains the No. 2 retail broker.

■ A group of insurers files a class-action suit against polybutylene pipe makers, seeking to recover millions of dollars paid out in claims for leaky pipes.

■ Dow Corning offers a new, higher settlement to women with silicone breast implants. The offer is rejected by claimants, but in July, a federal mediator negotiates a \$3.2 billion deal

to which all parties agree. In November, the deal is submitted to Dow Corning's bankruptcy judge, clearing the way for its exit from Chapter 11.

■ The U.S. Court of Appeals for the District of Columbia blocks enforcement of the Occupational Health and Safety Administration's controversial cooperative compliance program after employer groups sue.

MARCH:

■ British insurers Commercial Union P.L.C. and General Accident P.L.C. announce merger plans, which creates the United Kingdom's largest multiline insurer and a new international powerhouse called CGU P.L.C.

■ Superfund reform stalls as President Clinton voices opposition to H.R. 2727, a scaled-down House bill that would have left retroactive liability for pollution intact.

■ Central Sprinkler Co. says it will fight an effort by the Consumer Product Safety Commission to force a recall of its Omega fire sprinklers because of alleged defects. In October, though, Central settles with the government and with property owners that have Omega sprinklers. The company then sues its insurers for recall coverage and defense costs.

■ The U.S. Supreme Court rules in *Oncala vs. Sundowner Offshore Services Inc.* that same-sex sexual harassment does violate the Civil Rights Act of 1964.

■ Xerox Corp. sells its last insurance unit, Crum & Forster Holdings Inc., to Fairfax Financial Holdings Ltd. of Canada.

■ EXEL Ltd. offers \$2.2 billion to acquire Mid Ocean Reinsurance Co. Ltd., which will boost not only its catastrophe reinsurance business but also its presence in Lloyd's.

■ Italian insurer Generali agrees to open its records to U.S. examiners investigating Holocaust claims. In August, Generali agrees to a \$100 million settlement of Holocaust-era claims. But one month later, the deal collapses when the NAIC balks at allowing the deal to end all claims against the insurer.

■ ACE Ltd. expands its property cat book with its \$711 million purchase of CAT Ltd.

APRIL:

■ The Insurance Services Office Inc. offers to acquire the National Council on Compensation Insurance but is rebuffed by the NCCI board. In November, ISO responds with the formation of a subsidiary to compete with the NCCI in some states on workers comp data and ratemaking.

■ Travelers Group and Citicorp agree to a \$70 billion merger, which will create a new financial services entity called Citigroup. The deal is hailed as breaking barriers between financial services, though federal regulations separating banking and insurance remain intact.

■ Lloyd's Chief Executive Officer Ron Sandler says the market's annual venture system is obsolete and hampers the market's competitiveness. The comments spark an outcry by individual names.

■ Goldman Sachs & Co. launches a Bermuda reinsurer, called Arrow Reinsurance Co., as a vehicle to underwrite securitized risk products. Lehman Brothers sets up Lehman Re in June.

■ Texas instructs tax collectors to enforce a direct procurement tax, which is levied on buyers who obtain insurance policies outside the admitted and approved non-admitted markets, such as captive insurers.

JUNE:

■ Vesta Insurance Group Inc. announces an investigation of accounting irregularities and the resignation of its CEO, sending its stock into a

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MARSH & MCLENNAN SECURITIES

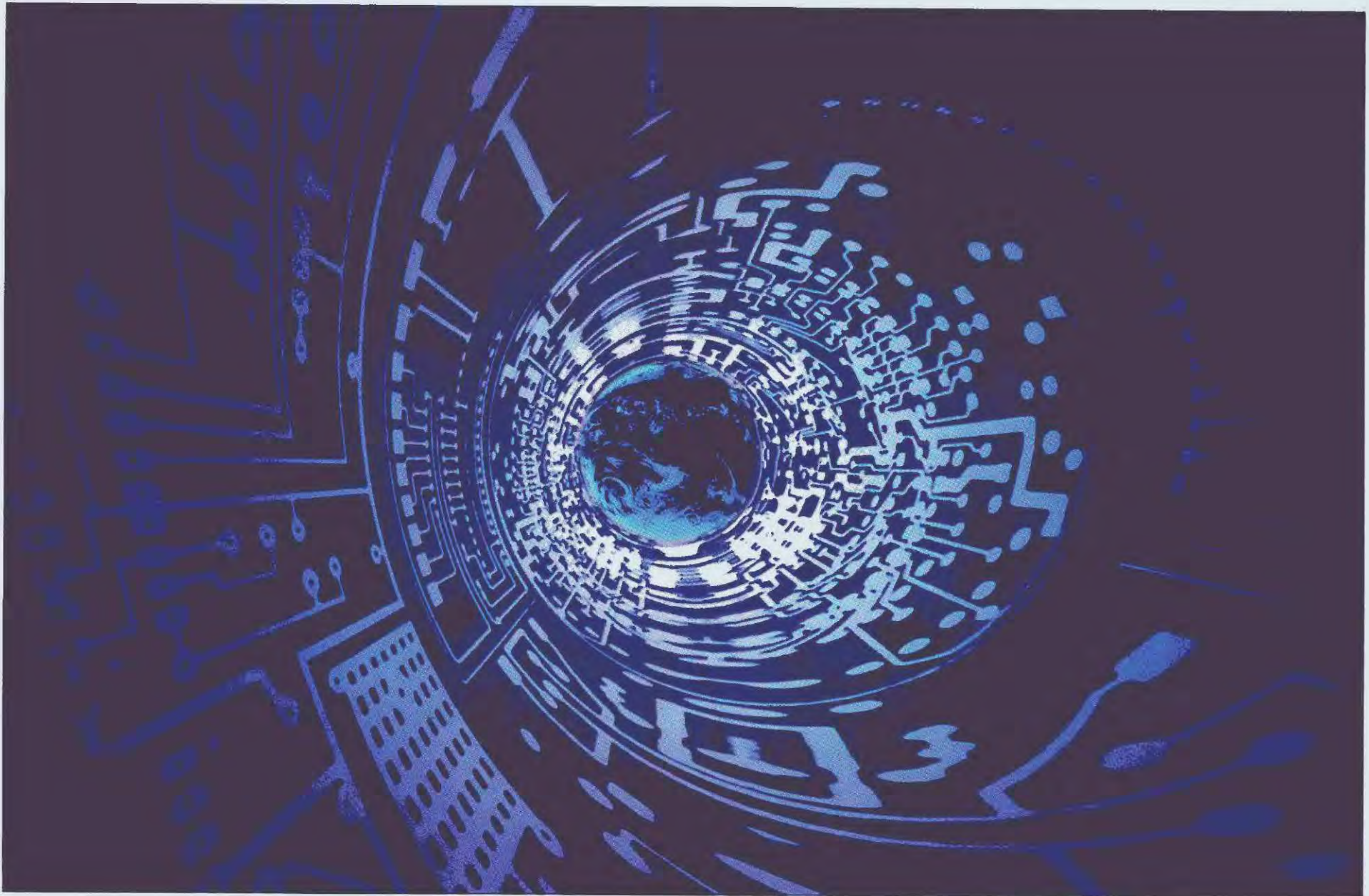
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Spotlight report

News

Continued from page 32

tailspin. In November, Alfa Insurance Group buys 10% of Vesta shares and pledges to increase its stake to 36%.

■ The Pennsylvania Supreme Court declines to review an appellate court finding that regulators' approval of CIGNA Corp.'s restructuring was improper. The decision, made without comment, means new regulatory hearings will have to be held. However, in a bizarre flip-flop, the state Supreme Court later rules its declination was released in error, meaning that CIGNA's request appeal is still before the court, which in August the Supreme Court agrees to hear.

■ President Clinton reaches an agreement with senators on a mild product liability reform measure. The product liability measure ultimately

dies in the Senate. However, a limited bill offering product liability relief to biomaterials manufacturers ultimately wins enactment in August.

■ Berkshire Hathaway and General Re Corp. announce a \$22 billion stock deal that gives Gen Re access to enormous new resources and removes the pressures of public ownership.

■ Kemper Re settles its long-running challenge to EMLICO's redomestication to Bermuda. In August, GE Capital, parent of EMLICO, announces a deal to acquire Kemper Re from Kemper Insurance Cos.

JULY:

■ CNA Insurance Cos. announces that it is reviewing all of its business units in an effort to boost competitiveness. It also lays off 1,100 members of its commercial insurance workforce.

■ In two separate deals, insurers acquire stakes in insurance brokers. A

consortium of insurers acquires a majority stake in USI Holdings Inc. Insurers also are part of a group led by Kohlberg, Kravis Roberts & Co. L.P. that acquires Willis Corroon Group P.L.C.

AUGUST:

■ The Factory Mutual insurers—Allendale Mutual Insurance Co., Arkwright Mutual Insurance Co. and Protection Mutual Insurance Co.—agree to merge into a single entity to be called Factory Mutual Insurance Co.

■ British building materials company Hanson P.L.C. lines up a record \$800 million pollution policy to cover the cost of cleaning up 200 waste sites in the United States. It is one of several developments in the EIL market, which is offering more flexible and broad products on several fronts.

■ Chubb Corp. launches a new reinsurer, Chubb Re, in the midst of a

competitive market. It is to be headed by John Berger, formerly of F&G Re.

■ InsWeb, owner of RISKWeb, pulls the plug on the wildly popular electronic discussion forum. In response to user requests, InsWeb reinstalls the forum for 30 days while it seeks to sell the forum to a successor. The site is renamed and moves to Louisiana State University.

■ Marsh & McLennan Cos. Inc. acquires Sedgwick Group P.L.C., greatly expanding its lead over Aon Corp. and further fueling risk manager concern about the ultimate effects of broker consolidation.

■ Property/casualty insurers report that first-half underwriting losses are 62% worse than a year earlier, spurred by a heavier catastrophe toll than in recent years.

SEPTEMBER:

■ Hopewell International Insur-

ance Co., a Bermuda captive reinsurer in runoff, files for bankruptcy protection in the face of a threatened lawsuit by a captive it reinsured.

■ The New York Insurance Department notifies all brokers and insurers that, under state law, a broker is considered the legal representative of the policyholder. As a result, all additional compensation received by a broker must be disclosed in advance to the policyholder. In December, RIMS endorses New York's position.

■ A Senate panel approves a bill that would encourage businesses to share information on solving Year 2000 computer problems without fear of liability. The bill is signed into law by President Clinton in October. Several states, including Florida and California, consider similar bills that would give businesses Y2K relief.

■ Hurricane Georges tears through the Caribbean, causing severe damage to the Dominican Republic and Haiti before crossing the Florida Keys. In the United States, Puerto Rico and U.S. Virgin Islands, insured losses are expected to be near \$3 billion.

OCTOBER:

■ Liberty Mutual Insurance Co. announces it will buy Employers Insurance of Wausau from Nationwide Group, which is focusing on personal lines and financial services. The partnership between the mutuals creates a workers comp powerhouse.

■ For the first time, a state Supreme Court rules that the personal injury liability provisions of general liability insurance policies can cover environmental losses. The Washington Supreme Court ruling could help policyholders skirt pollution exclusions in their liability policies.

■ Hurricane Mitch pounds Central America with wind and heavy rain causing extensive damage in Honduras and Nicaragua, little of which is insured.

NOVEMBER:

■ New Orleans files a lawsuit against handgun manufacturers under state product liability laws, seeking millions of dollars for producing "unreasonably dangerous" products. Chicago files suit against gun makers and sellers a week later, alleging that gunshops are violating public nuisance laws by flooding the market with handguns.

■ Bermuda's United Bermuda Party is ousted from power, as the Progressive Labour Party wins a majority and names Jennifer Smith prime minister. The change is not expected to harm international insurance and reinsurance businesses.

■ The Risk & Insurance Management Society Inc. creates a new class of membership to allow industry professionals such as brokers, insurers, consultants and others to join.

■ The U.S. Supreme Court rules in *Cesar Wright vs. Universal Maritime Service Corp. et al.* that arbitration provisions in a longshoreman's labor agreement don't bar the worker from suing his former employer for alleged violations of the Americans with Disabilities Act. The ruling is expected to prompt employers to make sure their arbitration clauses are tightly worded.

DECEMBER:

■ In a surprise move, Dennis Chookaszian announces he will step down as chairman and CEO of CNA Insurance Cos. on March 31 and will be succeeded by Bernard L. Hengesbaugh. Mr. Chookaszian will serve as chairman of the executive committee of CNA Financial Corp., and a strategic restructuring of the insurer that he began will continue.

■ Fairfax Financial Holdings Ltd. makes its second big acquisition of the year, offering to buy TIG Holdings Inc. for \$840 million. In March, Fairfax bought Crum & Forster. **[BI]**

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A look at the year in employee benefits news

JANUARY:

■ The Clinton administration advances a series of proposals to expand access to health care for older workers and retirees. Among other things, employers terminating health care plans for retirees 55 and older would have to extend COBRA coverage until retirees reached 65. In addition, retirees 55 and older could purchase Medicare coverage for monthly premiums of between \$300 and \$400. Congress, though, declines to act on those proposals.

■ For the fourth successive year, group health care costs remain nearly stable. Group plan costs in 1997 rose a scant 0.2% to an average of \$3,924 per employee, according to a survey by William M. Mercer Inc. The tiny increase is largely the result of the continuing shift of employees to less-expensive managed care plans from costly traditional indemnity plans. But larger cost increases are in store for employers as managed care plans say they have to boost rates to improve their financial results.

■ Aetna U.S. Healthcare continues to offer coverage for in vitro fertilization in its group health care plans, but only for employers that select it as an option and pay an additional premium. Initially, Aetna said it was stopping coverage of IVF, but the insurer partially reverses itself amid a wave of adverse publicity.

FEBRUARY:

■ HMO giant Kaiser Permanente says it lost \$270 million in 1997, an almost exact reversal of its 1996 results, when it recorded a gain of \$265 million. A Kaiser spokesman says rate hikes are one of the options it is considering to improve its financial performance.

■ The Clinton administration wants to take away more tax breaks associated with corporate-owned life insurance. Under the administration proposal—intended to raise revenue for the government—companies owning COLI

policies no longer could fully deduct interest expenses on debt.

MARCH:

■ Roiled by steep financial losses, Watson Wyatt & Co. pulls out of Wellspring Resources L.L.C., the joint total benefits outsourcing venture it launched in 1996 with State Street Global Advisors. Benefit experts attribute Wyatt's problems in the outsourcing field to taking on projects involving extremely complex benefit plans before its systems were fully developed to handle those plans in a cost-efficient way.

■ Aided by big investment gains and the absence of terminations of large underfunded pension plans, the Pension Benefit Guaranty Corp. reports that its surplus in 1997 quadrupled to \$3.48 billion. That's a huge turnaround from just a few years ago, when the agency was laboring under a nearly \$3 billion deficit, with some members of Congress openly worried that the PBGC would need a federal bailout to survive.

■ Aetna Inc. purchases NYLCare Health Plans Inc., the health care unit of New York Life Insurance Co., for \$1.05 billion, as the health insurance industry continues to consolidate. The deal will enhance Aetna's operations in several markets.

APRIL:

■ The California Public Employees Retirement System evaluates direct contracting with medical providers as a way to ensure better quality of care for its employees. CalPERS officials say that, through direct contracting, patients could be steered to providers who achieve the best results. In turn, CalPERS would boost payment rates to those providers with the best outcomes.

■ Setting up the first plan of its kind, Shell Oil Co. gives employees the opportunity to choose each year between two benefit accrual formulas within one pension plan. One formula—incorporating a pension equity plan approach and faster benefit accrual—will appeal to

shorter-service employees. The other design, which will appeal to long-service employees, is heavily backloaded, with benefits increasing sharply in value after an employee's age and service equal 80. Through the new pension plan design, Shell believes it will be better able to attract shorter-service as well as career employees.

■ Bucking a national trend to extend domestic partner benefits, Perot Systems Corp. rescinds its own such policy. The Dallas-based company said its decision to stop offering domestic partner benefits to newly hired gay and lesbian employees is an economic one.

MAY:

■ Sweeping pension reform leg-

islation is introduced in Congress that would allow employees to boost 401(k) contributions and ease pension non-discrimination rules. The measure, known as the Retirement Security for the 21st Century Act, follows the recent trend of federal legislators trying to roll back the mass of complex pension rules that have accumulated over the years.

■ The Supreme Court agrees to decide whether employers switching from contributory to non-contributory pension plans effectively terminate their plans and are required to share any surplus with their participants. The case involves Hughes Aircraft Co., which, after moving to a non-contributory plan, was sued by a group of retirees. The retirees say that, by

changing the plan design, Hughes actually terminated the plan and must distribute surplus assets to participants.

■ The popularity of the anti-impotence drug Viagra creates confusion as insurers, employers and others decide how, if at all, they should respond to the demand for coverage. Pharmacy benefit manager Express Scripts/Value Rx, for example, is recommending to clients that if they choose to cover the drug, they should limit a beneficiary to six Viagra tablets a month, though some clients have gone beyond the PBM's recommendation and instead permit a beneficiary eight to 10 tablets a month.

JUNE:

■ Employers with 401(k) plans can automatically reduce employees' salaries and transfer those

See Events on next page

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Events

Continued from previous page
 amounts to the plans, the Internal Revenue Service says. Revenue Ruling 98-30 gives the green light to adding automatic enrollment programs, a mechanism that can increase plan participation rates.

■ Employers have to extend COBRA to terminating employees even if those employees had dependent coverage through a spouse at the time the beneficiary opted for COBRA, the Supreme Court rules. The unanimous decision resolves a murky area of the law: whether a terminating employee who has coverage from both his or her own employer and a spouse's employer has the same right to COBRA coverage as employees who have coverage solely from their own employers.

■ Fearful of being hit by a political backlash, the House Republican leadership backs patient protection legislation. A House Republican task force recommends that employers that offer only traditional health maintenance organizations provide a point-of-service option. In addition, health care plans would have to establish new internal and external review procedures, give patients direct access to certain specialists, and improve access to emergency care. However, after passing the House, the legislation later dies in the Senate, as Republicans and Democrats fail to agree on floor rules to debate the issue.

■ President Clinton signs legislation that gives new tax breaks to employer-provided mass transit benefits. The new law will allow employees to make pretax salary contributions—initially a maximum of \$65 a month and rising to \$100 a month in 2002—to pay for mass transit expenses.

JULY:

■ ASA Inc., one of the nation's fastest-growing benefit consulting firms, is spun off from parent AT&T Corp. ASA executives say that, as an independent firm, ASA will be in a better position to win business from communications and other firms that compete with its former parent.

■ The California Public Employees Retirement System intends to

expand from the current 10 the number of HMOs it offers. Allowing more HMOs to bid for CalPERS business could be a successful strategy to hold down rates, as existing HMOs face competition from other plans eager to win a portion of the business of the health care purchasing giant, some experts say.

■ Pension regulators examine new types of pension plans as a way to revitalize the nation's sagging defined benefit system. One idea under review would link a defined benefit plan and a 401(k) plan into one flexible retirement plan.

AUGUST:

■ Massachusetts regulators eliminate an exemption that had allowed "infrequent health care payers" to escape—by paying a \$2,400 fee—a state law that imposes a 5.06% surcharge on hospital bills. The exemption had allowed payers such as third-party claims administrators with a small numbers of clients in Massachusetts to escape the tax and the paperwork burden it imposes.

■ Amid a big charge against earnings, United HealthCare Corp. and Humana Inc. call off their planned \$5.5 billion merger. The failed merger comes at a time when many HMOs' earnings are deteriorating due to higher-than-expected medical costs and years of underwriting designed to win market share rather than to acknowledge risk.

■ CNA Financial Corp. is ending operations in the traditional indemnity and administrative services only business for small employers. CNA intends to concentrate its health care operations on larger employers. In December, CNA also announces plans to spin off additional group health care business that does not meet profitability targets.

SEPTEMBER:

■ Employees seemed unfazed by the gyrations in the stock market. Amid the volatility, relatively few employees are moving 401(k) plan balances out of equity funds and into fixed-income funds. However, benefit administration centers report a surge of calls from employees checking on the value of their 401(k) account balances.

■ The Department of Labor proposes regulations that would impose

new, shorter deadlines on health care plans for processing claims and notifying participants whether particular procedures are covered. In cases of "urgent care," plans would have 72 hours to notify a beneficiary whether coverage will be provided for a procedure or service. For non-urgent care, the deadline would be 15 days.

OCTOBER:

■ NationsBank Corp. offers its employees a cash balance pension plan with two innovative features. Employees can direct company-provided pay credits to 11 different investment options. In addition, employees can transfer 401(k) plan account balances to the cash balance plan and direct those amounts to the same 11 investment options. NationsBank will protect employees from investment risk. Supporters say the plan could be the first of many so-called participant-directed cash balance plans.

■ Employers soon will have to comply with another benefit mandate. As part of a massive budget bill, legislators tack on an amendment by Sen. Alfonse D'Amato, R-N.Y., that requires group plans to provide coverage for breast reconstruction following mastectomy and additional surgery to produce a symmetrical appearance. Most employers now provide the coverage, but many will have to scramble to comply with employee notification requirements in the law.

■ The Clinton administration proposes two changes to federal law that it believes will help women get larger pension benefits. One change would require companies to count toward pension vesting unpaid time taken under the Family and Medical Leave Act. The other change would require employers with defined benefit plans to offer participants a 75% joint and survivor benefit.

NOVEMBER:

■ Massachusetts Medicare HMOs can scale back prescription drug benefits, a federal judge says. U.S. District Court Judge Richard Stearns rules that the 1997 federal Balanced Budget Act pre-empts a Massachusetts law and regulation that had required Medicare HMOs to offer either unlimited or no prescription drug benefits. HMOs say they need to reduce prescription drug benefits because of soaring costs.

■ The New Jersey Department of Banking and Insurance says it intends to go to court to seize control and place in rehabilitation Health Insurance Plan of New Jersey, the state's fourth-largest HMO. New Jersey regulators take action after HIP's net worth—amid a highly competitive underwriting environment—widened to a negative \$20 million. A court later allows the Department to take control of the financially troubled HMO.

■ The Labor Department sues Time Warner Inc., charging that the publishing giant misclassified workers as temporary employees or independent contractors and that the misclassification resulted in those workers being denied participation in benefit plans. Time Warner says the suit has no basis in law or in fact.

DECEMBER:

■ Aetna Inc.'s \$1 billion purchase of Prudential HealthCare will make Aetna the nation's largest health insurer, with 22.4 million members overall, and the largest managed care organization, with 18.4 million members. The purchase will give Aetna more clout in negotiating with providers, but some worry that the disappearance of another major health insurer further reduces insurer competition.

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Global Briefs

Bermuda-based EXEL Ltd. is changing its name to XL Capital Ltd. The name change, still subject to shareholder approval, is intended to better reflect EXEL's growth and broader scope over the past few years. Brian M. O'Hara, EXEL president and chief executive officer, said the name change also will eliminate duplication of names within the group, allow for closer identification between the company and its operating subsidiaries, and facilitate the development of a global brand name. . . . **Cox Insurance Holdings P.L.C.** has warned that its 1998 profits could be 30% to 40% below current market expectations of about £28 million (\$46.8 million) as a result of competitive market conditions and lower investment returns. Other factors that will cut £4.3 million (\$7.2 million) from earnings include a significant nuclear industry policyholder changing its renewal date so it will not fall in 1998, a need to increase reserves on Cox's Lloyd's of London syndicates 590 and 1027 to cover potentially large North American auto warranty claims, about £500,000 (\$335,100) of additional advisory fees and £800,000 (\$1.3 million) of internal restructuring costs designed to improve long-term efficiency. . . . **Moody's Investors Service Inc.** has assigned an insurance financial strength rating of Aaa to **Swiss Reinsurance Co. U.K. Ltd.** The agency said the rating is based on Swiss Re U.K.'s ownership by Swiss Reinsurance Co. of Zurich, which Moody's rates Aaa for insurance financial strength; its consistent operating performance as the main London market operating company of Swiss Re group; and its improved capitalization. . . . Lloyd's of London broker **Alwen Hough Johnson** has appointed **Andrew Goodier** to develop innovative risk transfer and financing solutions for its clients. Mr. Goodier has worked previously for Centre Re and Swiss Re. . . . **Claims Management Group Ltd.** has set up a new division in London, **St James Claims Management**, which specializes in asbestos, pollution and health hazard claims management. The new unit has already been selected by The Zurich Financial Services Group to handle its pre-1993 asbestos, pollution and health hazard claims in the London market. **Claims Management Group** said one of the new unit's objectives will be to develop alternative and/or financial solutions to resolve such long-tail liability claims. . . . **Moody's Investors Service** has assigned a Aa2 insurance financial strength rating to **St. Paul Reinsurance Co. Ltd.**, the London-based unit of The St. Paul Cos. Inc. The rating reflects support provided by the U.S. parent, the London company's strategic importance to its parent, and its improved underwriting performance in recent years. . . . **Credit rating agency Fitch IBCA** has given Portuguese insurer **Companhia de Seguros Imperio S.A.** an A+ claims-paying ability rating. It said the rating reflects Imperio's clear strategic focus, its strong capitalization and technical reserves, its important market position and effective multichannel distribution systems, and expectations that it will continue to increase premium volume, reduce expenses and refocus on core insurance activities. . . . **Manfred Illner**, 65, a member of the executive board of Allianz A.G. and director of the Industry Division, is retiring Dec. 31, ending his 40-year career at the German insurance giant. Mr. Illner was appointed to the executive board in 1991 as head of the property/casualty division. His successor, Alfred Gossner, 48, is director of the Allianz branch office in Hamburg, Germany.

P&I clubs to raise rates

By EDWIN UNSWORTH

LONDON—Although shipowners' insurance costs continue to benefit from soft reinsurance rates, the majority of protection and indemnity clubs will increase premiums about 5% at renewals in light of rising claims costs.

The continued softness in reinsurance rates, combined with few losses for P&I club reinsurers, helped the International Group of P&I Clubs negotiate an 18% reduction in reinsurance premiums to around \$142 million for the year beginning Feb. 20, 1999. This comes after a 40% reduction in reinsurance premiums at the February 1997 renewals.

The reinsurance contract, which is placed with commercial underwriters, covers each member of the International Group for claims in excess of \$30 million, up to \$2 billion for any one accident. The International Group represents 14 of the major marine insurance mutuals.

However, while the lower cost of reinsurance is one element of the individual P&I clubs' annual rates for shipowners, most—but not all—clubs have decided to impose a general increase in premiums because of a rise in the value of claims they pay before the reinsurance program kicks in. The increases also address what P&I clubs generally regard as unjustifiably low rates.

The world's largest P&I club, the United Kingdom Mutual Steam Ship Assn. (Bermuda) Ltd., known as the U.K. Club, is

Making waves

Most P&I clubs plan to raise basic rates by 5% at renewals early next year



imposing a 5% basic increase in rates for the 12 months beginning Feb. 20, though individual premiums will depend on a shipowners' loss experience.

Nick Whitear, marketing director for Thomas Miller P&I Ltd., See P&I clubs on next page

Broker ousted; appeal dismissed

By SARAH GODDARD

LONDON—Lloyd's of London has once again thrown the book at a former Hogg Group P.L.C. broker.

Michael Radford, who was a director in the marine division of London-based Hogg Insurance Brokers Ltd. in the early 1990s, admitted to three charges of conducting insurance business with a lack of good faith before the case went to a disciplinary tribunal, but he appealed the tribunal's decision on penalty and costs. The tribunals are part of Lloyd's internal disciplinary process.

His appeal was dismissed early this month, and the tribunal's decision to ban him from entering any Lloyd's premises or being involved in any Lloyd's business has been upheld. In addition, a censure notice has been posted in Lloyd's underwriting room, and he must now pay £26,000

(\$43,108) in Lloyd's costs for the original tribunal and another £10,000 (\$16,580) to cover the costs of the appeal. His own costs in the case came to £50,000 (\$82,900).

The Appeal Tribunal pointed out that in similar cases, a large fine usually is imposed on top of the other penalties. In this case, the tribunal took into account Mr. Radford's limited means and the potentially damaging effect the ruling could have on his employment with Robert Fleming Marine Ltd., another Lloyd's broker.

Ian Ferguson, company secretary at Robert Fleming, would say only that Mr. Radford is no longer employed by the broker.

Although Mr. Radford had admitted to the charges and did not stand to gain from his actions, "the message must go out again from Lloyd's Appeal Tribunal that dishonesty will never be tolerated in the Lloyd's

See Broker on next page

Lawyers: More suits coming

E.U. rules may spur EPL claims

By CAROLYN ALDRED

Lawyers warn that many European employers are likely to face increasing employment practices claims from disgruntled employees as a result of changing European Union work laws.

E.U. legislation laying down rules for working hours, vacation time, parental leave and part-time working conditions, as well as changes in the law to make it easier for employees to pursue discrimination claims, will mean employers will have to take additional care to protect themselves against employment claims, say risk managers.

As a result, employer liability issues are quickly moving up on risk managers' agendas.

"You'd better believe it. You would be a mug if you overlooked discrimination" and other employment issues these days, according to Hugh Loader, president of the Federation of European Risk Management Assns.

Employment practices are "an issue that employers have to be very careful about," said Mr. Loader, risk manager for packaging maker Tetra Laval Group in Saffron Walden, England.

"There is no doubt that the incidence of (employment) cases and the level of awards are increasing" said Ray Mattholite, head of risk and insurance solutions for British Telecommunications P.L.C. and a member of the Employers Liability Working Group of the Assn. of Insurance & Risk Managers.

The situation likely will worsen for risk managers, he warned, adding that it is a question of "watch this space."

See EPL on page 41

U.K. law mandates more EPL coverage

LONDON—A new law will more than double the minimum limits British employers must maintain in employers' liability insurance.

All employers will be required to have at least £5 million (\$8.4 million) of employers' liability insurance, up from the former requirement of £2 million (\$3.4 million).

The provision for increased coverage is part of a package included in the Employers' Liability (Compulsory Insurance) Regulations finalized Oct. 27 and due to take effect Jan. 1, 1999.

The legislation also incorporates new requirements for employers, including a provision that all employers keep insurance certificates for 40 years so that claims can be made more easily.

Additionally, it mandates a change in the wording of the certificate of insurance that employers must display; the change is designed to make the certificate easier for employees to understand.

Employers also must allow health and safety inspectors to see certificates of insurance for the current and past years. "This should help to

make it more difficult for unscrupulous employers to avoid, through delaying tactics, penalties for previous infringements," according to a statement from the Department of Environment, Transport and the Regions.

The legislation, meanwhile, maintains the existing provision that each subsidiary of a company group must carry the minimum level of coverage. It does not, however, extend the obligation to connected organizations that are not subsidiaries of the parent company. Units or plants that operate as part of the parent company, for example, would not have to have the minimum coverage.

Excluded from the legislation were earlier proposals to exempt very small companies—which currently must maintain the same £2 million coverage as larger companies—from the new £5 million requirement.

Also excluded from the legislation were measures that would have made it easier for former employees to trace historic insurers. Likewise not part of the final legislation was a proposal

for the creation of a guaranty fund for employees unable to trace their employers' insurers, as well as for those whose employers did not carry insurance or collapsed financially. Both matters, however, remain under review.

"We are aware of problems faced by employees suffering from industrial diseases which have taken a long time to develop in tracing the insurers of their former employers. This is a difficult issue. But we intend to work with the insurance industry on drawing up a code of practice for handling claimant's queries on tracing insurers," said Environment Minister Alan Meale in a written statement.

"We also will continue to keep under review whether there is a need for a guaranty fund as a final port of call for those who cannot trace their employers' insurance," he wrote.

Spokesmen from the Assn. of British Insurers and the Assn. of Insurance & Risk Managers do not expect the new regulations to have a big impact on rates or capacity in the market.

—By Carolyn Aldred

P&I clubs

Continued from previous page
which manages the U.K. Club, said the increase is necessary because retained claims are rising and are anticipated to increase more in the year ahead.

He said this assessment is based on past experience, which shows that during a period of economic growth and increased international trade, claims by ship and cargo owners rise by a corresponding amount.

The major U.S.-based P&I club, American Steamship Owners Protection & Indemnity Assn. Inc., known as the American Club, also has notified

members of a 5% general increase effective Feb. 20. It will be the club's first increase in two years.

As with other clubs, actual premiums for shipowner members of the American Club will reflect their claims record over the past year.

Joe Hughes, chairman and chief executive of Shipowners Claims Bureau Inc., which manages the club, said in a memo to members that an increase in rates is necessary because of "persistent rating softness" and increased claims experience by other International Group members.

Similarly, the London Steam-Ship Owners' Mutual Insurance Assn. Ltd., known as the London Club, has notified members of a general 5% in-

crease. Graham Edmiston of the club's manager, Thomas Miller P&I Ltd., said that apart from reflecting increased claims experience, the rate hike is the result of a fall in investment income experienced by many clubs this year and an even greater fall anticipated in 1999.

On the claims side, the London Club said the past few years have seen an increased frequency of small claims, rather than major losses. The majority of claims were cargo- and collision-related losses.

One of the largest clubs not seeking a general rate hike is The Standard Steamship Owners' P&I Assn. (Bermuda) Ltd.

Alistair Groom of Charles Taylor &

Co. Ltd., the club's London-based manager, said there was no need for a general increase in shipowners' rates because of the club's existing financial strength. He added the club did not want to add unnecessarily to the burden of shipowners, which already are having a tough time financially because of weak freight rates.

The Swedish Club of Stockholm similarly cited "the current positive trend," including significant growth in its membership in 1998, as the reason for its decision not to change rates at renewal.

Frans Malmros, the club's managing director, said that with the current underwriting year having progressed better than anticipated the club's

managers have decided that no general rate increase is necessary for 1999/2000.

One reason for the club's progress is that it is now 15 months into a five-year redevelopment program. The aim of the program is to expand the club's membership, which is helped by commitment to providing one-stop service for shipowners' insurance requirements and a promise to refund any surpluses to members.

The club announced earlier this month that it will be reducing the third and final premium installment by members for the 1998/99 underwriting year to 15% from 25% of the annual premiums, effectively giving them a 10% rebate. **BI**

Broker

Continued from previous page
market," the Appeal Tribunal stated in a bulletin circulated to market practitioners.

Hogg first won the Hellenic Shipyards Co. of Athens account in 1990, when Mr. Radford was the broker responsible for getting underwriter quotes for the business. Account terms included a 20% commission rebate, allowed by the underwriters. Hellenic accepted the quotation, and the risk was bound Feb. 1, 1991.

Renewal discussions took place during 1991 for a one-year policy beginning Jan. 1, 1992. Underwriters charged about \$1.54 million for a combined package, and agreed that Hogg should receive a 20% commission, resulting in a net premium of about \$1.2 million to the underwriters. Certain liability risks, including employers liability, were outside the package and placed separately, bringing total gross premiums for the 1992 year to \$1.6 million.

However, a Hogg cover note sent to Hellenic stated the gross premium as \$1.8 million. The cover note showed a 20% discount on the premium, bringing it down to a net premium payable by Hellenic of about \$1.5 million.

The Disciplinary Tribunal found that Hogg had kept the difference of \$167,306 as a commission.

The following year, the coverage was led in the London company market, but Lloyd's underwriters were on the risk. Again, the premium figure was inflated. Lloyd's Council calculated Hellenic was overcharged by about \$407,338, while Mr. Radford estimated the figure to be \$313,126.

For the 1994 year, a Lloyd's syndicate took the lead on the coverage. The premium was inflated yet again, resulting in Hellenic paying an extra \$305,608, which Hogg kept as commission. The brokerage has since paid Hellenic \$600,000 for the 1993 and 1994 years of account.

Mr. Radford is the third Hogg broker to be castigated by Lloyd's since November 1997. Derek Hedgecock and Michael McPhilimey both were banned from Lloyd's last year, fined £10,000 each and ordered to pay Lloyd's costs of £5,000 (\$8,290) for receiving undeclared payments.

Mr. Hedgecock admitted receiving \$35,000 as a sweetener for a reinsurance deal, and Mr. McPhilimey, a director in the political risk and credit division, accepted \$33,333 from the same agent. Hogg fired both men after an internal investigation.

Aon Corp., which acquired Bain Hogg Group in 1996, would not comment on the disciplinary actions. A spokesman for Lloyd's said the market could not provide further information until disciplinary proceedings have been concluded. **BI**

Multinationals face new claims

U.K. government may seek legislation to reverse ruling

By CAROLYN ALDRED

LONDON—U.K.-based multinational companies could face an onslaught of costly compensation claims from overseas employees in British courts following a novel House of Lords decision, according to the Lord Chancellor's Office.

The Lord Chancellor's Office, the government's legal department, has been consulting with lawyers as to whether it should introduce legislation to counteract the House of Lords judgment in *Connelly vs. RTZ Corp. P.L.C.* The Lords ruled early this year in a majority decision that an employee of a foreign subsidiary can sue a U.K.-based parent company in England if he or she cannot otherwise obtain legal funding to sue in the country where employed, even if England is not the most appropriate forum in which to sue (*BI*, April 28, 1997).

The purpose of any legislation would be "to make the availability of funding in any form (for example, legal aid, conditional fees and legal expenses insurance) irrelevant when the court decides whether to allow litigation to proceed in the English courts, or whether there is a more appropriate foreign venue for the litigation," Michael Kron, an official in the Lord Chancellor's Office, wrote to lawyers in September.

A spokeswoman for the Lord Chancellor's Office said that there are no plans at the moment to legislate following the consultation process.

According to the House of Lords, Edward Connelly, a Scotsman who claims that he is suffering throat cancer as a result of working in an RTZ uranium mine in Namibia, may pursue his claim for damages from RTZ in the English courts. If he does, he will be able to apply for legal aid or find a solicitor willing to represent him on a conditional fee basis—the British equivalent of contingency fees. Both options would be unavailable to fund a legal action in Namibia.

"The effect of *Connelly* seems to be that, assuming that a plaintiff cannot fund an action in a foreign jurisdiction, only two factors are potentially required to enable him to sue in England in respect of a claim arising anywhere in the world. The first is the availability of (government-funded) legal aid or other funding in England, and the second is the defendant having sufficient presence in England. There is nothing in the decision to suggest that a plaintiff's connection with this jurisdiction is relevant," Mr. Kron stated in his letter.

"Concern has been expressed

that this decision represents a considerable departure from, and undermining of, the important function of *forum non conveniens*, which is to keep litigation with no real connection with England out of the English courts," added Mr. Kron.

Indeed, Lord Hoffman, the one dissenting Judge, stated in his speech that "if the presence of the defendants, as parent company and local subsidiary of a multinational, can enable them to be sued here, any multinational with its parent company in England will be liable to be sued here in respect of its activities anywhere in the world."

Mr. Kron warns in his letter that

'Concern has been expressed that this decision represents a considerable departure from...the important function of *forum non conveniens*,' says Michael Kron.

"because multinational companies based in England will be exposed to actions in the English courts in relation to litigation which is more appropriately conducted abroad, they may, as a result, be more reluctant to have a presence here."

He also points out that the ruling could be a drain on public funds through increased legal aid funding and court costs for these foreign plaintiffs.

Mr. Kron's letter has been criticized by plaintiffs attorneys, who point out that while multinational companies have in the past been able to use the principle of *forum non conveniens* to prevent them from being sued in their home courts, it is often very difficult for overseas employees to seek legal redress in local courts.

Richard Meeran, a partner with plaintiff law firm Leigh Day & Co., who represented for Mr. Connelly, claims that the Lord Chancellor's letter is "entirely misconceived."

He points out that legal aid or conditional fees would be available only to cases where it appeared likely the plaintiff could prove liability against the U.K. parent company.

Furthermore, he said, it is highly unlikely that multinational companies would switch their base of operations from England as a result of this decision. Moving operations anywhere else in Europe would be a "worse option," because virtually all European courts have no *forum non conveniens* doctrine, he added.

However, leading defense lawyer David McIntosh, a partner with the London-based law firm of Davies Arnold & Cooper, said that the "ramifications (of the RTZ) case are massive."

Mr. McIntosh, who represents RTZ, pointed out that Mr. Connelly still has to prove that his disease was caused by the uranium mine and that RTZ is liable.

Geoff Saunders, formerly a risk manager with RTZ and now chairman and chief executive officer of London-based risk management consulting company Strategic Risk Management Ltd., said that all multinational companies should be reviewing their employers liability policies as a result of the ruling.

ing.

For example, compensation paid by the U.K.-based multinational Thor Chemicals SA (Pty.) Ltd. last year to 20 South African claimants—who succeeded in obtaining legal aid in the United Kingdom for bringing a lawsuit—was not covered by the company's insurance policy as, under South African law, employees are not allowed to sue their South African employer (*BI*, April 28, 1997).

Meanwhile, all eyes will remain on the courts as another jurisdictional case being fought between lawyers Mr. Meeran and Mr. McIntosh heads for the House of Lords.

In July, the Court of Appeal ruled that South African employees and residents living near an asbestos mine could bring a personal injury claim against the English-based multinational Cape P.L.C. in England, rather than in South Africa.

Cape, meanwhile, has been given approval to appeal to the House of Lords, said Mr. McIntosh.

Should the House of Lords reverse the appeal decision, the plaintiffs will refer the case to the European Court of Justice, claiming that it would be contrary to the Brussels Convention not to allow the proceedings to continue in England, said Mr. Meeran.

If the plaintiffs were to succeed in the European Court of Justice, then "the doctrine of *forum non conveniens* would no longer be relevant to cases where the defendant is domiciled in England or Wales," Mr. Meeran pointed out. **BI**

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INTERNATIONAL

EPL

Continued from page 39

On Oct. 1, the Working Time Directive became effective in the United Kingdom, changing statutory working hours and vacation policies and causing administrative upheaval for hundreds of thousands of companies.

The directive, already in effect in other E.U. countries, limits the hours most employees can work per week to 48 hours, averaged over 17 weeks. It also requires an employer to provide a 20-minute break after six hours of work and three weeks of paid vacation after three months of employment.

Failure to adhere to the legislation may result in fines or prison sentences for employers. Compliance with the legislation will be monitored by the Health and Safety Executive.

Employment lawyers warn that the new legislation will result in more industrial tribunal cases. For example,

employees may be asked to sign contracts with their employers agreeing to work longer hours, which would be a valid way to get around the directive. Employees refusing to work longer hours may take their employers to court, claiming discrimination if their job status is changed as a result of refusing to work those hours.

Employment law changes—such as the working-time directive, U.K. government proposals to remove caps on unfair-dismissal claims, E.U. plans to shift the burden of proof in discrimination claims to the defendant and increased rights for part-time workers, among other moves—all will mean "profound changes" for employers, according to James Davies, a partner in the employment department of the London law firm of Lewis Silkin.

To minimize the financial consequences of this changing legislation, employers must ensure that they practice good record keeping and keep good dismissal procedures in place, he emphasized.

The new regulations will have a "significant impact on record keeping

requirements and other administrative matters," agreed Lorraine Teague, an employment lawyer with the Birmingham-based Willcox Lane Clutterbuck.

Although traditionally the domain of the human resources or personnel departments, employment practices are becoming a concern to risk managers as the liability and financial consequences increase.

"Risk managers are becoming more concerned about employment practices liability. It is becoming an issue, although the main focus still is on U.S. operations," said David Thomas, a principal of Willis Risk Solutions, a division of Willis Corroon P.L.C.

Numbers of claims and levels of awards in Europe are not high enough to warrant specific EPL protection for most large European companies, but employers will be keeping a steady eye on the situation, said Mr. Mattholie.

Small employers, meanwhile, are very wary of the situation, noted Duncan Callow, deputy managing director at London-based insurer Abbey

Legal Protection Ltd.

ALP, which provides legal expenses insurance for some 130,000 small businesses through the Federation of Small Businesses, is seeing a huge increase in inquiries for legal expenses policies—which are similar to EPL policies—from small businesses, said Mr. Callow.

For example, when the Working Time Directive became effective in the United Kingdom on Oct. 1, the insurer received 700 calls seeking quotes for policies covering legal costs and compensation awards for employment disputes in one day alone, he said.

Mr. Callow said the Working Time Directive and other changes in employment law will lead to more employee claims against employers.

EPL also presents a challenge to risk managers, as it has not been insured until recently.

Risk managers currently have several options, including buying legal expenses insurance, trying to persuade existing liability insurers to add the coverage to directors and officers

and other suitable policies, and buying EPL insurance.

However, EPL insurance as a stand-alone product has yet to find a large market among European companies, despite the changing employment laws.

Underwriters for AIG Europe and X.L. Europe, both of which have been offering the coverage for several years throughout Europe, agree that only corporations with U.S. exposures currently are buying the policies. However, both think that demand will grow in Europe.

"It is the severity of awards in the U.S. that has driven the market," said Alexander Baugh, senior vp for AIG Europe in Paris. However, European companies that have bought EPL coverage for their U.S. operations are "now recognizing their exposures outside of the U.S. and buying the cover on a global basis," he noted.

"Changes in European legislation will create more costs for employers and will cause them to look at their European exposures," said Mr. Baugh. BI

CNA

Continued from page 2
rid in 1997.

"We look at our business in terms of a couple of major factors," Mr. Wittlich explained. One factor is "the ability to return 15%" on equity, and the other is whether the business can give CNA "dominance or prominence" in the particular business sector, he said.

With the employer medical business, "we felt no matter how much time we put in it," it would not reap enough earnings to make it worthwhile, Mr. Wittlich said.

Analysts said CNA's move reflects a trend among insurers to focus on what they do best.

"A lot of companies are evaluating what businesses make sense, particularly when they are impacted by low-

er rates" and the large amounts of capital that have insurers competing for business, said Matthew Coyle, a director with Standard & Poor's Corp. in New York.

Mr. Coyle said CNA realized that "any amount of investment they would have to put in to (group medical business) would have been greater than the reward" for writing it.

"It's in line with our expectations," agreed Jack Reichman, also a director with Standard & Poor's. "We didn't see CNA having the size to effectively compete in that industry."

CNA's move is a "non-event, ratings-wise. That segment was not helping earnings, it was hurting," Mr. Reichman said of the group medical business.

Getting rid of the group medical operations appears to be a logical move for CNA, said Gary Ransom, senior vp at Conning & Co. in Hart-

ford, Conn. "Most other companies have narrowed their operations down to what they do best."

"Look at the history of Travelers and Aetna," he said. Travelers has become a property/casualty specialist and Aetna focuses on health coverages, Mr. Ransom pointed out. "They both used to do everything."

"It's logical, based on (CNA's) recent announcements in which it stated the markets it prefers to operate in are markets where it can maintain a leadership position," agreed Elizabeth Farrell, senior financial analyst with A.M. Best Co. in Oldwick, N.J. CNA did not have that position in the group medical area, she added.

Such moves by insurers don't signal the end of multiline companies, according to Mr. Coyle of S&P. He pointed out that American International Group Inc. and Liberty Mutual Insurance Co. are two organizations still able to successfully handle several underwriting sectors. "There are a lot of companies with their hands in a lot of buckets."

Even so, Mr. Coyle pointed out, "I think what we're seeing is that most companies are trying to focus on what they can do well."

Best's Ms. Farrell said CNA "will

continue to be a multiline company. Whether they will be in as many lines is the question.

"I don't think we will see multiline companies go away," she said. "Larger clients require varying degrees of expertise, and when you hit the personal lines market, it is advantageous to have various lines."

The group medical business CNA sold accounted for 10% to 15% of the insurer's total health care-related business, Mr. Wittlich said. The insurer will remain in "a number of employee benefit businesses," he added.

CNA, through various units, continues to offer a managed care plan to federal employees and writes group life, short-term and long-term disability, long-term care and various accident coverages for employers. The insurer continues to write stop-loss insurance and offer administrative services to large employers. An indemnity plan will continue to be written for CNA Unisource, CNA's professional employer organization, which was created in 1997.

CNA also will keep its minority stake in Private Healthcare Systems, a Waltham, Mass.-based preferred provider organization. Mr. Wittlich

said that CNA is the PPO's biggest customer, with coverage for federal employees provided by the plan.

CNA's decision to sell the group medical business was made well before this month's surprise announcement by Dennis H. Chookaszian that he would step down in March as chairman and chief executive officer of the insurer (BI, Dec. 7). Mr. Chookaszian will become chairman of the executive committee of holding company CNA Financial Corp.

The buyers of CNA's group medical business say they have acquired profitable books of business that fit well with their operations.

AMS expects that its efficient back office will help turn a nice profit on the business, according to Samuel V. Miller, chairman, president and CEO of the insurer.

"We have one of the more efficient back-office operations in the industry," Mr. Miller said. He said expenses related to handling the business will be "around half of what CNA's costs were."

Randy Horn, executive vp-group operation at Mutual of Omaha, said in a statement that the CNA business it is acquiring is "a good fit with our market niche strategy." BI

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IRS

Continued from page 1

as a key step in replacing paper-intensive benefit administration chores with electronic communications.

"This would allow tremendous efficiencies. You have much greater speed, accuracy and a lower cost," said Frank Roque, a consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill.

"This is a winner for everyone. Employers can now conduct certain types of pension administration with the same tools they use for many other types of business," concurred Kyle Brown, an attorney with Watson Wyatt Worldwide in Bethesda, Md.

While eagerly embraced, the new regulations do not mean the arrival of complete paperless pension administration. Certain administration requirements where signatures are required, such as a spouse waiving a joint and survivor benefit, still must be done on paper.

"Some people will want more and will want everything to be done electronically. They are not getting that. But this is a good first step," said Henry Saveth, an attorney with William M. Mercer Inc. in Washington.

Still, as Pamela Scott, a principal at PwC Kwasha in Fort Lee, N.J., said,

"Based on what I have seen, I do not see a single negative."

The proposed IRS regulations were mandated by a 1997 tax law. In that law, Congress asked the IRS to issue guidance on how employers can use new technology to comply with certain pension notice and distribution requirements.

Specifically, legislators asked the IRS to clarify whether "written" benefit notice and consent requirements must involve paper documents or whether information could be communicated electronically.

These notice requirements explain to employees, for example, the tax consequences of an employee leaving a company and receiving a pension benefit distribution, such as a 401(k) plan account balance. Employers also must notify employees of various benefit distribution options and obtain employee consent for a distribution.

For example, employees must be notified that distributions directly transferred to an individual retirement account or another employer's defined contribution plan will not be immediately taxed.

Employees also must be told that a 20% withholding tax will be taken out of distributions taken in cash and that a 10% additional tax is assessed on amounts taken in cash for participants if they are under age 59½.

Plan participants then must give their consent on how the distribution is to be made.

The IRS regulation makes clear that the notification requirements of tax consequences can be provided through electronic means and provides specific examples of how this can be done.

For example, an employer could allow employees to request distributions through the employer's 401(k) plan Web site. To conduct a transaction through the Web site, the employee would be required to enter his or her account number and personal identification number.

After requesting a distribution, the employee would be shown a page of the Web site that contains a Section 402(f) notice. That notice details the tax consequences of taking a distribution. The page also would advise the employee that he or she may request that the Section 402(f) notice be provided on paper. To proceed with distribution through the Web site, the participant would be required to acknowledge his or her review and understanding of the Section 402(f) notice.

The proposed regulations, published in the Dec. 18 edition of the Federal Register, will be discussed at an IRS public hearing April 15 in Washington. BI

Lockerbie

Continued from page 1

By summer 1995, the International Air Transport Assn. gathered airlines to discuss whether Warsaw Convention limits should be increased or eliminated, and by the end of last month, 115 airlines had signed IATA's Inter-carrier Agreement, which gives airlines the option of waiving all liability limits for international passengers on international flights or strict liability up to 100,000 special drawing rights (\$140,580).

Lockerbie was a major force in this change, according to Desmond Barry Jr., a partner in New York law firm Condon & Forsyth who specializes in aviation claims. The expense and time in proving willful misconduct in cases such as Pan Am 103, delaying payments to the victims' families for many years, was a pivotal factor in so many airlines signing the Inter-carrier Agreement, he said.

Within days of the Lockerbie crash, accident investigators pinned the explosion on a bomb concealed in an audio-cassette player checked onto the plane inside unaccompanied baggage. Since then, however, the aviation industry has spent untold millions of dollars on security measures to avoid this and other terrorist scenarios.

Immediately after Pan Am 103 was destroyed, the U.S. Federal Aviation Administration implemented increased security checks, including mandatory luggage searches for all Western European and Middle Eastern flights operated by U.S. airlines, and a positive match system between passengers and luggage to prevent unaccompanied bags traveling on aircraft.

"There have been enormous changes to baggage screening systems," said a spokesman for the U.K. Civil Aviation Authority. "The primary thrust of post-Lockerbie initiatives have been on improving and mandating aviation security measures at airports."

Last year, a CAA safety project conducted with the Defence Evaluation and Research Agency determined that bombproof baggage containers and hardened liners within the cargo hold may prevent explosions similar to the one that destroyed Pan Am 103.

In a test that culminated five years of research, the CAA set off four explosive devices in an empty Boeing 747. Although the plane was on the ground, the cabin was pressurized to the equivalent of cruising at 30,000 feet and three different blast protection systems were located in different parts of the hold. Full results will not be released until next year, but the initial reports showed that bombproof containers and hardened liner protected the aircraft's fuselage from damage.

But the CAA spokesman said airlines so far are showing little interest in the project because the bombproof systems add about two tons to a plane's payload. "Airlines spend millions to save pounds—literally," he said. "We need to find ways of maximum protection for minimum weight. It's the interest of the airlines coupled with what may be required of them (by regulators) and what is demanded by insurers."

This experiment is the latest in a line of security and safety tests and failures stemming from Lockerbie. The biggest failure identified in the various reports and investigations into the disaster is that a piece of luggage was loaded, un-

accompanied, onto a plane in Malta bound for Frankfurt. At Frankfurt it was transferred to Pan Am 103.

The fateful flight

Pan Am 103 took off Dec. 21, 1988, from London's Heathrow Airport, bound for New York. The Boeing 747 was about half full when it left Heathrow, carrying 243 passengers and 16 crew.

Official reports described Pan Am 103's departure as "unremarkable." Less than 30 minutes after takeoff, Flight 103 did not acknowledge an air traffic control signal providing ocean clearance. Almost immediately, radar screens began showing debris trails. The plane had exploded in mid-air.

The official inquiry by the U.K. Air Accidents Investigation Branch determined that an explosion in the aircraft's cargo bay had punched a hole in the aircraft's structure, tearing the fuselage. The fuselage started breaking away, shearing off an engine and parts of the tail about 19,000 feet above Lockerbie. One of the wings fell on a residential area, exploding into a fireball, obliterating homes and scattering debris for miles. Other debris rained down, setting fires around the town. Road surfaces burst into flames.

Two hundred and seventy people, including 11 on the ground, were dead.

Aviation liability evolves

While Pan Am 103 occurred at a time when the Warsaw Convention limited liability for passenger losses, ensuing litigation led to the current system under which many of the world's airlines

now may accept unlimited passenger liability.

The Lockerbie disaster, at the time, was the largest single aviation liability loss. "Total passenger claims reached more than \$500 million," said Mr. Kreindler, who is chairman of the plaintiffs' committee. In the first case of its kind, he is helping plaintiffs seek additional damages, including substantial punitive damages, from Libya, which is accused of harboring two terrorist suspects in the Lockerbie bombing.

Liability losses from the as-yet-unexplained crash of Swissair Flight 111 over Nova Scotia earlier this year are an estimated \$600 million, said Mr. Kreindler, who also is representing victims' families in that 1998 crash.

Pan Am 103 most likely is the largest willful misconduct case, he added, and the rare finding of willful misconduct makes it "the most important aviation case."

For Mr. Kreindler, "Swissair is a whole new ballgame" now that the Warsaw Convention has been superseded. "The airlines have come to grips with the problem they should not be limiting liability. Nobody else is," he said.

For him, the events 10 years ago at Lockerbie were a major step toward the evolution of a new agreement to replace the Warsaw Convention.

Pan Am's insurance program included \$750 million of liability coverage, led by United States Aircraft Insurance Group in New York. Other liability insurers included Associated Aviation Underwriters of Short Hills, N.J.; French insurance pool La Reunion Aeriennne; French insurer Compagnie d'Assurances Maritimes, Aeriennes et Terrestres; and 31 London market insurers.

The Warsaw Convention restricted airlines' See **Lockerbie on next page**

Dec. 21, 1988 Pan Am flight 103 crashes into the Scottish town of Lockerbie, killing all 259 people on board and 11 on the ground. Investigators soon identify the cause of the disaster as a bomb in the plane's hold.	January 1989 Lead liability insurer U.S. Aircraft Insurance Group sets the liability reserve at \$60 million, using Warsaw Convention limits as a guide to exposure. Pan Am's program includes \$750 million of liability coverage. War risk underwriters agree to pay the hull claim of \$32 million.	March 1989 Victims' families refuse a \$100,000 settlement offer from the airline's insurers.	September 1990 The U.K. Air Accident Investigations Branch publishes its investigation into the tragedy and calls for airlines to improve aircraft strength and resistance to explosion.	January 1991 Pan Am files for Chapter 11 protection from creditors under the Federal Bankruptcy Act.	February 1994 USAIG increases the liability reserve to \$471 million after a federal appeals court rules the airline was guilty of willful misconduct in failing to detect a bomb on board the aircraft. This removes Warsaw Convention liability limits.	October 1995-November 1996 Seventy-six airlines, representing more than 70% of the world's flights, sign the IATA's Inter-carrier Agreement on Passenger Liability, which gives airlines the option of strict liability of up to 100,000 Special Drawing Rights.	December 1998 The 2nd U.S. Circuit Court of Appeals denies Libya's motion to dismiss a case brought by victims' families for damages. Libya agrees that two Libyans alleged to be responsible for placing the bomb on board Pan Am 103 should be tried in a court in the Netherlands under Scottish law.
		May 1990 Pan Am reaches an out-of-court settlement, believed to be at least \$1 million, for relatives of victims killed on the ground.					November 1996 U.S. Department of Transportation gives final approval to three agreements waiving airlines' passenger liability limits for international flights.

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The Fiscal Officer is a grade 24 position within the State's classified system and salary is commensurate with education and experience; minimum beginning salary is \$31,129.

Qualifications should be as follows: Bachelor's Degree in accounting, finance, or a related field; PLUS five years' progressively more responsible experience in fiscal management or a related field, including two years in a leadership capacity.

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The Executive Director is responsible for regulatory compliance, financial management, vendor contract compliance, plan development, customer service, and adherence to plan documents. Salary is commensurate with education and experience up to an annual maximum of \$69,738.

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Alliance

Continued from page 1

costs and creating an entire support operation, said Mr. Stites and C. Timothy Morris, CEO-National Accounts for Travelers.

Mr. Morris will become co-head of Travelers/Winterthur International's executive committee. Willi Suter, chairman and CEO of Winterthur International, will be the other co-head.

Travelers also rejected purchasing an existing international insurer. That also would entail large up-front costs while also raising the possibility of cultural clashes, Mr. Morris said.

The level of service they can bring is what the two hope will set their alliance apart, company executives say. "The way we distinguish this thing is service," Mr. Stites said.

Using the alliance, policyholders will receive the same claims data for

their worldwide operations as Travelers policyholders now receive for their U.S. operations, executives of Travelers and Winterthur said.

Because no new insurance company is being created, the alliance will put together the global policies that best meet a policyholder's needs. In general, this will mean Winterthur writing global property and general liability and Travelers writing U.S. workers comp and specialty lines. U.S. general liability and excess liability will be decided on a case-by-case basis, the companies said.

To equalize each company's exposures, reinsurance will be used so that each insurer will share equally in the premium and the risks.

"At the end of the year, we hope that Travelers and Winterthur (each has) 50% of the premium" the alliance writes, Mr. Morris said.

Brokers have endorsed the alliance. Richard Blum, vice chairman of

J&H Marsh & McLennan Inc. in New York, praised the agreement as helping the two insurers involved while also creating a new entity that can compete with a handful of insurers in placing coverage and providing service for multinational policyholders.

"It puts them in that category very quickly," he said.

Mr. Blum said the broker was advised about the deal a number of times before it was announced and already has placed the alliance's first piece of business.

For Travelers, the deal provides the domestic property/casualty insurer with "an international capability they didn't have before and weren't likely to build from scratch," he said.

The two companies began discussions in April after a common business partner, who knew of Travelers' wishes to have a stronger global presence and Winterthur's desire to be stronger in the United States, brought

them to each other's attention.

The alliance has written one account to date—a large, multinational U.S. corporation with operations in more than 200 countries. Executives say their goal is to have 50 accounts after the first year and 200 accounts after three years.

Girard Grater, director of international for Arthur J. Gallagher Co. in Itasca, Ill., said the alliance matches the U.S. strength of Travelers with the international strength of Winterthur.

"There is not much crossover, so it should be successful," he said.

Mr. Grater added that the venture ultimately will help buyers by adding another company that offers worldwide coverage. "The more competition there is in that area, the better it is for Gallagher and clients, he said.

He warns that ultimate success depends, however, on not only adjusting to today's environment, but also anticipating the future needs of buyers.

"Let's look at where (the market) will be tomorrow or a year from now," he said.

The agreement is for an initial two-year period with a one-year notice period required before cancellation. Also, the insurers have agreed to renew policies for two years if the agreement is canceled.

Both insurers are part of larger financial companies: Travelers Property Casualty is part of Citigroup, and Credit Suisse Group owns Winterthur. Although the parent companies did not initiate the deal, they will play an important role, executives said.

For example, the alliance will target existing Citigroup and Credit Suisse customers. Also, they will utilize the resources of the two large banks when needed in creating alternative risk transfer tools or creating ways to handle a client's need for other financial risk products. **[B]**

Lockerbie

Continued from previous page

liability on international flights for death or bodily injury to passengers unless willful misconduct on the part of the airline could be proved. In 1988, the limit on flights to, from or via the United States was \$75,000. USAIG used this limit in setting an initial reserve of \$60 million, though less than a week after the disaster other insurers were estimating liability exposures closer to \$300 million.

By early January 1989, the first suits against Pan Am were filed in U.S. courts, charging Pan Am had been negligent in not warning passengers of bomb threats to that route, despite notification by the Federal Aviation Administration. In total, more than 150 lawsuits were filed, each seeking between \$5 million and \$25 million of both compensatory and punitive damages.

Two months later, Pan Am's insurers offered each of the victims' families \$100,000, a sum plaintiff lawyers described as "woefully inadequate."

In January 1990, Judge Thomas C. Platt of the U.S. District Court for the Eastern District of New York ruled that Warsaw Convention limits prevented plaintiffs from seeking punitive damages from the airline. This, however, only applied to the relatives of the passengers; in May, Pan Am settled out of court with the families of those killed on the ground.

Soon after, a Pan Am internal memo came to light showing the airline had disregarded FAA regulations prohibiting unaccompanied baggage. Later, Pan Am argued it had fulfilled FAA regulations by X-raying the suitcase that turned out to contain the bomb. The FAA eventually fined Pan Am \$630,000 for violating safety regulations in London and Frankfurt.

By May 1990, Pan Am Corp. had spent \$400 million to bolster its image, but Chairman Thomas Plaskett calculated that the Lockerbie disaster had cost the airline another \$250 million. Early in 1991, Pan Am filed for Chapter 11 bankruptcy protection.

But litigation continued, and in July 1992 a

federal court jury found Pan Am guilty of willful misconduct, eliminating the Warsaw Convention limits.

Safety going forward

Following the Pan Am 103 disaster, tighter security procedures remain in place throughout the aviation industry.

The British Aviation Transport Assn. has been unable to calculate how much extra security measures have cost its members, but Howard Davies, BATA secretary general, agrees the figure runs into the hundreds of millions. In addition to luggage screening, matching every piece of baggage with a traveling passenger is vital, he said. If a passenger fails to turn up for a flight, his or her luggage is removed from the hold.

As for the explosive-proof containers tested by the CAA, "we genuinely believe it is better to avoid getting the thing on board in the first place," said Mr. Davies.

In the United States, the FAA has worked with a variety of foreign and domestic agencies

to improve aviation security standards.

A number of other countries have followed suit. Belgium implemented a full screening process for all baggage, New Zealand passed the Civil Aviation (Security) Regulation 1989 in advance of the Commonwealth Games, and X-ray equipment is used in airports around the world.

In April 1989, the U.S. Department of Transportation took further steps to tighten security, raising detection equipment standards and creating the Aviation Security Advisory Committee. Screening programs implemented over the course of that year included close inspection of electronic items being carried onto flights, and automated explosives detection systems to check baggage on international flights.

Since then, the FAA has implemented a number of procedures aimed at improving passenger safety and security on airlines, as well as at its own facilities. It has issued contingency plans for airport and air carrier security, issued criteria for foreign airlines flying U.S. routes to match the safety standards of U.S. airlines, and implemented passenger screening systems. **[B]**

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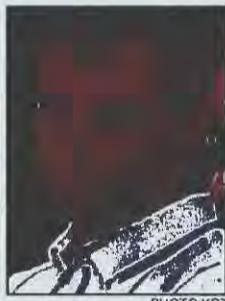
Dahmer trial clerk's claim denied

MILWAUKEE—Alcoholism, not the macabre details at the trial of serial killer Jeffrey Dahmer, caused psychological problems for a court clerk who filed a workers compensation claim for about \$70,000, a judge ruled.

Vickie Hines, the clerk of the court at the trial of Mr. Dahmer, had problems that predated the 1992 trial. Those problems had caused her to miss work, said Nancy Schneiders, a state administrative law judge in Milwaukee.

Ms. Hines had put in a temporary total disability claim for "vicarious trauma" seeking lost wages and medical costs from Milwaukee County. The county is self-insured for workers comp.

Ms. Hines had sat through the trial of Mr. Dahmer, who pleaded insanity in the murder and dismemberment of 17 young men. Mr. Dahmer was killed in prison in 1994.



Mr. Dahmer PHOTO:KRT

ment last week with the Justice Department to settle complaints brought against the hotel giant alleging a wide range of Americans with Disabilities Act violations.

Under two settlement agreements, Bass Hotels, which owns, operates or franchises all hotels using the Holiday Inn, Staybridge Suites and Crowne Plaza brand names, will change its central reservations system to allow people to guarantee accessible rooms and require hotels to hold accessible rooms for people with disabilities. It also agreed to establish and pay for a nationwide mediation program, including the \$75,000 cost to provide ADA-experienced mediators. The mediation program will be used by all the nearly 2,000 domestic BHR-owned or licensed hotels to address future complaints.

BHR will pay an additional \$75,000 to resolve all outstanding issues. No one at the company was available for comment.

Former Hudson Foods employees indicted

OMAHA, Neb.—Two former employees of meat processing company Hudson Foods Inc. were indicted last week, charged with concealing facts and making false statements after it was known that Hudson's beef had caused several individuals to become ill from contamination with the E. coli bacteria in August 1997.

According to a federal indictment, Brent Wolke, manager of the Columbus, Neb., processing plant, and Michael Gregory, director of customer relations and quality control for Hudson, tried to make investigators believe they could trace the contamination to one lot of beef that was processed during three days. However, the indictment states that Hudson's records didn't track the use of leftover meat that could have been frozen and reintroduced into the processing system. This, the indictment charges, illustrates that Messrs. Wolke and Gregory could not verify that all the contaminated beef had been located and was processed over just three days, according to the indictment.

Additionally, the indictment says these Hudson employees tried to tie that contaminated lot of meat to one outbreak of E. coli in Colorado, when Messrs. Wolke and Gregory knew some of the beef had been shipped east of Nebraska.

Tyson Foods Inc., which now owns Hudson Foods, said it had no comment because the Columbus, Neb., plant was sold to meat processor IBP Inc. before Tyson acquired Hudson. Mr. Wolke is a manager at that IBP plant; Mr. Gregory works for Tyson.



AP/WIDE WORLD PHOTOS

SCIF to pay policyholders \$109 million

SAN FRANCISCO—State Compensation Insurance Fund is paying its policyholders \$109 million in 1997 policy-year dividends for maintaining and enhancing workplace safety.

San Francisco-based State Fund, California's largest workers compensation insurer, declared a \$33 million dividend for policies starting in the first quarter of 1997. State Fund expects the total annualized payout to be \$109 million after the final calculation and declaration of all 1997 policy year dividends.

State Fund also said the recalculation of 1996 policy-year dividends will return an estimated \$6.3 million to policyholders.

Comings & Goings: Industry

The staff of actuarial consultant **Wolfman & Moscovitch** has joined the recently established risk, finance and insurance practice group in the Chicago office of William M. Mercer Inc. Former W&M chief executive officer **John Radek** is now a senior consultant with Mercer, and **Herb Wolf**, a semi-retired partner of W&M will continue to consult in special situations in conjunction with Mercer. . . ACE USA, the Hamilton, Bermuda-based subsidiary of ACE Ltd., has announced the promotions of two senior executives. **Robert Gaffney**, chief financial officer, and **Marshall Turner**, senior vp-property, have been named executive vps. . . **Michael J. Stone** has been promoted to executive vp of RLI Insurance Group of Peoria, Ill. Mr. Stone, formerly RLI's senior vp-claims, now assumes overall responsibility for underwriting, branch operations and claims. He joined RLI in 1996 after 19 years at The Travelers. . . American Re of Princeton, N.J., has named **William Franz** senior vp of the company's domestic insurance company operations division. Mr. Franz is underwriting manager of the division's national accounts group and an account executive for individual accounts.

Information in brief

Delta Dental Plan of California has upgraded its Web site to provide easier access to information on its benefit programs, dentist networks and enrollee services, as well as on dental health and dental industry trends. The site is at www.deltadentalca.org. . . A new **builders risk and installation policy application** is available online for licensed agents registered at the Zurich Insurance Co.'s commercial Web site, www.zurichcommercial.com. The policy features no coinsurance clause; no collapse exclusion; no mechanical or electrical breakdown exclusion; coverage for testing; no theft restrictions; coverage for backup of sewer and drain; reporting form options; and individual job or blanket coverage. **[B]**

Hotel giant settles ADA complaints

WASHINGTON—Bass Hotels & Resorts reached an agree-

Regulator

Continued from page 2

"Risk managers came to us and said, 'We have a problem with the commercial lines side, where you have money flowing between brokers and carriers above and beyond the usual commissions structures,'" Mr. Serio said at a session of the 10th annual PricewaterhouseCoopers Executive Conference for the Property/Casualty Industry, held earlier this month in New York.

As a result of the risk managers' concerns, the New York Insurance Department issued a letter to brokers stipulating that they should reveal to policyholders any contingent commissions they receive in the placement of business (BI, Sept. 21). "This told us that the sophisticated buyers are not going to be left by themselves. . . They are going to come to us, and if they don't get satisfaction, they'll go to their elected official," Mr. Serio said.

In other areas, too, regulators need to be careful about how far they allow commercial insurance deregulation to go, he said.

For example, in New York there is some political pressure to more closely regulate self-insured trusts for workers compensation risks, Mr. Serio said.

At first glance, this seems to run contrary to New York regulators' intentions to reduce regulatory requirements for commercial business, he said.

However, self-insured trusts are used by small companies as well as large ones, and the regulations help protect the companies that "can't protect themselves," Mr. Serio said.

Also, regulators need to keep sufficient curbs on the market to prevent unscrupulous participants from taking advantage of a less-regulated commercial insurance market, Mr. Serio said.

Regulators must make certain there is sufficient regulation to ensure that if something does go wrong, state guaranty funds will not be able to reject requests for payment on the grounds that the losses occurred outside of the regulated market, he said.

Nevertheless, despite the caveats, there is clearly a need for some commercial insurance deregulation, Mr. Serio said.

There must be updating and liberalizing to allow for a more efficient market, he said. Regulators need to be concerned about overall risk rather than trying to micro-manage issues such as rates and new products.

Regulatory processes can delay the introduction of new products for months, sometimes greatly reducing the usefulness of the product, Mr. Serio said.

"We don't want to be in the business of insurance. . . We want to bring added value by having good regulation," he said.

Late last year, the New York Insurance Department acted to make New York a more competitive place by allowing the formation of captive insurers in the state, Mr. Serio said.

Regulators felt they had to demonstrate that New York was a good competitive environment in light of the increasing number of captive domiciles throughout the world and proposals for captives at Lloyd's of London, he said. ■ BI

Capital markets growth predicted

By GAVIN SOUTER

NEW YORK—Capital markets-based insurance and reinsurance deals can give real protection to cedents and policyholders, but all parties involved in the securitization deals still need a better understanding of underwriting and capital markets structures before the sector really takes off, experts say.

Securitized insurance and reinsurance deals can provide improved products to buyers, said Keith M. Buckley, senior vp at Duff & Phelps Credit Rating Co. in Chicago, at a session of the 10th annual PricewaterhouseCoopers Executive Conference for the Property/Casualty Industry, held earlier this month in New York.

For example, securitized deals can be structured to provide longer-term coverage than is normally available from the traditional market, he said.

"You can give someone an advantage in the market because they know their costs and they know that they have coverage," Mr. Buckley said.

Also, many of the catastrophe bond deals eliminate a cedent's credit risk of a reinsurer not being able to pay losses, he said.

"The money is held in cash sitting in a trust account, so if a catastrophe occurs, they know that they will collect," Mr. Buckley said.

But despite these advantages over the traditional market, there are risks

associated with the capital markets that are not found in the traditional insurance and reinsurance markets, he said.

For example, some securitized products are based on a catastrophe index used to measure industry losses. Differences between the risk profiles of individual insurers and the industry index means that some risk that would have been passed on to reinsurers in a traditional deal will remain with the cedent in a securitized deal.

With regard to deals in which companies transfer risks to highly leveraged hedge funds, they need to consider the credit risk; the possibility of these funds defaulting needs to be taken into account, Mr. Buckley said.

Also, insurers may jeopardize their security if they use securitized products to jump opportunistically into markets, he said. For example, an insurer writing property risks in Florida might set up a securitized reinsurance deal to provide capacity in case of a hurricane. However, if investors back the bonds in some years and not in others, the insurer would run into problems, Mr. Buckley said. Regulators do not allow insurers to exit and enter markets from year to year.

In addition, rating agencies must employ new criteria to adequately rate insurers and reinsurers creating the new deals, Mr. Buckley said.

Ratings must include issues such as

the consistency of capital, the credit worthiness of hedge funds and the correlation between index risks and the risk profile of individual companies, he said.

Capital markets-based products involve the convergence of insurers, reinsurers and investment bankers, and all sides fully need to understand the deals before the market takes off, said Anthony J. Kuczinski, executive vp and chief financial officer of Munich-American RiskPartners in Princeton N.J.

Language and contract structures are some of the principal differences that need to be reconciled, he said. For example, insurers and reinsurers provide indemnification contracts, whereas bankers provide bonds and swaps. And the different deals often include varying amounts of risk transfer and need different types of underwriting, Mr. Kuczinski said.

"But at the end of the day it is risk, and it's a risk transfer process," he said.

Investors need to understand the market properly in order to provide consistent capital, said Andrew J. Kaiser, managing director and head of the risk markets group at Goldman Sachs & Co. in New York.

Currently, investors are willing to invest in catastrophe bonds because catastrophes are easy to conceptualize, but other risks may not easily gain their acceptance, he said. ■ BI

FRM

Continued from page 2

lum and the mechanics of the 10-course program.

"This is the culmination of five years of research, planning and strategizing as to the best way to deliver this product," RIMS President Mark A. DeLillo said. "The FRM was designed for risk managers who not only want to further

their education but who will ultimately lead their profession as risk management continues to become a key part of corporate strategic planning."

The FRM includes some of the material also required for the Associate in Risk Management designation offered by the Insurance Institute of America and the Canadian Risk Management diploma offered by the Institute for Risk Management. However, the FRM

focuses more heavily than those two designations on areas of law, accounting, finance, information systems and risk management specialties.

Of the 10 courses required to earn the FRM, the first three are currently required for the ARM and CRM designations. They are: Essentials in Risk Management, Essentials of Risk Control and Essentials of Risk Financing. The next four required FRM courses are in law, accounting, information technology and finance. The final three courses are selected

The FRM is for risk managers who not only want to further their education but lead their profession, says RIMS President Mark A. DeLillo.

from a list of electives.

Holders of the ARM and CRM designations are not required to re-take the first three courses.

Those seeking the designation also must pass a "capstone" exam that tests their understanding of accounting, finance, information systems and business law as those disciplines relate to risk management. They also must agree to abide by a code of ethics and take nine hours of continuing education each year.

Ms. Geffen explained that students can take courses required for the FRM at local colleges and universities that offer courses meeting the program's requirements. The first three courses—those also required for the ARM and CRM—also can be completed on line.

Risk managers who want to earn the FRM pay a \$50 application fee. There is a \$125 fee for the capstone exam and a \$100 charge to obtain the FRM certificate and pin when the program is completed.

More information is available from Ms. Geffen at 212-286-9292, ext. 219, and from the education page on RIMS' Web site, www.rims.org. ■ BI



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Commentary

E&O idea draws out armchair underwriters

While the National Football League obviously has not taken seriously my suggestion earlier this month that NFL officials be required to purchase errors and omissions insurance, *Business Insurance* readers picked up the ball and ran with it in the form of letters, e-mails and phone calls.

The chairman of a very prominent company with substantial insurance holdings wrote, "I was glad to see you strike a blow for justice in your Dec. 7 commentary concerning the outrageous officiating that occurred in the Bills-Patriots game."

"There's only one suggestion that I would make in respect to the errors and omissions policy that should be mandatory for NFL officials: Be sure they are required to carry truly high limits, for the damage they can do is breathtaking. Of course, certain of them may need to be placed in an assigned risk pool as their record indicates that they are clearly uninsurable."

I suppose if we require them to purchase E&O insurance, we would have to create an assigned risk pool. But I'd much rather just keep the uninsurable off the field. Maybe we could at least impose a "three claims and you are canceled and out" clause?

A broker and fellow Buffalo Bills fan e-mailed me: "Your commentary in the Dec. 7 issue of *BI* was most interesting. That the NFL officials were inept to the degree that they would take a first-place team and effectively put them into fourth

place has economic ramifications well beyond those receipts directly related to the football games or the direct impact on (Bills owner Robert) Wilson's pockets.

"How will the loss adjusters account for the debilitating effect on that city's economy should those inane calls cost the City of Buffalo a playoff berth? That whole city is incapable of productive behavior for days/months after a loss. The claim filed post-Patriot game would need an Extended Period of Indemnity for at least three months past the Super Bowl.

"And talk about severity AND frequency, how about that Jets game? Your article was clearly written prior to the officials deciding that Seattle just did not deserve to beat the New York Jets (again, a debilitating effect on our beloved Bills) and so ruled Mr. Testaverde as having scored. The blimp pilots could see he was a yard short with their naked eyes.

"The good news is this could be just the type of coverage the brokerage community has been looking for. With the behavior in question and the financial exposure at stake, the pricing might finally jolt the market into stiffer pricing."

Yes, my column was written prior to the officials' bad-call gift to the Jets. However, I'm counting on the Bills to hand the Jets the defeat they deserve. As for this new coverage triggering a change in commercial insurance pricing, I don't foresee underwriters changing their current game plans as a result of such an offering.

An investment banker wrote: "What the Bills and the 49ers need is a good E&O policy—one that has special 'kick-in' provisions for the playoffs."

His poor 49ers have made their share of errors lately, so I am afraid that the premium to protect them from themselves would be prohibitive.

This reminds me that I did not make it clear that the officials should pay their own premiums. Maybe they could even form a captive insurer if no one else is willing to write the coverage.

A long-lost source of mine was prompted by the column to e-mail me: "Your discussion of NFL referees arrived at the end of a day when I was ready to 'vent,' and it reminded me that my situation isn't so bad, compared to the miscarriages of justice on the gridiron we watched recently! Thanks for adding some healthy perspective to my day."

I'm glad to have helped relieve his stress, and particularly pleased that he considered my perspective "healthy," because another source wrote me:

"Great column. I only regret that you are a Bills fan."

I'm not sure if he is truly sympathetic for my plight or questioning my judgment.

One of the few women to write me pointed out that my risk analysis failed to identify another potential fiscal loss: "The dollars riding on a game's outcome in the form of legal gambling in Vegas."

With that in mind, maybe the officials need not only E&O insurance but also some additional AD&D insurance.

Publisher and Editorial Director Kathryn J. McIntyre's commentary appears biweekly.

Lloyd's

Continued from page 1

in Philadelphia who usually represents insurers, disagrees that the ruling will prevent policyholders from turning to Lloyd's.

"Lloyd's is hardly going to shut itself out of our market," he said.

Rather, Mr. Young said, the decision offers some instruction as to what is required to obtain federal jurisdiction for a suit against Lloyd's.

"It defines the standard by which diversity decisions are going to be determined," agreed Dean Hansell, an insurer attorney with LeBoeuf, Lamb, Greene & MacRae in Los Angeles.

The case involved U.S. pharmaceutical manufacturer E.R. Squibb & Sons Inc., which in 1982 sued underwriters at Lloyd's, among other liability insurers, for coverage of claims alleging health problems for daughters of women who took the anti-miscarriage drug diethylstilbestrol, or DES. Squibb merged with Bristol-Meyers in 1989.

As a result of last month's decision, Bristol-Meyers Squibb now must go back to the trial court and start its 16-year-old DES coverage litigation over again.

Attorneys for Squibb and Lloyd's could not be reached for comment as to what their plans are.

The 2nd Circuit decision is getting wide attention because it is only the third time a federal appeals court has addressed the issue of whether policyholders can sue Lloyd's in federal court.

The decision mirrors an April ruling by the 7th U.S. Circuit Court of Appeals in *Indiana Gas Co. Inc. et al. vs. Home Insurance Co. et al.* However, it contradicts a 1994 decision by the 6th U.S. Circuit Court of Appeals in *Certain Interested Underwriters at Lloyd's, London vs. Layne*.

"The case is also a *cause celebre* because of its age," observed Mr. Young of Christie, Pabarue.

"After 16 years of jurisdiction someone finally asked, 'Is there subject matter jurisdiction?'" he explained.

The situation was similar in the *Indiana Gas* case, according to Harry Lee of Steptoe & Johnson in Wash-

ington. He represented The Home in that case. Lloyd's also was a defendant in that case.

"Nobody ever raised the jurisdictional issue until oral argument," which occurred in January, he recounted.

The *Indiana Gas* case was later appealed to the U.S. Supreme Court, but certiorari was denied, probably because at that time there weren't enough appellate court rulings on the issue, Mr. Lee said.

Now that the issue has come up again in another federal appellate court, the high court may consider another appeal, he suggested.

"The London market is misunderstood by a lot of people," Mr. Lee observed. "They're always trying to analogize it to U.S. insurers."

But Lloyd's is unlike any domestic insurer in that each underwriter assumes a portion of risk on what is called a line slip, explained Mr. Horkovich of Anderson, Kill.

"This case says that you've got to have complete diversity and each person must owe at least \$75,000," he said. "This means Lloyd's will have to cough up names and addresses in discovery, and Lloyd's never wants to give up names and addresses of those on the slip."

And the number of names that will have to be identified could number in the thousands, Mr. Horkovich added.

"If you've got one year of coverage, you may have over 20 syndicates, and each syndicate may have 200 names, so that's 2,000 to 5,000 names and addresses they have to come up with for just one year of coverage," he calculated. "For multiple years, Lloyd's is going to have to come up with thousands and thousands of names and addresses, and if you consider reinsurance to close, it will have an exponential effect. So, Lloyd's is basically going to have to turn over every name who was ever on a general liability policy in the U.S."

A spokesman for Lloyd's, though, said that if compelled by a court order the market could readily produce that information.

In addition to identifying names, both the *Squibb* and the *Indiana Gas* decisions said there also must be at least \$75,000 in controversy with every person cited as a defendant in the

suit.

"It would have to be one heck of a lawsuit to trigger the jurisdictional threshold," Mr. Horkovich said.

However, Mr. Young of Christie, Pabarue pointed out that the court in *Squibb* did provide some alternatives that will still make it possible to bring a suit against Lloyd's in federal court.

"What the court said is, 'We hate to see you having wasted all this time, so here are some ideas to help you address the issues that should have been addressed earlier,'" he said.

The court suggested that rather than suing the lead underwriter "in his representative capacity," the underwriter can be sued as an individual, Mr. Young interpreted.

Indeed, the 2nd Circuit decision stated: "We hold that when a Lloyd's lead underwriter is sued in a representative capacity (but not in a class action) each and every name whom the lead underwriter represents must be completely diverse. But we also hold that when a Lloyd's name (including a lead underwriter) is properly sued only in an individual capacity, it is that name's characteristics, both as to citizenship and jurisdictional amount, that are determinative for jurisdictional purposes."

"And the fact that other Lloyd's underwriters who are diverse parties in the suit may be bound by the result of the suit (whether by contract or by preclusion) is of no consequence," the court said.

But because "the syndicate has a contract that says whatever happens to the lead underwriter happens to everyone, sue the lead underwriter in his own capacity," Mr. Young suggested. "That should be good enough."

However, he did offer the caveat: "Since the contract is in Great Britain, you can't really ensure that it will be enforced" by a U.S. court.

E.R. Squibb & Sons Inc. vs. Accident & Casualty Insurance Co., et al., Nos. 97-9468(L); 97-9470(CON); 97-9472(CON); 97-9474(CON); 97-9476(CON); 97-9484(XAP), 2nd U.S. Circuit Court of Appeals, Nov. 25, 1998.

Indiana Gas Co. Inc., et al., vs. Home Insurance Co., et al., Nos. 97-1328, 97-1381, 7th U.S. Circuit Court of Appeals, April 6, 1998.

Asbestos

Continued from page 2

sands of outstanding claims—Owens Corning's administrative settlement approach will not have an effect, said Larry Fitzpatrick of the Center for Claims Resolution, which was formed to settle claims on behalf of 20 asbestos producers and does not include Owens Corning.

"I just really can't see where this has an impact on our members," Mr. Fitzpatrick said. But Mr. Fitzpatrick said he congratulates Owens Corning for foregoing the public tort system and taking a private administrative approach to settling the lawsuits.

Because Owens Corning is an industry giant, it has more outstanding claims than the total of all claims against members of the Center for Claims Resolution, Mr. Fitzpatrick said.

Owens Corning stopped selling asbestos-containing products in 1972.

Under the terms of the Owens Corning National Settlement Program agreement, claimants will be paid through an administrative procedure relying on compensation schedules that consider the type and severity of asbestos-related disease and the extent of exposure to the company's former products.

Claimants are expected to receive

an average payment of \$7,200 each, according to the company. From that amount, each claimant will have to pay his or her attorney fees. Because it is a private arrangement between the plaintiff firms and Owens Corning, court approval of the agreement is not necessary.

Owens will retain the right to terminate its agreement with any of the individual law firms and continue to seek court resolution if an unusually high number of a firm's clients elect not to participate.

Until last week, the company had aggressively fought the claims linking its manufacture of insulation material to cancer cases.

"The National Settlement Program is a major achievement toward resolving Owens Corning's liabilities in one of the largest and longest-running mass tort litigations in the history of the United States," Glen Hiner, chairman and chief executive officer of Owens Corning, said in a prepared statement. It dramatically reduces legal defense costs and the risk of excessive verdicts against Owens Corning while making the company's asbestos liability costs predictable, he said.

The settlement is a reversal from the past, when Owens Corning and plaintiffs attorneys engaged in bruising litigation battles, the Owens Corning spokesman acknowledged.

"We certainly didn't consider the plaintiffs bar as partners before, somebody we could work with in coming up with a settlement," he said. The company fought off the claims because it wanted to pay only claimants who were actually harmed by its products. It did not want to pay illegitimate or unreasonable claims, he said.

Owens Corning's change in strategy came in part because of rising judgment and settlement costs and the hiring of a new general counsel who "saw things a little differently from the people that preceded her," the spokesman said. The change also came because of dashed hopes for federal tort reform relief any time in the near future. Conditions were no better at the state level.

"Fighting it at the state level was a tough process, and every time you won in a state, the opponents of tort reform would go right back in and work on repeals," the spokesman said.

Most of the product liability coverage Owens Corning has purchased over the years has long been exhausted, the spokesman added. Although the company has some insurance to defray settlement costs, such as coverage remaining under general liability policies, the remaining insurance covers only a small percentage of the \$1.2 billion settlement. The spokesman could not specify the exact amount. **BI**

Santa

Continued from page 47

"I'll admit, I myself have been playing the fool,
Afraid to be first to jump into the pool."
Donothing snapped. An elf leapt from his seat
To hand him a computerized spreadsheet.

"While you've been fixated on *naughties* and *nices*,
I've been using Excel to eradicate the crisis.
Frankly, Santa, your firm's clearly stuck in a groove:
Personal lines simply have not improved.

"And another problem I found while browsin'
Are the troubles upcoming in the year 2000.
Those gift databases, from neckties to cash,
Will be reindeer fodder when your computers crash.

"And director liability could be such a blunder
That you find yourself close to six feet under
In a business debacle so turned about
That even ol' Rudolf couldn't lead you out.

"And Santa, like me, you've been rushing your fences—
Which has led to high fixed and variable expenses.
You've got a buyback program, but wouldn't you know?—
These days, you've been running out of dough.

"That prime spread you're selling to that fellow, the Grinch?
The real estate transaction that should have been a cinch?
Turns out that your hopes were a smidgen too great,
Since the deal won't be closing sooner, but late."

Santa sighed. "Hey, Donothing. There was a reason
I walked out from our merger last Christmas season."
"My point exactly!" the CEO cried.

"You're turning down business you should take on the side!

"So what if it strains the current relations
You have with toymakers in ninety nations?
Heck, my company's been doing it for years.
And need I point out that we're still thriving here?"

"Just barely," said Santa under his breath.
"If you define *thriving* as a slow, painful death."
Donothing ignored him. "There's some indication
You're concerned about product securitization.

"And who wouldn't be? There's no Christmas joy
For the poor shnook who unwraps a broken toy.
You know what you do? You harness the beast.
Your ownership in the firm must be increased.

"I can see from your statements this isn't ad hoc—
Why, right here's a mention of buying more stock."
"That's *stockings*, you dolt—an abbreviation!"
Santa shook his head in abject aggravation.

"Look. I don't tell you how to run an insurance business.
How about you stop telling me how to run Christmas?"
Donothing grinned. "You're a pretty sharp fellow,
In spite of that stomach that quivers like Jell-O."

"You know just how to make it through one more term—
You need to acquire another firm."

"Enough," Santa said. "Last year's merger stunk!
Notice I didn't join Nearly Defunct!"

"I know," Donothing said. "And there's no hard feelings.
There are plenty of outfits that are appealing.
In fact," he then added, "because you like lists,
I've made one up, just so you can get the gist."

A projector appeared on a workbench quite tall
And screened a large logo upon the white wall.
"Behold! The Titanic Insurance Group!"
Donothing leaned forward to give them the scoop.

"I ask you fine fellows—is it a crime
To find yourself going under for the third time?
They've been trying to sell themselves for two years
And could use a lifeboat, plus some holiday cheer."

One elf turned to another and lowered his voice.
"That's a last resort, not a true choice.
Leave 'em alone—that's my advice—
That company's been around the block . . . twice!"

"Don't like 'em?" Donothing said brightly. "Sit still . . .
Could-Be Insurance might fit the bill.
Why, Santa, imagine the awesome logistics
Of a chairman who's perpetually optimistic!"

"Now, if you seek to find a real sharpshooting gun,
Can Not Accomplish Insurance is the one.
They've got unique solutions to industry troubles—
And, granted, their rainbows may burst like soap bubbles,

But one day they might catch those pipe dreams they chase
Instead of just falling flat on their face.
"The Crossed-Up Insurance Group? Claus, I won't bluff.
This outfit is surely a diamond in the rough.

"When it came to cross-selling, they started some fires.
Who was to know there wouldn't be buyers?"
Donothing smiled. "Course, you may want to scoop
Up the Unbelievably Stupid Funding Group.

"OK, OK—this may seem a-pauling,
But they could be the company that keeps you from falling!"
Donothing grinned. "There's no need for thanks.
You can take these suggestions right to the bank.

"After all, Claus, there isn't a need to get burned
When you can succeed with all that I've learned."
Laying a finger aside of his nose,
Santa mulled the man's words and carefully rose.

True, things were tough in the Christmas profession—
But they could get worse with Donothing's intercession.
At the end of the tunnel was the light he'd been seekin'—
Was it a Lionel train? Or a genuine beacon?

Santa sighed. "Well, the first thing that's perfectly clear:
I need to clean house. . . and you're outta here."
Donothing scowled. "Well, Santa. . . shoot!
At the least I expect a golden parachute!"

Santa lifted his hand. "You heard what I said.
I need your advice like a hole in my head.
If you're lucky we'll relocate you to a new pole."
Donothing brightened. "That reminds me! A *loophole*!"

"Oh, for Pete's sake," Santa called out to an elf.
"Send Donothing home, before I kill him myself.
I have toys to deliver tonight," grumbled Santa,
"And a headache about the size of Montana."

He winced and stalked off: "Now remember. . .
I don't want to see Donothing till next December."
And they heard Santa say, as he threw the door open—
"Hey, which of you guys is wrapping the ibuprofen?"

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businessinsurance.com/ticker/headlines.html](http://www.businessinsurance.com/ticker/headlines.html)

Jodi Picoult is his daughter and the author of several novels, including
her latest, "The Pact," which she is adapting for a feature film. Her
next novel will be published in the spring of 1999.



Workplace injuries hit low, BLS reports

WASHINGTON—Non-fatal workplace injuries and illnesses fell to their lowest level on record last year, according to a report released last week by the Bureau of Labor Statistics.

Private industry employers reported 6.1 million injuries and illnesses last year, about 2.9 million of which

resulted in lost workdays, according to the BLS. The rate of workplace injuries and illnesses fell to 7.1 cases per 100 full-time workers or their equivalent, down from 7.4 cases per 100 workers in 1996. Manufacturers reported the highest rate, at 10.3 per 100 workers, while the finance, insurance

and real estate category reported the lowest, at 2.2 cases per 100 workers.

In a statement accompanying release of the report, Secretary of Labor Alexis Herman credited the efforts of business, industry and unions for lowering the illness and injury rate.

—By Mark Hofmann

Updates

Cruise ship losses covered

Continued from page 2

U.S. and St. Maarten authorities are investigating the accident and will be joined by investigators from Norway, where the ship is flagged.

Stockton to buy Lloyd's agency

LONDON—Stockton Reinsurance Ltd. of Bermuda is significantly expanding its position in the London market by acquiring Crowe Insurance Group Ltd., one of the largest remaining independent managing agencies at Lloyd's of London.

The agreement, for an undisclosed sum, was announced Friday. Stockton Re, which provides a wide variety of risk transfer coverages with a focus on customized finite reinsurance, currently has only a representative office in London.

Dan Malloy, Stockton Re president and chief executive officer, said in a written statement that the acquisition is an important element of Stockton Re's growth strategy. "It will bring us closer to markets in London but will not compete with our existing brokered client base. We also believe that the Lloyd's capital structure offers considerable potential for expansion in alternative risk transfer—not just for Crowe but for its clients as well. We want to be in the forefront of these developments," he added.

Crowe manages six Lloyd's syndicates, specializing in aviation, marine, U.K. liability and life products, and private and commercial auto risks. Their total underwriting capacity for 1999 is more than £230 million (\$384.9 million). Some £170 million (\$284.5 million) of this capacity will come from its two Lloyd's corporate investment vehicles, Crowe Dedicated Ltd. and Crowe Corporate Capital Ltd.

The takeover requires the approval of shareholders and regulators; Stockton Re hopes to complete it by the end of February.

Texas sues six HMOs

AUSTIN, Texas—Six HMOs illegally compensated physicians by allowing them to gain financially from limiting patient care and penalizing them for exceeding budgets, according to lawsuits the Texas attorney general filed last week.

Attorney General Dan Morales alleges doctors got budgets from the HMOs for some services, such as hospital admissions. Doctors who did not exceed their budgets got part of the surplus; those that went over budget were required to compensate the HMOs in part or in whole for this discrepancy, the attorney general charges.

Mr. Morales alleges that these kickbacks place health care providers in a "conflict of interest."

Separate lawsuits were filed in the District Court of Travis County, Texas, against Pacificare of Texas Inc. and Humana Health Plan of Texas Inc. A third lawsuit was filed against Aetna U.S. Healthcare Inc., Aetna Health Plans of North Texas Inc., NYLCare Health Plans of the Southwest Inc. and NYLCare Health Plans of the Gulf Coast Inc. Aetna bought NYLCare earlier this year.

A spokeswoman for Aetna Inc. said it is "very disappointed" about the suit and noted Aetna had met with the attorney general's office in April to try to illustrate that the company complied with his benchmarks.

"We do not offer financial incentives to physicians that either directly or indirectly act as inducements to limit medically necessary services," she said. "We recognize that what physicians do best is provide care, and that's what we want them to do."

She also rebutted Mr. Morales' charges that Aetna penalizes doctors who discuss Aetna coverage with patients.

Rhine Re to open in London

LONDON—Swiss reinsurer Rhine Reinsurance Co. Ltd. expects to open a new London branch office by the end of the first quarter next year.

The Basel, Switzerland-based reinsurer has been looking at expanding into the London market for some time now, according to Chairman and Chief Executive Officer Max Furrer. The company took the opportunity of a failed try at a management buyout of Zurich Reinsurance (London) Ltd. in October to pick up a senior executive team.

Dennis Purkiss, Stewart Laderman, Amanda Atkins and Stephen Cane, all formerly board members of Zurich Re (London), have joined Rhine Re. When the new office is up and running, it will write property, property catastrophe and program business, said Mr. Furrer.

Rhine Re is owned by RR Holding Co. Ltd. in Switzerland. Kohlberg Kravis Roberts & Co. L.P. is the majority shareholder in RR Holding.

Briefly noted

Frontier Insurance Group Inc. announced a \$139 million pre-tax reserve strengthening charge, an \$8 million reinsurance charge and a \$3 million charge for restructuring its health care operations. The charges will be taken in the fourth quarter of 1998 and will result in a loss for the year. The reserve strengthening and reinsurance charges relate to medical malpractice business. The \$3 million restructuring charge stems from the closure of its Bedford Hills, N.Y., office and termination of 35 employees. Harry Rhulen, CEO of Frontier said in a statement: "With these charges, we have 'paid the bill' for past overemphasis on growth. Importantly, we have provided further evidence of our commitment to maintain reserves at the best estimate." A.M. Best Co. on Friday put Frontier's A rating under review with negative implications. . . The Insurance Services Office Inc.'s Property Claim Services unit has increased its estimate of insured property damage that was caused by September's **Hurricane Georges** to \$2.9 billion from an initial October estimate of \$2.5 billion. The revised estimate reflects higher claims in Alabama, Florida, Louisiana and Mississippi. . . **Lawyers who negotiated tobacco settlements** for three states are being paid a total of \$8.1 billion for their work. An arbitration panel in Washington earlier this month awarded that amount to attorneys who worked on the deals that paid \$17.3 billion to Texas, \$13 billion to Florida and \$4 billion to Mississippi.

Santa rejects consulting advice

By MYRON M. PICOULT and JODI PICOULT
Special to Business Insurance

'Twas the night before Christmas, and in Santa's shop
The elves were quite flustered and working non-stop
On trains and on dolls, on all sorts of toys
For Santa to carry to girls and to boys.

And at one small workbench, painting painfully slow
Sat Almost Donothing, the ex-CEO.
Well, OK, we're lying. He still had a job
At Nearly Defunct Fire & Casualty (sob!).

But business was slow, and that wasn't funny—
So he took a night job to make some extra money.
Now, a career as an elf wasn't heaven sent,
But Christmas was coming. Plus, it paid the rent.

His line boss, a crotchety old elf named Howe,
Peered over his shoulder, saying, "Get to work now!"
He sneered. "At your other job, if you hired better bosses
Maybe you wouldn't have tripled catastrophe losses!"

All of a sudden there arose such a clatter
The elves left their stations to see what was the matter.
A door opened, a blustery wind blew in quick—
They knew in a second it must be St. Nick.

He smiled, and he laughed as his gaze swept the crowd.
"Are we ready?" he boomed, jolly and loud.
Then he noticed Donothing, and his eyes slowly dimmed.
"Who on earth," Santa growled, "thought we should hire him?"

Now, Donothing had known Santa might be upset—
Their '97 meeting had been the worst yet—
With Claus Industries pulling out of a merging
In spite of Donothing's desperate urging.

Donothing grinned, the wily old cat,
And adjusted the bells on his red jingle hat.
He thought of the panic, he thought of the fear
That had driven him to take a job over here.

Reinsurance recoverables—he should have used 'em.
Couldn't even recall why he'd ever refused 'em.
His stock had been languishing by the chimney with care
Though he'd played both sides of the fence with great flair.

Commercial lines pricing continued to lag
And NII growth continued to drag.
(Donothing did not want to admit to the fear
That NII growth might still be down next year.)

"Donothing!" yelled Santa. "Get up from your station.
Get out, before you screw up MY operation!"
"Nick, my buddy," said Almost Donothing. "My guy!
It's hard to believe... has a whole year gone by?"

"Surprised, huh, to see me? Well, never fear it...
I've just had an attack of... holiday spirit."
"Bulldinky," cried Santa. "You're here, I know,
Because Nearly Defunct's premium growth is low.

And it's no secret—you had been warned
When you leap into "hedges," you're bound to find thorns.
You've underleveraged and overcapitalized,
And your dictionary's missing the word *downsize*."

Santa scowled. "You look out only for yourself.
Toss out this bozo. Get me a real elf."
Donothing stood up. "Santa, now, don't be hasty."
He said, his complexion decidedly pasty.

"When it comes to toymaking, I'm lacking, it's true—
I can't tell a LEGO from the simplest choo-choo.
But Santa, I'm here, and you should be exultant—
Consider me a pro-bono consultant!"

Donothing began issuing orders,
Moving benches, dividing the staff into quarters.
With a candy cane gavel, he organized seating
And called an impromptu board meeting.

"The way I see it, Santa, your shop's far from fine.
In fact you've got the same problems I've got in mine!
I'm sure you've spent hours of painful deduction
Figuring out capital reduction.

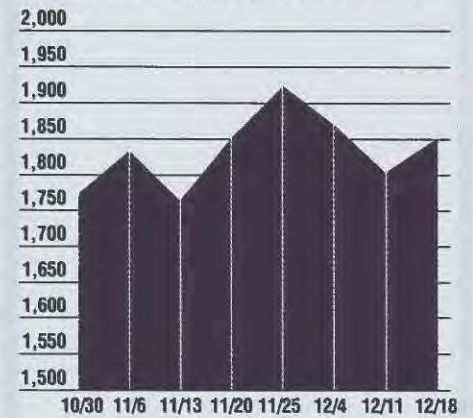
"I'll be honest and tell you, I've struggled, my friends.
Is the answer to do special dividends?
Or maybe the ticket that's more impressive
Is a stock buyback that's really aggressive?"

"Then again, there are mergers. Once you're not alone,
Your problems are—shall we say?—no longer your own."
He lifted a bat, then a marionette.
"Of course, then there's pricing... your worst problem yet.

"Charity's great, Claus, but then again, hey!
Look around you... you're giving these items away!
You gotta raise prices—a nickel, a dime.
Kids'll gripe at first but accept it in time.

See Santa on page 46

BI Insurance Index



Base=100 on Dec. 29, 1978
Source: Nordby International Inc. (nordby.com) Boulder, Colo.

PCS catastrophe options

As of Dec. 18	Call spread	Price bid/ask	Call spread	Price bid/ask
National Annual 1999				
40/60	9.2/15.0			
60/80	5.0/12.0			
80/100	3.5/9.0			
150C	4.0/6.0			
200/250	2.5/4.0			
Southeastern September 1999				
40/60	2.6/—			
60/80	1.9/3.4			
80/100	1.4/2.8			
Eastern September 1999				
40/60	1.5/—			

Call spread	Price bid/ask
California Annual 1999	
60/80	1.2/2.3
80/100	—/1.9
150C	0.5/2.7
Western Annual 1999	
80/100	0.5/2.0
Midwest June 1999	
10/20	1.0/1.4
Florida Sept./Dec. 1999	
100/150	2.0/—

Total volume: 0 Total open interest: 16,215
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
Gdn Royal Exch	340	5.3	13.4	3.9	495-227
Legal & Gen	766	22.2	13.3	2.2	796-473
Royal & Sun	503	14.6	23.6	4.7	825-437

Brokers

Lmbrt Fenchurch	79	9.6	4.2	6.8	121-78
JLT	192	11.8	10.5	6.8	236-152

Note: Prices are Dec. 18 closings; other numbers from Dec. 17.

Source: Nordby International Inc.(nordby.com) Boulder, Colo.

BI Industry Stock Report DEC. 14, 1998, THROUGH DEC. 18, 1998

BROKERS				INSURERS/REINSURERS				BROKERS				INSURERS/REINSURERS			
Company	NYS	Price	52-week % change	Company	NYS	Price	52-week % change	Company	NYS	Price	52-week % change	Company	NYS	Price	52-week % change
Aon Corp.		56.56	0.44	ACE Ltd.		27.69	-2.64	General RE Corp.		209.31	-0.42	Renaisance Re Holdings Ltd.		35.88	-6.06
E.W. Blanch Holdings Inc.		44.81	6.70	Accel International Corp.		2.94	-2.08	Gryphon Holdings		18.63	0.68	Risk Capital Holdings		21.25	1.19
Gallagher Arthur J. & Co.		43.94	-4.22	Acceptance Insurance Cos.		18.56	4.58	Harleysville Group		22.38	4.68	RLI Corp.		32.38	-7.83
Hilb, Rogal & Hamilton		18.88	0.33	AEGON N.V.		116.06	5.15	Hartford Steam Boiler		38.13	-4.39	St. Paul Companies		36.25	3.39
Kaye Group Inc.		7.00	1.82	Aetna Life & Casualty		79.81	2.16	HCC Insurance Holdings		17.38	-6.71	SCOR		82.25	1.53
Marsh & McLennan		56.13	-0.44	AFLAC Inc.		40.13	3.72	ING Groep N.V.		57.56	2.79	SAFECO Corp.		41.44	1.69
Poe & Brown		34.69	-1.25	Allmerica Financial Corp.		55.63	1.37	IPC Holdings Ltd.		22.75	0.55	SCPIE Holdings Inc.		29.94	-1.24
Sedgwick Group PLC		18.56	1.71	Allstate Corp.		38.00	-2.25	Hartford Financial Services		55.94	1.82	Seibels Bruce Group		3.69	-1.67
AVERAGE			0.66	AMBAC Indemnity Corp.		55.69	2.06	LaSalle Re Holdings Ltd.		21.00	-9.43	Selective Ins. Group		19.50	-1.89
			20.20	American Bankers Ins.		46.69	8.58	Lincoln National		80.56	-1.83	Terra Nova Insurance Co. Ltd.		23.94	-7.93
				American Financial Group		36.31	-4.60	MAIC Holdings Inc.		33.88	5.86	TIG Holdings		15.31	-1.61
				American General		73.00	4.57	Market Corp.		174.50	-2.51	Tokio Marine & Fire		59.25	5.80
				American Heritage Life Ins.		23.00	-4.66	MBA Insurance Group		62.75	-1.57	Torchmark Corp.		34.38	-5.50
				American Indemnity/Fin'l		10.56	-5.06	Meadowbrook Insur. Group		16.38	0.00	Transatlantic Holdings		74.94	-0.75
				American International		99.44	9.95	MMI Cos. Inc.		13.88	-11.20	Travelers Property Casualty		28.75	-4.56
				American Safety Insurance		9.00	0.00	Mutual Risk Mgmt. Ltd.		35.50	-1.05	Trenwick Group Inc.		31.38	0.00
				Argonaut Group		26.81	8.88	NAC Re Corp.		47.63	2.97	Unico American Corp.		11.00	-1.12
				AXA-UAP Group		63.13	1.20	Navigator's Group		15.25	2.52	United Fire & Casualty		32.25	-10.73
				Baldwin & Lyons Inc.		23.06	-7.75	NYMagic Inc.		21.00	-1.18	Unifin		69.00	-0.90
				Berkley W.R. Corp.		32.50	-6.14	Ohio Casualty Corp.		40.88	1.87	UNUM Corp.		54.88	-0.45
				Berkshire Hathaway Inc.		60400.00	-0.66	Old Republic Int'l		20.44	-1.51	Vesta Insurance Co.		5.13	-3.53
				Capital RE Corporation		19.75	-1.56	Orion Capital Corp.		36.38	-4.43	Zenith National Ins.		23.44	-1.32
				Capitol Transamerica Corp.		16.75	-2.90	Partner Re Ltd.		43.75	-1.55	AVERAGE			-0.73
				Centris Group Inc.		9.00	-4.64	Penn-America Group Inc.		9.94	-3.05	ALL COMPANIES			2.36
				Chertwell Re		26.94	-9.07	Pennsylvania Manufacturer's Co		19.13	0.33				3.13
				Chubb Corp.		65.56	-3.58	Philadelphia Cons. Holding		21.06	-4.26				
				CIGNA Corp.		76.00	0.83	PXRE Corp.		22.00	-2.22				
				Cincinnati Financial Corp.		35.75	0.70	Reliance Group Holdings		12.94	0.49				
				Citigroup		49.88	4.72	Reliastar Financial Corp.		43.25	-0.57				

Top advancing issues: American International Group, Argonaut Group, American Bankers Ins. Leading decliners: Safeguard Health Enter., Foundation Health Systems Inc., MMI Cos. Inc. Most active issue: Citigroup. The BI Index rose 2.8%; the Dow Jones 30 Industrials edged up 0.9%; the S&P 500 rose 1.8% and the NYSE Composite increased 1.3%. Average P/E: Brokers, 18.0; Insurers/reinsurers, 19.4; HMOs, 81.5.

Source: Nordby International Inc. (nordby.com), Boulder, Colo.