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Updates

Pact ends 11-year coverage fight, gives Owens-Illinois $400 million

TOLEDO, Ohio—Owens-Illinois Inc. expects to receive $400 million to pay asbestos claims after a New Jersey state court last week approved an agreement that ends the company's epic 11-year fight with insurers and reinsurers.

Under the agreement, the manufacturer is to receive $140 million from several reinsurers, the largest contributors including United Insurance Co., a Cayman Islands group captive; General Reinsurance Corp.; American Re-Insurance Co.; and American

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YEAR IN REVIEW

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Tragedy in Colombia insured

Crash may provide first test of liability limit changes

BY STACY SHAPIRO

LONDON—Underwriters have yet to establish liability reserves to cover claims from the crash of American Airlines Flight 965 last week, which killed more than 150 people near Cali, Colombia.

"It will be some time before one is set up," said Lloyd's of London aviation underwriter Richard Maylam, who leads the hull and liability program for AMR Corp., the airline's parent company.

That task also may be complicated by proposed changes in international aviation liability law. Currently, the Warsaw convention caps per passenger liability on flights to and from the United States at $75,000, but some airlines and governments are trying to waive all liability limits (*BI*, Nov. 20).

Colombian and U.S. investigators last week were trying to determine why the Boeing 757 hit a mountain about 50 miles from Cali as it approached for a landing. The airline's team on the scene included Christa Hinckley, managing director-corporate insurance and risk management for American Airlines, and loss adjusters from International

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Agence-France Presse Photo

Investigators and rescue workers are sifting through the wreckage for survivors and clues to what went wrong.

Superfund reform outlook improves

By MARK A. HOFMANN

WASHINGTON—The outlook for Superfund reform during the current Congress appears brighter now than only a few weeks ago, thanks to twin developments on Capitol Hill.

First, a group of insurance executives, including American International Group Inc. Chairman Maurice R. Greenberg and CNA Insurance Cos. Chairman Dennis Chookaszian, met with House Speaker Newt Gingrich, R-Ga., and other key GOP lawmakers to stress their willingness to settle for less than a total repeal of retroactive liability provided the insurance industry is not hit with new Superfund taxes.

In addition, reform efforts got another boost last week as a broad-based group of manufacturers, waste disposal firms and trade associations coalesced to seek common ground for a bill that could win bipartisan support and the president's signature. The newly formed, Washington-based Superfund Action Alliance urges comprehensive reform as spelled out in a letter its members sent to congressmen.

The new alliance's 63 members include such companies as E.I. du Pont de Nemours & Co., General Electric Co., General Motors Corp., Mobil Corp. and WMX Technologies Inc., as well as such trade associations as the National

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State strategies for containing comp medical costs

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Managed care use rises for workers comp plans

By MEG FLETCHER

An increasing number of states are implementing managed care and other medical cost-containment techniques that help employers control the cost of workers compensation claims, a new study finds.

Since a similar 1992-1993 study, 37 jurisdictions out of the 50 states and District of Columbia have added by legislation or regulation new cost-containment strategies or are currently developing them, according to the study prepared by the Workers Compensation Research Institute in Cambridge, Mass.

"We have seen many cost-containment initiatives over the last decade, especially in the last several years," the WCRI noted. "Though there may be indications that the surge in escalating costs may be slowing, the 1990s promise to be a time of unprecedented experimentation in workers compensation medical cost containment, particularly in the area of managed care and treatment guidelines," it added.

Employers lobbied state legislatures and administrators for the ability to use cost-containment techniques for workers compensation claims during the 1980s, when growth in the medical component of workers compensation claims was outstripping even the soaring rise of general health care costs.

In fact, efforts to contain workers comp medical costs are cited as a major factor behind sharp declines in the industry's combined ratio in recent years (*BI*, April 17).

While the WCRI study inventories the proliferation of cost-containment mechanisms, it does not evaluate the effectiveness of the various approaches.

Many of the cost-control changes since the last study affect several specific areas, including:

- **Providers.**

Thirteen jurisdictions have added limitations on the employee's initial choice of pro-

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KKR offers $2.2 billion for Talegen

By GAVIN SOUTER

SEATTLE—The proposed $2.2 billion purchase of Talegen Holdings Inc. by Kohlberg Kravis Roberts & Co. will likely make little difference to Talegen policyholders, while strengthening the leveraged buyout firm's insurance portfolio.

The sale would also enable Xerox Corp. to achieve its longstanding goal of exiting the insurance and financial services business by selling its Talegen subsidiary in a single deal. But that goal comes at a steep price: Xerox is expected to take a $1 billion charge to increase the units' reserves against adverse loss development.

Buying Talegen would continue KKR's strategy of expanding its insurance company investments. The firm recently was in discussions to buy Aetna Life & Casualty Co.'s property and casualty operations, which were eventually sold to The Travelers Inc. KKR earlier this year bought Toronto-based multiline insurer Canadian General Insurance Group and, in 1992, acquired American Reinsurance Corp. from Aetna and soon thereafter turned a huge profit by selling part of American Re in a public offering.

None of the companies involved would comment on the deal, though an announcement confirming details is expected shortly.

Talegen has eight insurance-related units, comprising about 20 insurers, including: Coregis Group Inc., an underwriting manager that specializes in professional liability business; Crum & Forster Holdings Inc., which writes commercial property/casualty insurance through several subsidiaries; and Industrial Indemnity Holdings Inc., units of which write workers compensation coverage primarily in Western states.

Talegen management, including Chairman and Chief Executive Joseph W. Brown Jr., is expected to stay intact after the KKR pur-

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Updates

Owens-Illinois, insurers settle

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International Group Inc.

Also under the agreement, $260 million from about 20 reinsurers will go to settle reinsurance claims by Owens Insurance Ltd., a Bermuda captive that reinsured 100% of Owens' asbestos risk. Some of the reinsurers, though, may try to contest the settlement, the company said.

In addition, Owens expects to obtain a very small amount from other, third-party sources, said Gita F. Rothschild, an attorney for Owens-Illinois, with McCarter & English in Newark. The company already has received about $100 million from other reinsurers.

In 1994, the New Jersey Supreme Court found for insurers on one coverage issue and policyholders on the other in a 57-page ruling that covered only two issues (*BI*, Jan. 2, 1995). Several years earlier, a New Jersey trial court had ordered insurers to pay Owens-Illinois $960 million (*BI*, April 16, 1990).

Congress overrides veto

WASHINGTON—Companies will enjoy greater protection from what many regarded as frivolous securities lawsuits thanks to a Congressional override of President Clinton's veto of a federal securities litigation reform bill.

The measure had passed both houses of Congress by wide bipartisan margins, 320-102 in the House and 65-30 in the Senate, but was vetoed by the president on Dec. 19.

While saying he supported H.R. 1058's overall goals, Mr. Clinton said provisions of the legislation would make it too difficult for genuinely defrauded investors to bring their claims to trial.

However, last Wednesday, the House voted 319 to 100 to override the veto. On Friday, the Senate followed suit on a 68 to 30 vote. It was the first time a veto by President Clinton had been overridden.

Supporters say the measure will curb frivolous securities suits by giving companies a broad safe harbor from liability for inaccuracies in corporate forecasts and other company statements and by toughening the pleading requirements in securities suits, requiring that plaintiffs present specific information suggesting defendants intended to defraud them before a judge allows their case to move forward.

Bain Hogg IPO planned

LONDON—Inchcape P.L.C. says it will seek a stock market listing for brokerage subsidiary Bain Hogg Group in the next 18 to 24 months rather than sell it to other bidders.

Inchcape broke its silence last week and admitted that there had been "a number of approaches" from companies interested in buying Bain Hogg, which is the world's 11th largest broker. Though the company wouldn't identify any interested parties, those in the running included Alexander & Alexander Services Inc., Aon Corp. and a management-led team (*BI*, Dec. 18).

However, Inchcape has concluded that a public stock offering of Bain Hogg, as previously planned, is "the best option for Inchcape's shareholders." Stock analysts have speculated that bidders for Bain Hogg weren't willing to pay Inchcape's price for the broker, estimated at about £300 million ($462 million).

Court rejects retirees' claim

BOSTON—A Massachusetts employer's early retirement offers do not constitute a benefit plan under ERISA, an appeals court ruled.

The 1st U.S. Circuit Court of Appeals in Boston last week rejected a claim by 18 retirees that four early retirement arrangements offered by Wyman-Gordon Co. since 1987 constitute a benefit plan under the Employee Retirement Income Security Act and that they were entitled to a more generous retirement package.

Judge Bruce M. Selya, writing for a three-judge panel, acknowledged that the definition of a "plan" under ERISA is often cryptic and not precisely established. "There is no authoritative checklist that can be consulted to determine conclusively if an employer's obligations rise to the level of an ERISA plan," he wrote.

But the series of retirement offers by the North Grafton, Mass.-based forgings and castings company fell short of being a plan because they consisted merely of single, lump-sum payments rather than long-term benefit programs with ongoing obligations to the employees, Judge Selya ruled.

The Wyman-Gordon retirees, all of whom had worked at the company for at least 25 years, sued after the retirement offer they accepted in January 1991 turned out to be an average of $9,950 less than an offer made to other workers the following October.

Explosion settlement insured

YAZOO CITY, Miss.—American International Group Inc. will cover a portion of an $18 million settlement that Mississippi Chemical Corp. agreed last week to pay to resolve all personal injury and wrongful death suits brought by those injured and the families of four persons killed in an explosion last year at an Iowa fertilizer plant.

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Errors & omissions

- An article in the Dec. 18 issue incorrectly describes the loss development of AFIA Worldwide Insurance since CIGNA Corp. acquired the network. Only $90 million of losses have developed since 1984, not 1994 as reported.
- In the Dec. 19 Directory of Managed Care Providers the name of a California PPO, QUIK MEDREVUE, was misspelled. The services section was omitted but should have stated "PPO and bill review services for workers compensation and automobile medical payment claim."

IRS, PBGC offer guidance on several benefit issues

By JERRY GEISEL

WASHINGTON—When the new year begins, employers will have to comply with three new sets of employee benefit plan rules from two agencies.

Proposed rules issued last week by the Internal Revenue Service:

- Provide new guidance for employers that offer employees the opportunity to take loans from 401(k) or other defined contribution plans. In particular, the regulations detail when a loan is considered to be in default and the tax consequences of a default.
- Provide the first guidance on the relationship between the Family and Medical Leave Act and flexible benefit plans, such as how employees entitled to leave can make pretax contributions to flex plans to cover their share of a health insurance premium.

In addition, the Pension Benefit Guaranty Corp. completed new rules last week—somewhat softened from those proposed earlier—that require employers with large underfunded pension plans to report certain financial and actuarial information to the agency.

The IRS defined contribution plan loan rules will affect the greatest number of employers. According to a new Hewitt Associates L.L.C. survey, just over 80% of employers with 401(k) plans let employees borrow from their account balances. Generally, federal law allows employees to borrow up to half of their vested account balance or $50,000, whichever is

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CIGNA injunction sought

Units of AIG, St. Paul, Chubb petition to delay approval

By DOUGLAS McLEOD

HARRISBURG, Pa.—Several large property/casualty insurers are suing the Pennsylvania Insurance Department to delay any eventual regulatory approval of CIGNA Corp.'s proposed reorganization.

Units of American International Group Inc., The St. Paul Cos. Inc. and Chubb Corp. last week filed suit in Pennsylvania Commonwealth Court seeking a 15-day stay of any approval order to allow time for court challenges.

Although the insurers are slated to testify on the CIGNA plan at the Pennsylvania department's next public hearing, scheduled for Thursday, their suit argues that a court should review their objections. But, they contend, such review may not be possible if Pennsylvania regulators approve the plan soon after the hearing.

A CIGNA spokesman challenged the need for a court injunction, however, noting that Pennsylvania regulators have already said they will not act on the plan until after Jan. 1.

The spokesman also charged that the other insurers are only trying to delay the reorganization to take advantage of a weakened rival.

"Every day beyond Jan. 1 that they can delay this thing is to their competitive advantage," he said.

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Policy's 'municipality exclusion' at heart of dispute

Bad faith suit on D&O claim

By DOUGLAS McLEOD

OKLAHOMA CITY—A directors and officers liability insurer is facing trial in a bad faith lawsuit after a federal judge rejected the insurer's argument that a policy exclusion barred coverage for the plaintiff.

Gulf Insurance Co. sought dismissal of the bad faith suit, which was filed by the Oklahoma City Urban Renewal Authority over Gulf's refusal to pay about $600,000 in defense costs that the Urban Renewal Authority incurred in an underlying lawsuit brought by taxpayers in June 1988.

Gulf, an Irving, Texas-based affiliate of Travelers Corp., argued that the taxpayers in the underlying action sued on behalf of the state and that Gulf was relieved of liability by an exclusion in the D&O policy covering suits filed by other public entities.

However, an Oklahoma City federal judge ruled earlier this month that the taxpayers were not suing on behalf of the state and that the exclusion does not apply.

While the decision is too fact-specific to have a broad impact on D&O policyholders, it is one of the few—if not the only—federal court rulings dealing with the "municipality exclusion" in some municipal D&O policies, say lawyers involved in the case.

Trial in the bad faith case is scheduled to begin next month. The Urban Renewal Authority is

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Oxy settles Love Canal claim

By JOANNE WOJCIK

LOS ANGELES—Occidental Petroleum Corp. has agreed to pay $129 million to cover the federal government's waste cleanup costs at Love Canal in New York state.

The settlement, announced Dec. 20 by the U.S. Justice Department and the Environmental Protection Agency, resolves a lawsuit filed more than 16 years ago over one of the nation's most publicized toxic waste disasters (*BI*, Jan. 21, 1980).

An Occidental spokesman confirmed that the company has insurance to respond to the settlement but is in litigation with several of its insurers over coverage. Occidental had $320 million in liability insurance between 1963 and 1979.

The Love Canal saga dates back to the 1940s and 1950s, when the Hooker Chemical Corp. began dumping toxic chemicals into the abandoned canal in Niagara Falls, N.Y.

Occidental acquired Hooker in 1968. Under the terms of the settlement, the federal government will get back all of the $101 million it spent on the cleanup, plus $28 million in interest. Occidental will pay the settlement over three years. In addition, the government agreed to pay $8 million to cover alleged Department of Defense toxic wastes dumped at the site.

It is the second settlement Occidental has reached over the site. In 1994, the Los Angeles-based company agreed to pay New York about $98 million for the state's costs in the cleanup and assume the maintenance of the site. BI

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YEAR IN REVIEW

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6. Zurich acquires much of The Home's business
7. Impact of Oklahoma City bombing
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10. Insurers add to long-tail liability reserves

Top Employee Benefit Stories

1. Group health care plan costs decline
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GRAPHIC BY JOHN HALL

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Taking a good look back on 1995

Year of insurer mergers redraws risk management landscape

By MICHAEL BRADFORD and JOANNE WOJCIK

As the dust settles on 1995, risk managers are finding the insurance industry landscape looks quite a bit different than it did at the beginning of the year. Some aren't sure they like the lay of the land.

It has been a year when risk managers saw continuing turmoil at Lloyd's of London, increased involvement of the capital markets in the insurance industry and relatively little change in property/casualty rates.

While those issues left their mark on risk management in 1995, it was the flurry of insurance company mergers that created the biggest buzz.

The consolidations—including Travelers Corp.'s acquisition of Aetna Life & Casualty Co.'s property/casualty business, CNA Insurance Cos. purchase of Continental Corp. and Zurich Insurance Group's buyout of much of Home Holdings Inc.'s business—have left risk managers with some uncertainty about the future of the property/casualty insurance market.

The "massive consolidation occurring in the property and casualty industry" could result in "somewhat less range of buying choices for risk managers," said Kevin M. Quinley, vp of risk services for Hamilton Resources Corp. in Fairfax, Va.

"If this shakeout and consolidation trend continues, the array of insurance options available for risk managers may be significantly constrained, altering the balance of power in the buying and negotiating relationship," he said.

Those possibilities worry other risk managers, as well.

"How will it affect companies like ours to get the best deals we can?" asked Christopher E. Mandel, director of worldwide risk management at KFC Corp. in Louisville, Ky.

The restaurant chain got swept up in the merger mania from several sides. "We had a substantial relationship with Aetna and we're hopeful that there won't be any deterioration in that relationship," said Mr. Mandel. "I have my concerns about it."

He pointed out that KFC Corp. also is a Zurich policyholder and bought services from a Continental subsidiary that was sold in the deal with CNA. The Zurich deal with Home Holdings has so far worked well for

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Benefit spotlight leaves Washington; activity picks up closer to home

By ROBERT KAZEL and DEBORAH SHALOWITZ COWANS

The quieting of drum beats from advocates of major health care reform didn't mean that 1995 was calm for benefit managers.

Many found themselves facing challenges this year that had little to do with Capitol Hill, from campaigns to introduce more employees to managed care, to scrutiny of competing health plans to, in some cases, attempts to preserve employee benefits through the upheavals of mergers and acquisitions.

For the most part, 1995 was a time when benefit managers' concern over First Lady Hillary Rodham Clinton—and her health care reform task force—was replaced by intense activity in local markets to make health care more efficient and less costly, using sophisticated measurement tools and specialized consultants.

"Last year, we spent nearly all of our time putting (our attention) toward Washington, and this year there was hardly any of that," said Alan Peres, manager of health care policy for Chicago-based telecommunications giant Ameritech Corp. The main activity of benefit managers this year, he said, was to improve health care benefits by increasing the accountability of health plans and hospitals. "Costs do seem under control and it really gives us the opportunity to spend time on what we are really spending money on," he said.

The company was active this year in the Chicago Business Group on Health, a coalition of 65 employers that is trying to reduce companies' health care costs.

Cincinnati-based Kroger Co. spent much of 1995 working with four other large, local businesses to gather data on managed care plans' quality and cost-effectiveness. Tom Murphy, group vp-human resources and labor relations, said it has been a excellent first year for the Cincinnati Health Care Plan Review Project in evaluating health plans for quality, customer service and administration. These evaluations, which use such data as Health Plan Employer Data and Information Set, or HEDIS, measures, are still being done, but Mr. Murphy said employers eventually no longer will have to rely merely on plans' reputations or simply choose the lowest bidder.

"That's all changing," he said. "There's

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Health care

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an ability to get deeper into these plans and know more about how they operate."

While no major health insurance revolution is near, nonetheless "health reform is running rampant right now," said Fred Hamacher, vp of compensation and benefits of Dayton-Hudson Corp. in Minneapolis.

"Health reform is alive and well, but it's being driven by the purchaser—which is where it should have been all along," he said, praising the formation of new health care purchasing groups around the country.

Other companies were struggling with the nuts and bolts of matching health plans to broader corporate imperatives. Benefit executives at Skokie, Ill.-based G.D. Searle & Co. spent 1995 preparing employee health benefits to be standardized with its parent company, St. Louis-based Monsanto Co., said Michael F. McDermott, Searle senior director of human resources. These benefits will change next year, with pension and 401(k) plans to change in 1997.

Managed care has become the priority at Searle because it is a top concern at Monsanto.

"Managed care has to be the biggest area for Monsanto, and we're putting in managed care anywhere we can all across the country," Mr. McDermott said. "We've tried to put people in (managed care) networks where we could.

"You almost don't have a choice anymore," he said. "You almost don't have indemnity products that are being offered."

The loss of choice that some employees experience when they have become used to indemnity plans and face the prospect of joining a health maintenance organization has been "a difficult concept for people to accept," he said.

"People resent being given rules," Mr. McDermott said, but added that most employees at Searle's headquarters in suburban Chicago and a plant in Augusta, Ga., have joined the company's point-of-service health plan.

The increased reliance on managed care, he said, has been good financial policy for the company this year. "Clearly, we saw cost savings across the country," he said. Searle also has spent much effort this year preparing to join a Monsanto corporate-wide managed disability program that will cover long-term and short-term disability and workers compensation in hopes of saving money and getting employees back to work more quickly. The program, which starts Jan. 1, will require employees to call a toll-free telephone number on the eighth day of absence from work and to discuss the problem with a nurse who will use standard protocols to calculate how long the disability should keep the worker home. "We're going to keep a closer eye on our disability dollars," Mr. McDermott said.

Karen Arnold, benefits supervisor for Pearle Vision Inc. in Dallas, said a POS plan implemented at Pearle two years ago has saved the company about $2 million over its old indemnity plan. "I think indemnity plans are going to be phased out (completely) over the next few years," she said.

The industry should not write an obituary for indemnity plans, however, as many companies continued to offer them in 1995 without managed care alternatives. Minneapolis-based Nash Finch Co., a food distributor, resisted offering any of its 13,000 workers a managed care plan this year and so far has not suffered large premium increases that sponsors of some other indemnity plans have, said Walt Hreno, director of risk management.

Because many of the company's geographically dispersed 140 stores are located in rural areas and small towns, Nash Finch decided this year it would be impractical to offer an HMO to employees. No plan is likely to cover more than half the company's employees, Mr. Hreno said.

"It could be a tremendous task to put these together," he said. "As times change, and as necessity requires, we will look at these (HMOs)—not because we want to, but because we have no choice."

While some companies considered how to fine-tune their benefit packages, others spent 1995 weathering tempests created by mergers and acquisitions. A September 1995 merger of two corporate units, each with common parentage created uncertainty among employees and benefits executives at Engineering Research Associates Inc., a defense systems contractor, in Vienna, Va. ERA, which spent most of the year as a wholly owned subsidiary of Dallas-based E-Systems Inc., got a lesson in the rule of corporate efficiency when it was merged by E-Systems into a larger Falls Church, Va.-based division of E-Systems. Now benefit administrators in Vienna are trying to sort out the implications for employee benefits.

"It's been quite a massive adjustment," said Nina Falci, ERA benefits manager.

Although ERA's health care plan will be extended through 1996 before being replaced by that of E-Systems, all other benefits are being converted to the parent company's. And while employees at ERA in the past had company-paid benefits for long-term and short-term disability and life insurance, E-Systems traditionally has split costs with employees, Ms. Falci said.

"Your hear so much about other companies combining and restructuring," she said. "I feel like part of that crowd."

Despite the lack of revolutionary health care reform proposals in Washington, there was much on Capitol Hill that benefit managers were watching in 1995. Abigail Hudgens, risk and benefits manager for the city of Knoxville, Tenn., said she was disappointed that legislation that would have required government Section 457 savings plans to hold assets in trust for the exclusive benefit of participants was not enacted into law.

The Section 457 provisions were part of comprehensive tax legislation that was passed by Congress but later vetoed by President Clinton for reasons unrelated to the Section 457 provisions.

"That's important legislation and I certainly would hope it will come up again," Ms. Hudgens said, referring to the Section 457 changes.

Eyeing the political process was frequently frustrating for Pearle's Ms. Arnold as well.

"1995 was an extremely confusing year," because of several abortive health care reform proposals that made the rounds. "We got prepared for several things and then ended up just spinning our wheels."

Ms. Arnold also expressed concerns about administrative difficulties Pearle will face if health care reform initiatives succeed only at the state level because the company has employees in 40 states BI

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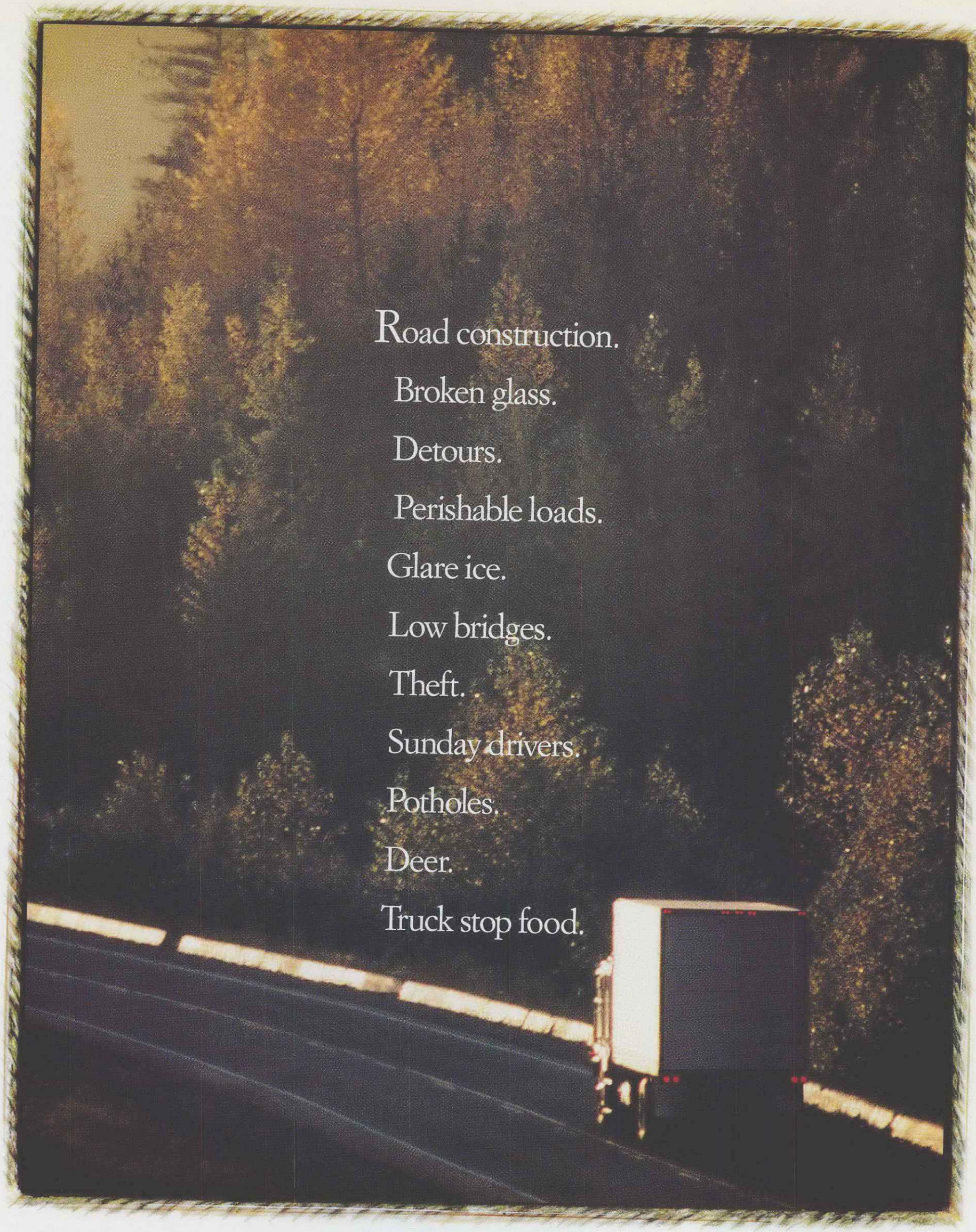

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his company, Mr. Mandel said.

"I think (mergers) will continue and will have an impact" on how risk managers do their business, said Joan Spiegel, vp of risk management at Safeway Inc. in Oakland, Calif.

Risk managers, she noted, have to look closely at the coverage they are buying and whom they are buying it from. "You really have to think about whom you are buying insurance from. . .is the company going to be there?"

Further from home, risk managers kept a keen eye on the continuing problems at Lloyd's of London and plans to revive the struggling marketplace.

Lloyd's financial problems 'sent a ripple through the industry" raising fears regarding the stability of the marketplace, which has stood for more than three centuries and was long regarded as "the rock, the cornerstone," said Allen Impaglia, risk manager of the city of Glendale, Ariz.

Lloyd's, crippled by losses totaling nearly £8 billion ($12.56 billion) between 1988 and 1992, is planning by next spring to transfer all liabilities through the 1992 year of account to reinsurer Equitas Ltd. Equitas, in turn, would run off the business and Lloyd's would operate with liabilities from 1993 onward.

Lloyd's also must settle litigation with members and cap their liabilities through Equitas.

"Either Equitas is funded and the pending litigation is resolved, or Lloyd's will slip into runoff," predicted H. Felix Kloman, editor of Risk Management Reports. "If the latter occurs, it may have a significant psychological effect on both buyers and insurance markets."

'I think you'll find more activity by the capital markets in insurance products,' says Carla Eberling.

Among the other trends that risk managers noted during 1995 was the evolution of "new risk financing products from the capital markets and banks," said Judith Tornese, vp-risk management for Transamerica Corp. in San Francisco.

"I think you'll find more activity by the capital markets in insurance products," agreed Carla Eberling, director of risk management at Philips-Van Heusen Corp. in New York. "That's the way things are going to go. We'll see more experimentation into that area."

The consolidation trend and many other issues that have marked 1995 have overshadowed past-year concerns, some of which may be gone for good while others have a history of hiding before emerging when market conditions are right.

Workers compensation issues, for example, are spoken of in an entirely different light since state legislatures began passing reforms. Costs are coming down and risk managers are encouraged about the prospects for the long-troubled line.

States have become aware that in order to be business-friendly, "they have to adjust the way they handle workers comp," said Ms. Eberling.

"Workers comp costs continue to come down," said KFC's Mr. Mandel. "It's been very dramatic for us."

While its not always easy or cheap to buy insurance, the story on property/casualty rates is little changed from last year, risk managers agree.

Property rates remain high for risks with earthquake and hurricane exposures, while buyers can find more palatable rates for most casualty lines.

The earthquake in Kobe, Japan, (*BI*, Jan. 30) helped prevent insurance prices for that exposure from falling, said Rose Vena Berk, risk manager at Helene Curtis Industries Inc. in Chicago.

"We have facilities in Japan," she said, though they didn't suffer damage from the quake. "But for a couple of days, we didn't know what was going on."

The earthquake shook up her ability to find cheaper coverage or buy additional limits, Ms. Berk noted. After seeking competitive bids, she found insurers couldn't match the prices charged by her incumbent insurer.

Buying higher limits of coverage from anyone was out of the question, she said. "It was terribly expensive."

The earthquake in Kobe "was interesting in that it taught people what can happen in an earthquake," said Ms. Spiegel of Safeway. "Those issues are transferable to those of us in earthquake-prone areas."

"This was the year that 'acts of God' ruled the property market, which definitely decreases our ability to control risk," said Cheri Hawkins, assistant treasurer and director of insurance for Weyerhaeuser Co. in Tacoma, Wash.

Other risk managers pointed to liability issues as key features of 1995.

Employer liability risks have become "a significant aggravation for us in the last year or two," said Mr. Mandel of KFC. As a result, the company now transfers most of that risk rather than retaining nearly all of it, as in the past.

KFC still maintains a significant retention but didn't want to remain exposed to the unpredictable and "out of control" jury awards that have marked some employer liability cases, Mr. Mandel explained.

"It was another year of 'entitlement' by third parties and attorneys scrounging for business" in such areas as directors and officers liability, said Weyerhaeuser's Ms. Hawkins.

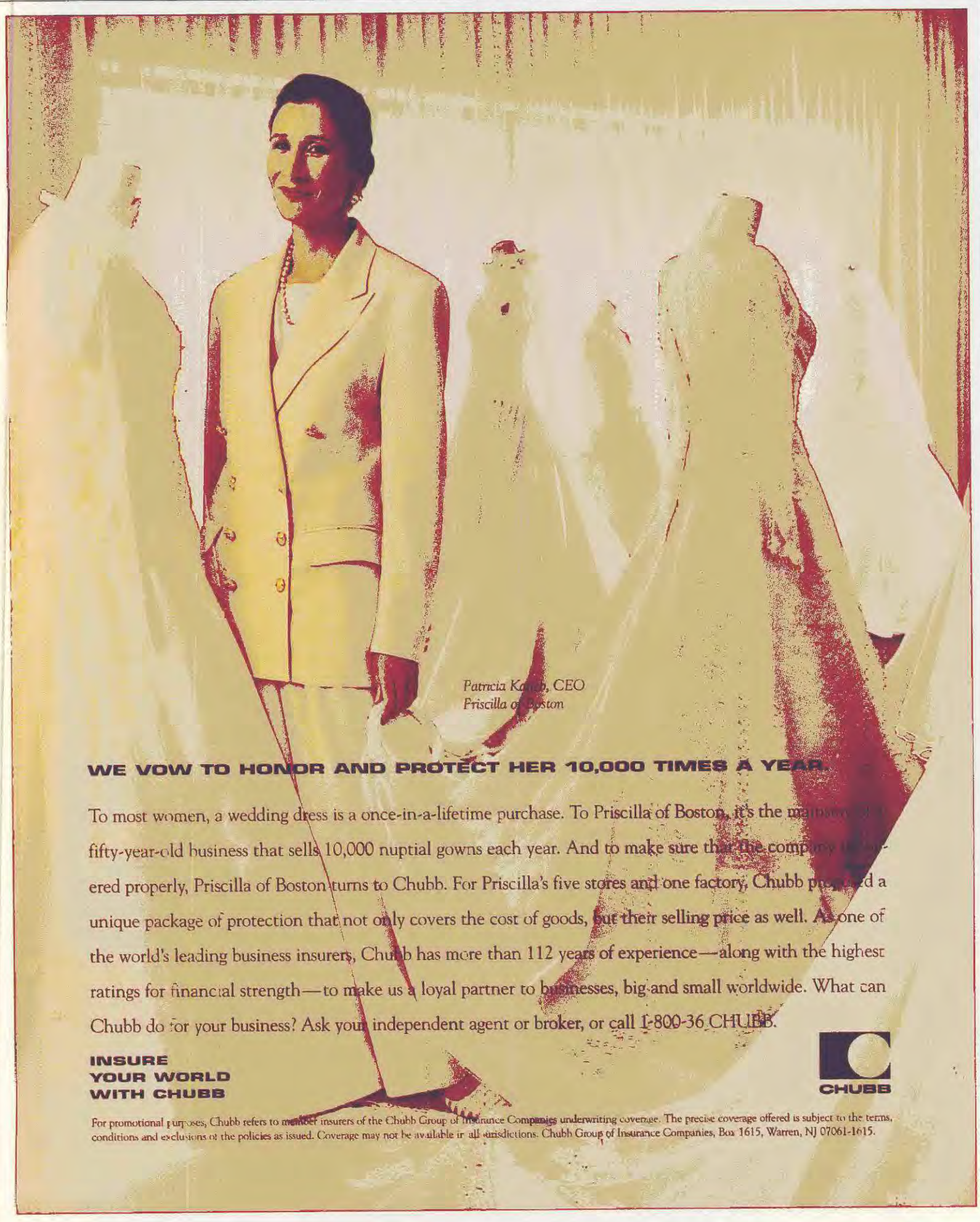
Ms. Tornese of Transamerica observed that environmental liabilities continued to be one of the biggest challenges facing the risk management community in the past year.

1995 also may well be remembered as the year when risk managers began to seriously explore the Internet. As the system's reach has expanded and use has become easier, more risk managers this year began to view it as a tool to help them do their jobs.

"I think the globalization of insurance and the growing information network are making a tremendous impact on how risk managers do business," said Mr. Impaglia. "The whole world is shrinking because of information technology."

"This was the first year that I realized the potential of it," said Ms. Eberling of Philips-Van Heusen. "This year, I kind of awoke to the possibilities available to risk management."

Ms. Eberling said she is working on bringing access to the Internet into her risk management department. BI



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JUST YESTERDAY WE CHEERED THE START OF 1995!

THIS YEAR WE HAD HURRICANES, FROM 'A' TO 'R' THEY BLEW.
EARTHQUAKES SHOOK KOBE, JAPAN, A SHAMBLES ALL COULD RUE.

THE SADDEST PAIN WAS WITNESSING A DARKENED BUILDING SHELL
FROM AN OKLAHOMA BOMBING: SENSELESS, CRUEL AND FELL.

DERIVATIVES MADE HEADLINES FOR THE LOSSES THEY INCURRED.
THE RISK IN HEDGE INVESTING SEEMS TOO EASILY INURED!

HEALTH CARE REFORM FRAMED ALL DEBATE, THEN DIED, IN '94.
NOW MEDICARE AND BUDGET CUTS ARE BANNERS IN THE WAR.

SUPERFUND REFORM FELL SHORT, IT'S REALLY NO SURPRISE...
OUR HOPES RELIED ON TRUST IN POLITICAL EXERCISE.

CONGRESS DID GET ONE THING RIGHT WITH MEDICAL EXCLUSIONS:
CONDITIONS THAT PRE-EXIST NO LONGER MEAN EXPULSIONS!

LLOYD'S CAME FORTH WITH THEIR PLAN FOR RESCUE FROM OBLIVION.
NOW TIME WILL TELL IF THEY BECOME DINOSAUR OR LION.

BEST WISHES FOR THE HOLIDAYS FOR, WHATEVER ELSE MAY REAR,
THE WARMTH OF FRIENDS AND FAMILY WILL KEEP US THROUGH THE YEAR!

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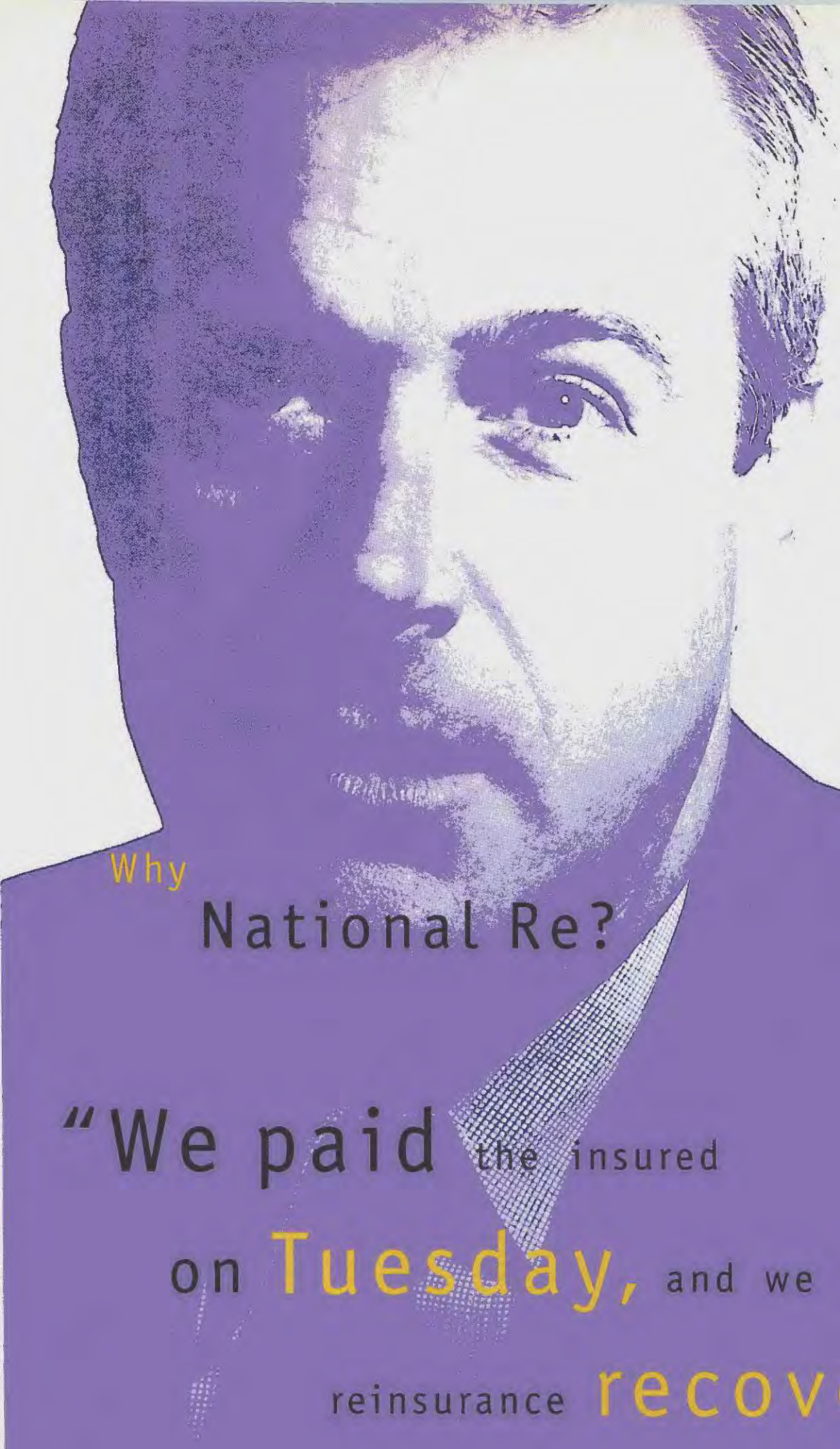

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Lloyd's of London's restructuring grabs attention

CIGNA runoff, lower cost of risk also were items of note in '95

YEAR IN REVIEW 1995

By MARK A. HOFMANN

Risk management's attention shifted from Pennsylvania Avenue to Wall Street, Main Street and assorted points east and west in 1995.

Whereas 1994's top story, the failure of Congress to reauthorize Superfund, was an inside-the-beltway tale of the first order, the top story this year didn't even take place inside the United States.

In fact, that tale continues to play out in London, where Lloyd's of London this spring unveiled a broad restructuring plan designed to raise new capital, segregate past liabilities and settle member litigation.

The restructuring plan called for placing open years of account into reinsurer Equitas Ltd., raising billions of pounds through special charges and diverted funds and offering a package worth £2.8 billion ($4.3 billion) to settle member litigation.

Lloyd's members still don't know how much it would cost them to put their liabilities into Equitas, though premium estimates initially were due to be released in October.

One key figure who will not be there to see if the plan ultimately succeeds is Peter Middleton. After three years as chief executive, he left Lloyd's in November to become CEO of European operations at Salomon Brothers International. Mr. Middleton was replaced at Lloyd's by Ron Sandler, who had joined the market earlier in the year as director of special projects.

Closer to home, Philadelphia-based CIGNA Corp.'s plans to boost its asbestos and environmental reserves by more than $1 billion and restructure its property/casualty insurance operations earned the No. 2 spot among the year's top stories.

Competitors and some policyholders almost immediately came out strongly against the plan, contending, among other things, that they needed more information to determine whether the runoff operation designed to handle most of CIGNA's asbestos and environmental liabilities would be adequately funded.

If the year's No. 1 and 2 stories caused some uneasiness among risk managers, at least the next two brought some good news.

The third most important story of the year is the declining cost of risk.

The amounts that U.S. corporations spent on net insurance premiums, unreimbursed losses and administrative costs fell to $7.30 per $1,000 of revenue—a 5% drop from the levels they paid in 1993 and the second consecutive year of decline after years of steady increases, according to a survey conducted by Towers Perrin and the Risk & Insurance Management Society Inc.

One critical reason for 1994 result was a 22% drop in liability risk financing costs to $2.55 per $1,000 in revenue.

Another key factor was declining workers compensation rates, which are explained in part by story No. 4: the improvements in workers compensation insurance underwriting.

For the line, the combined ratio fell to 101% in 1994 from 109.1% in 1993, according to the Boca Raton, Fla.-based National Council on Compensation Insurance.

At No. 5 was a story—the bankruptcy of Dow Corning Corp.—that some risk managers cite as an example of the tort system run amok.

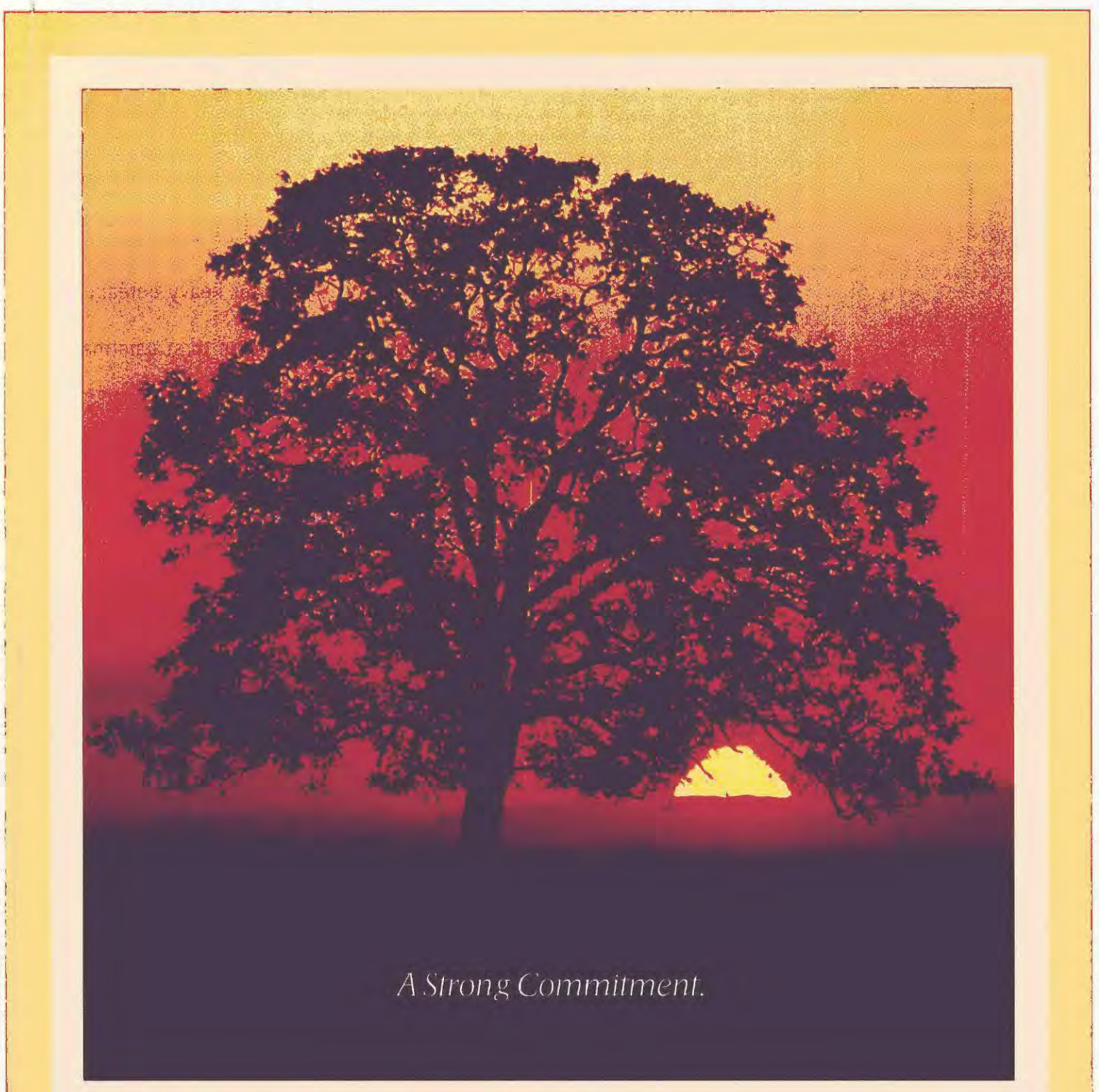
The former leading manufacturer of silicone gel breast implants sought bankruptcy protection after a federal judge ruled that a proposed $4.25 billion settlement of all claims against implant makers would not cover all existing claims. Dow Corning was to have paid $2 billion of the total.

The judge also ruled that Dow Chemical Corp., one of the 50/50 partners in the joint venture company, could be sued for damages in connection with the breast implants.

"This is a dramatic example of what is wrong with our civil justice system, where even with no scientific proof, a company can be brought to bankruptcy and just as importantly, a joint venture parent may no longer be immune from paying damages," said Charles K. Dougherty, manager-risk management and insurance at Union Carbide Corp. in Danbury, Conn.

The No. 6 story of 1995—Zurich Insurance Group's takeover of much of The Home Insurance Co.'s business—underscored one of the trends dominating risk management these days: consolidation in the property/casualty insurance industry.

See **Risks** *on page 14*



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Risks

Continued from page 10

Zurich, which edged out a group of investors led by John J. Byrne of Fund American Enterprises Holding Inc., took over a selected block of The Home's business (*BI*, Jan. 16).

Under pressure, Zurich also sweetened its original offer of $1 billion in reinsurance to cover the runoff of The Home's remaining liabilities, promising to pay up to $1.59 billion if The Home's assets were exhausted before claims were paid (*BI*, May 22).

But if that amount is inadequate to cover claims on The Home's business Zurich didn't want, Zurich says it has no obligation to pay the claims of Home policyholders (*BI*, Sept. 25).

"We have nothing whatsoever to do with the policies that were issued by The Home," stated Zurich Chairman and Chief Executive Officer Rolf Hueppi.

Consolidation is "a trend in many industries and will continue in 1996," predicted Frank E. Locke, administrator-risk and insurance, for Oklahoma Natural Gas in Tulsa.

"The Zurich move also reflects a new trend toward isolation and avoidance of historical experience problems like pollution," commented a director of risk management for a mining and manufacturing concern.

Consolidation was also at the heart of the No. 8 story, the sale of Aetna Life & Casualty Co.'s property/casualty operations.

The Travelers Inc. has offered $4 billion for the business in a deal that would make it, by means of a new holding company, the third-largest U.S. commercial insurer, behind only CNA Financial Corp. and American International Group Inc. (*BI*, Dec. 4).

CNA, in fact, was one of several companies involved in buyout talks with Aetna. Also involved was leveraged buyout specialty firm Kohlberg Kravis Roberts & Co., which now may be interested in buying Talegen Holdings Inc.

A look back at the year's top news stories cannot avoid tragedy, as both the No. 7 and No. 9 stories illustrate.

At No. 7 is the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, which killed nearly 170 people and injured scores of others (*BI*, April 24). The blast damaged about 300 commercial structures and 200 homes and was initially expected to cost insurers at least $300 million (*BI*, May 1). Later estimates were that insurance would cover about $105 million of the total $652 million in damage.

The bombing "was a reality check for violence and the country's disassociated populations," said Yvonne Norton Leung, risk manager for the state of Nebraska in Lincoln. "It made security a core risk management value."

The No. 9 story involved destruction wrought by nature rather than man. The earthquake that devastated Kobe, Japan, on Jan. 17 was the most severe quake to strike that nation in more than 70 years (*BI*, Jan. 23). But insured losses from the disaster are estimated at $1.3 billion, far less than the more than $12 billion in losses from the Northridge quake that shattered areas of Los Angeles exactly one year earlier. The Japanese insured losses were so much smaller because few homeowners and businesses bought the costly coverage (*BI*, Jan. 30).

"On the heels of Northridge one year earlier, Kobe reinforced a major drive for disaster planning worldwide. It also foreshadows a major quake likely to occur in Tokyo before the year 2010," said Scott Lange, director-risk management for Microsoft Corp. in Redmond, Wash.

The final entry in the top 10 stories of 1995 may be a portent of news to come as insurance companies grapple with environmental exposures.

Throughout the year, several major insurers added massive amounts of money to their reserves to cover environmental liabilities.

Most recently, Nationwide Mutual Insurance Co. added $1.1 billion to its environmental liability reserves. Earlier, Aetna boosted its environmental reserves by nearly $1.1 billion (*BI*, July 17); Fireman's Fund Insurance Co. added $800 million to its reserves (*BI*, June 26); Swiss Re America Corp. increased its reserves by $700 million (*BI*, April 10); and CIGNA, as part of its plan, is boosting reserves.

That reserving comes against a backdrop of growing concern over environmental liabilities.

Standard & Poor's Insurance Rating Services predicts that the claims will rock the industry into the next century, requiring some insurers to undergo massive restructuring and ultimately forcing some companies out of the property/casualty business (*BI*, Oct. 30).

Environmental liability "is the most expensive liability facing insurers and will definitely have a serious impact on the financial stability of the insurance industry," observed Judith M. Tornese, vp-risk management for Transamerica Corp. in San Francisco.

Although they didn't make the Top 10 individually, a cluster of stories dealing with the tort system drew risk managers' attention. These included the House of Representatives' passage of a comprehensive tort reform bill in March (*BI*, March 13) and the Supreme Court hearing arguments in *BMW vs. Ira Gore Jr.*, a case that the justices may use to set constitutional guidelines for punitive damages (*BI*, Oct. 16).

The House legislation would cap punitive damages in civil cases, provide a uniform product liability standard and abolish several liability for non-economic damages. The Senate later passed a much narrower bill that dealt only with product liability.

A House-Senate conference committee began work on reconciling differences in the two pieces of legislation in December.

"Tort reform will change the entire insurance industry," said Lou Drapeau, manager-insurance and risk management for The Budd Co. in Troy, Mich.

The House's action is an "attempt to introduce standardization—and sanity—in an area of increasing litigation," wrote a finance director of a manufacturing company.

The BMW case began when an Alabama jury awarded a doctor $4,000 in compensatory damages because the automaker had not disclosed that it had refinished paint on the vehicle after it had been damaged in transit and then gave him an additional $4 million in punitive damages.

The BMW case could "have the broadest impact on manufacturers' product liability risk. There needs to be some uniform and reasonable method for calculating and capping punitive damages; current laws are not either," said Dave Eaton, manager-risk, insurance and benefits financing for manufacturer Bandag Inc. in Muscatine, Iowa. BI

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Long year and long faces on Lime Street

No one said saving Lloyd's of London would be easy.

But for every step forward in the market's ambitious "reconstruction and renewal" plan, Lloyd's seems to fall three steps back.

This year has been difficult for Lloyd's, especially during the month of May.

In May, Lloyd's reported a 1992 global loss of £1.19 billion ($1.87 billion) for the three years ended Dec. 31, 1994. It was Lloyd's fifth-straight loss, bringing total losses between 1988 and 1992 to £8 billion ($12.56 billion) (*BI*, May 29).

There was a silver lining, though, as the market predicted that its 1993 account would be profitable for the first time since 1987, with anticipated earnings of more than £1 billion.

However, the bad news continued when the same day both sets of figures were announced, the House of Commons Treasury and Civil Service Committee issued a sharply critical report that lambasted the market's record of self-regulation. The Parliamentary committee's report called for external regulation of Lloyd's, but Prime Minister John Major later vetoed that proposal.

Also that same week, the New York Insurance Department determined that Lloyd's would have to implement a major restructuring of its U.S. trust funds to provide more security to U.S. policyholders. New York regulators said the U.S. trust funds had net deficiencies of £7.75 billion ($11.47 billion) before reinsurance recoveries at the end of 1993. Lloyd's claimed this finding was misleading because New York was unwilling to recognize Lloyd's outward reinsurance.

Whether it was orchestrated to coincide with the rash of bad news or just coincidental, Lloyd's Chairman David Rowland announced the market's "reconstruction and renewal" plan that same week.

On its surface, the plan sounded simple: Transfer all liabilities associated with the "old" Lloyd's—those up to and including the 1992 year of account—into the market's proposed runoff reinsurer Equitas Ltd. Then the "new" Lloyd's that would remain in business would only have liabilities from 1993 onward.

But to do this by mid-1996 would not be so easy. Lloyd's first must:

- Segregate 584 open years of account into Equitas.
- Raise hundreds of millions of pounds through a variety of charges on agencies, members in the market and possibly syndicate auditors.
- End members' litigation with a settlement package worth £2.8 billion ($4.34 billion) and a cap on liabilities through Equitas (*BI*, Aug. 28).

Lloyd's set itself a timetable for various goals before the R&R plan could be implemented next spring. So far, though, nearly all of those deadlines have not been met.

For example, Equitas' reserves had to be determined and premiums for reinsurance to close members' accounts into the runoff reinsurer had to be calculated. Preliminary premium calculations were supposed to be sent to members in October, but they never saw them. Instead, the reserve calculations were sent to managing agents who are arguing over them with Equitas before the members receive their bills sometime in 1996.

Lloyd's said it would ask the members to vote in principle for the plan in November, but a vote

was never held, even though many members publicly favor the plan.

The British Department of Trade and Industry also was supposed to give provisional licensing approval for Equitas by the end of this year. But, a Lloyd's spokesman confirmed last week that this target will not be met, either.

Meanwhile, several major players involved in the R&R plan have jumped ship. Lloyd's Chief Executive Peter Middleton abruptly resigned last month to become CEO of European operations at investment bank Salomon Brothers International Ltd. in London. Ron Sandler, who was director of special projects in charge of the R&R plan, has become chief executive of Lloyd's (*BI*, Nov. 20).

Many senior Lloyd's executives expected Mr. Middleton to stay until the reconstruction was completed. He had established trust with the many disaffected names who will need to approve the settlement offer for Lloyd's to be out of the woods. His abrupt departure shocked both members and Lloyd's executives.

Heidi Hutter, project director for Equitas for the past two years, also is leaving her position at the end of this year to become chairman and CEO of Swiss Reinsurance America Corp. in New York. She will divide her time between her new position and supervising the reserving work of Equitas until the end of February.

Michael Crall, president and CEO of Argonaut Insurance Co. since 1986, has become chief executive-designate of Equitas (*BI*, Dec. 4).

—By Stacy Shapiro

OUR ATTENTION.

Royal Insurance

CIGNA runoff plan encounters stiff opposition

CIGNA Corp.'s plan to fully recognize and wall off its long-tail liabilities in a separately capitalized runoff operation faced new regulatory opposition at year-end 1995, in addition to continuing criticism from a group of policyholders and competing insurers.

Under CIGNA's plan, Insurance Co. of North America, the CIGNA subsidiary with the greatest amount of environmental and asbestos liabilities, would be divided in two. The entity retaining most of those liabilities would be merged, along with a few other CIGNA units, into Century Indemnity Co., another CIGNA subsidiary. Century would become the lead runoff company.

The other half of INA would continue as part of CIGNA's active operation.

The runoff operation would have $7.3 billion available to pay long-tail liability claims. The active operation also would provide $500 million of excess-of-loss reinsurance to the runoff operation.

As Pennsylvania regulators held public hearings on the plan, a Missouri regulator warned CIGNA earlier this month that the plan runs afoul of a Missouri insurance statute. The regulator said the plan could lead to criminal prosecution because it would move Missouri policyholders' coverage to an insurer—a portion of the divided INA—that is unlicensed in Missouri (*BI*, Dec. 18).

The plan could be restructured to avoid that problem, but it would need prior approval from Missouri regulators and policyholders, the regulator contended.

Citing a similar argument, the nation's guaranty funds said they likely would not respond if the runoff operation were to fail (*BI*, Dec. 11).

CIGNA said those arguments are erroneous.

The policies are moved among CIGNA units through mergers that are like other insurer mergers that do not require policyholder approval, CIGNA said.

Since the plan was announced in October (*BI*, Oct. 9), a group of policyholders and competing insurers have implored regulators in Pennsylvania, where CIGNA is domiciled, to withhold approval.

Some critics want more information to determine for themselves whether the runoff operation would be adequately funded. But some, including competing insurers and former Pennsylvania and Texas regulators, oppose the plan in principle. They say CIGNA's active operations should stand behind the long-tail liabilities.

CIGNA executives and consultants say critics oppose the plan either because they do not understand it or because it would make CIGNA a stronger competitor.

Some competing insurers also may be concerned that the plan, if approved, would pressure them to recognize their ultimate long-tail liabilities, said CIGNA consultant George K. Bernstein, a former New York insurance regulator.

CIGNA's ongoing operations would be bolstered under the plan because they would receive a higher rating from rating agency A.M. Best Co. Best has said it anticipates rating the active companies A-, or excellent, after the reorganization plan is completed.

Best's rating for CIGNA's old property/casualty pool fell to B++ in December 1994, before CIGNA announced plans in February to segregate its operations that write rating-sensitive business from other active operations.

The rating-sensitive operations regained an A- rating (*BI*, Dec. 4; Feb. 20).

Without the plan, policyholders with environmental and asbestos liabilities have no assurance that they "will see their claims paid in full," Mr. Bernstein said.

If the plan is not approved, he said, CIGNA would not warrant an A- rating. CIGNA Corp., the ultimate parent company, then would not likely commit stockholder equity to fund the runoff operation or write the $500 million of reinsurance coverage, he said.

The lower rating also would relegate CIGNA's market to "second-class business" and would stunt cash flow, a "classic prescription for financial disaster," according to Mr. Bernstein.

Critics say CIGNA is to blame for any misunderstanding about the plan because it will not release information they need to evaluate its financial viability.

Critics also are infuriated with Pennsylvania Insurance Commissioner Linda S. Kaiser. She has refused to order CIGNA to release the material, saying it contains proprietary information.

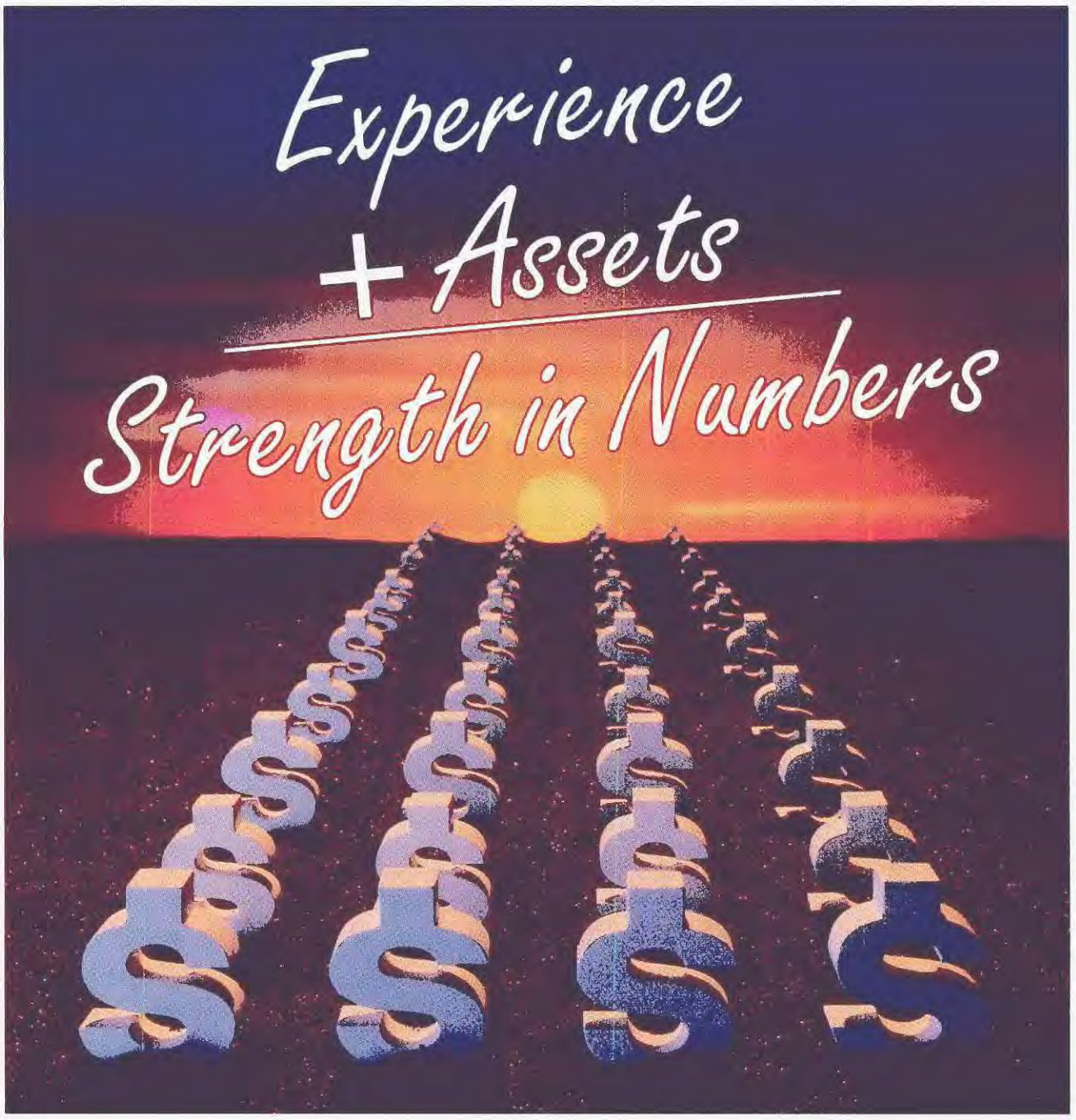
Last week, rival insurers and policyholders petitioned a court for expanded hearings that would give greater access to that information (see story, page 2).

The information consists of reports by actuaries that the department and CIGNA hired separately to evaluate the plan. Both actuaries support the plan.

In lieu of those reports, some critics have suggested a parental guarantee of the runoff operation, which CIGNA has flatly rejected. Such a guarantee would amount to an open-ended liability and hurt CIGNA's standing with capital markets, Mr. Bernstein said.

Critics also have asked Ms. Kaiser to recuse herself from the case because she is a former CIGNA attorney, but she has refused to step aside.

—By Dave Lenckus



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Cost of risk continues to drop for employers

Risk managers got a double dose of good news this year when they learned that the cost of risk for U.S. companies fell for the first time in a decade in 1993 and continued to decline in 1994.

Falling workers compensation costs led the decline in 1993, when companies spent an average of $7.70 for every $1,000 of risk, which represented a decrease of 7% from what companies spent the year before (*BI*, May 1).

The 1994 study, which was released earlier this month, showed that the cost of risk continued to fall last year, declining by 5% to $7.30 per $1,000 of revenue (*BI*, Dec. 11).

Cost of risk is defined basically as net insurance premiums, retained losses and administrative costs.

The annual study is conducted jointly by the Tillinghast division of Towers Perrin and the Risk & Insurance Management Society Inc. While the study traditionally has been released at the annual RIMS conference each spring, future studies are expected to be released in the third quarter of each year with an analysis of prior year's costs.

The most significant factor in falling risk costs in 1993 was the decline in workers comp costs, which had driven increases in the overall cost of risk since 1990. While it continued to be the largest component of the cost of risk, workers comp risk financing fell to 43% of the overall cost in 1993 from 46% in 1992.

Comp costs also decreased in 1993 when measured as a percentage of payroll and on a per-employee basis.

The survey's authors attributed the decline to greater cost control efforts by companies and workers comp reforms throughout the United States.

"The decrease in the cost of workers compensation is in all industries and all size groups," said Jenny Emery, practice manager for Towers Perrin's worldwide risk management practice based in Hartford, Conn. "Workers comp is a smaller piece of a smaller pie," she remarked soon after the survey was released.

While workers comp costs were falling in 1993, the cost of financing other liability risks continued to rise. And, property risk financing costs edged up by one percentage point.

The 1995 Cost of Risk Survey, released this month, reflected the continuing decline of the total cost of risk in 1994.

The second straight dip is significant because it shows the 1993 results weren't merely an aberration in what have been steadily rising risk financing costs, said Richard H. Moscicki, a principal with Tillinghast in Dallas.

Workers comp costs continued to fall in 1994, spiraling downward by 18% and holding down total costs.

But another major factor in the 1994 decrease was a 22% drop in liability risk financing costs to $2.55 per $1,000 of revenue. That drop reversed the two prior years of increases and helped offset a near tripling of retained property losses for U.S. companies.

The survey concluded that among the factors keeping liability risk financing costs down were a heightened awareness of loss control, continued soft insurance prices and more effective control of litigation.

At the same time, property risk financing costs gobbled up a bigger share of the cost-of-risk pie in 1994, rising to 18.4% of the total, up from 13% in 1993.

And retained property losses were in record territory, reaching 58 cents per $1,000 of revenue, the highest figure since the survey began and nearly three times the 1993 amount.

The last five years of heavy losses from natural catastrophes have resulted in higher premiums and have driven companies to retain more of their property risks, according to the study.

Risk managers are retaining more risk through "higher deductibles, reserves, not taking full limits," according to Alicia Junta, chairman of RIMS' Research Committee and director of risk management services for Hoffmann-La Roche Inc. of Nutley, N.J.

Retentions of liability risks have continued to increase as well, the study showed. Since 1991, the median liability retention has doubled to $500,000 in 1994 from $250,000.

While U.S. companies saw their cost of risk decline last year, their Canadian counterparts watched those costs spike upwards.

Canadian companies spent an average of $3.40 per $1,000 Canadian of revenue ($2.42 per $713) on risk financing costs in 1994. That's a 21% increase over costs in 1993 levels, which had declined from 1992 costs.

The survey found that every component of risk costs for Canada-based companies rose in 1994. Liability risk financing costs shot up 21% to $1.55 per $1,000 Canadian ($1.10 per $713).

Property risk financing costs reached $1.51 per $1,000 Canadian ($1.08 per $713) in 1994, a 6% jump from the 1993 cost.

That reverses the trend of previous years when property costs were the largest component of risk financing for Canadian companies.

—By Michael Bradford

Ringing out a good year for workers comp

The second straight year of improved results for workers compensation insurers is good news for both insurers and risk managers.

For the workers comp insurance industry, the combined ratio after policyholder dividends improved by 8.1 percentage points to 101% in 1994 from 109.1% a year earlier, according to estimates by the National Council on Compensation Insurance (*BI*, April 17).

That figure marks a dramatic 20.5-point improvement in the last two years, making workers comp "the most improved line among major property/casualty lines of insurance," William D. Hager, president and chief executive officer of the Boca Raton, Fla.-based NCCI, said.

A.M. Best Co. is even more optimistic than the NCCI. Best estimates

the 1994 combined ratio at 97%.

Such dramatic improvement is in sharp contrast with the period 1984-1992, when the annual combined ratio each year exceeded 117%.

Insurers aren't the only ones to benefit from the improved financials. Risk managers may benefit, too, through lower premiums and more competitive pricing for excess insurance.

Last year, rate and loss cost changes filed by rating organizations averaged a decrease of 1.9% countrywide, the lowest change since 1981 and the first overall decrease since 1982, the NCCI said.

For 1995, average premium levels declined 2.8% nationwide.

Other indicators also reflect the beneficial effects of competition among insurers.

For example, the availability of voluntary insurance has improved, as the market share of assigned risk plans nationwide dropped to 24.7% in 1994 from 28.5% in 1992.

At the same time, dividends to policyholders increased to 4.1% from 3.7% while other individual rate adjustments, such as deviations, increased to 4.6% in 1994 from 3.2% in 1992.

The recent good results for the workers comp system stem from a combination of factors.

Specifically, the NCCI calculates the 20-percentage-point improvement over the last two years in the combined ratio to: adequate loss costs, seven points; statutory reform among states, six points; improvements in the residual market, four points; and a reduction in loss trends, three points.

"The workers compensation industry is now healthier than it has been in more than a decade," though some individual states could improve more, Mr. Hager said. However, "history has taught us that reforms in workers compensation need to be continually monitored and refined." Improved market conditions should be viewed as a window of opportunity for workers comp systems to move away from crisis-created changes to a process of continuous improvement consisting of periodically reviewing and correcting minor problems, said Richard Victor, executive director of the Workers Compensation Research Institute in Cambridge, Mass., before the annual meeting of the International Assn. of Industrial Accident Boards & Commissions (*BI*, Oct. 16).

Such reviews would likely touch on several developing trends.

For instance, increased use of managed care in workers comp is helping employers save money, several studies have found.

Managed care networks help employers save 10% to 40% on workers comp medical costs and 15% to 25% on wage replacement or disability income replacement, according to a recent study by Milliman & Robertson Inc. in Philadelphia (*BI*, Dec. 11).

Cost savings from managed care generally are estimated at 10% to 30%—or perhaps as much as 50%—a Milliman & Robertson consultant said earlier in the year.

In addition, employers' interest continues in alternative delivery systems like 24-hour care as well as hybrid insurance products that cross the traditional boundaries of property/casualty and employee benefits (*BI*, Nov. 13).

However, the impetus for adopting

such alternatives appears to diminish as traditional markets offer lower-cost coverage.

California, in particular, has had a highly competitive market this year after a competitive rating law went into effect.

Market conditions are likely to continue, as the state changes to a "file and use" system Jan. 1, scrapping its prior-approval system (*BI*, Nov. 6).

Another trend is the need for employers to be individually responsible for their employees' job-related safety and health.

The Republican-dominated U.S. Congress intends to change the focus of the Occupational Safety and Health Administration to consulting from enforcing worker health and safety laws (*BI*, Oct. 9). In addition, OSHA suspended its effort to publish an ergonomics rule earlier this year.

To date, only the state of Washington has adopted formal guidelines on workplace ergonomics, and its guidelines are purely voluntary.

Strong safety policies will help employers keep losses—and experience rating modification factors—low. Modification factors play a pivotal role in prompting workplace safety measures, an NCCI study found.

—By Meg Fletcher

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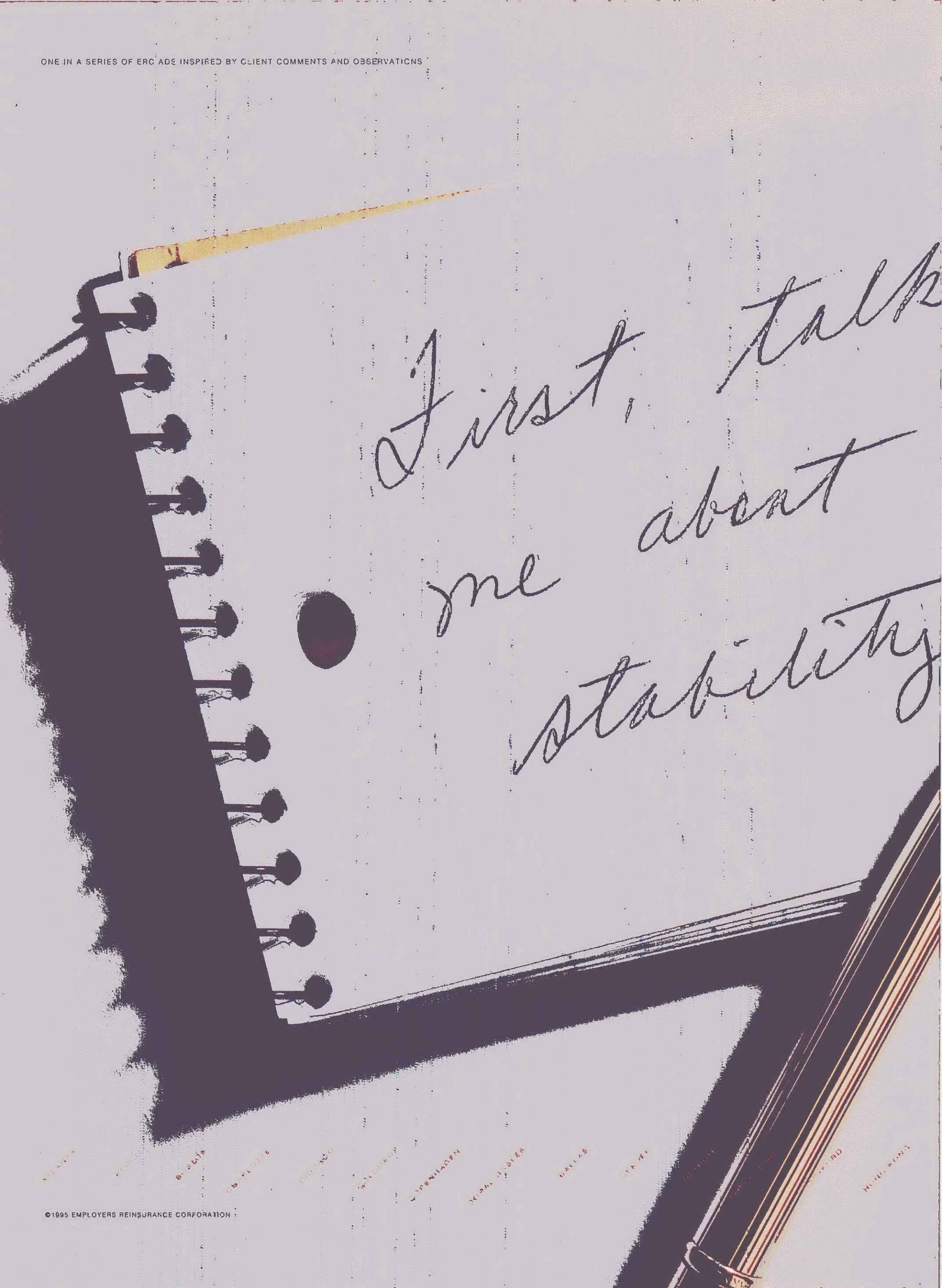

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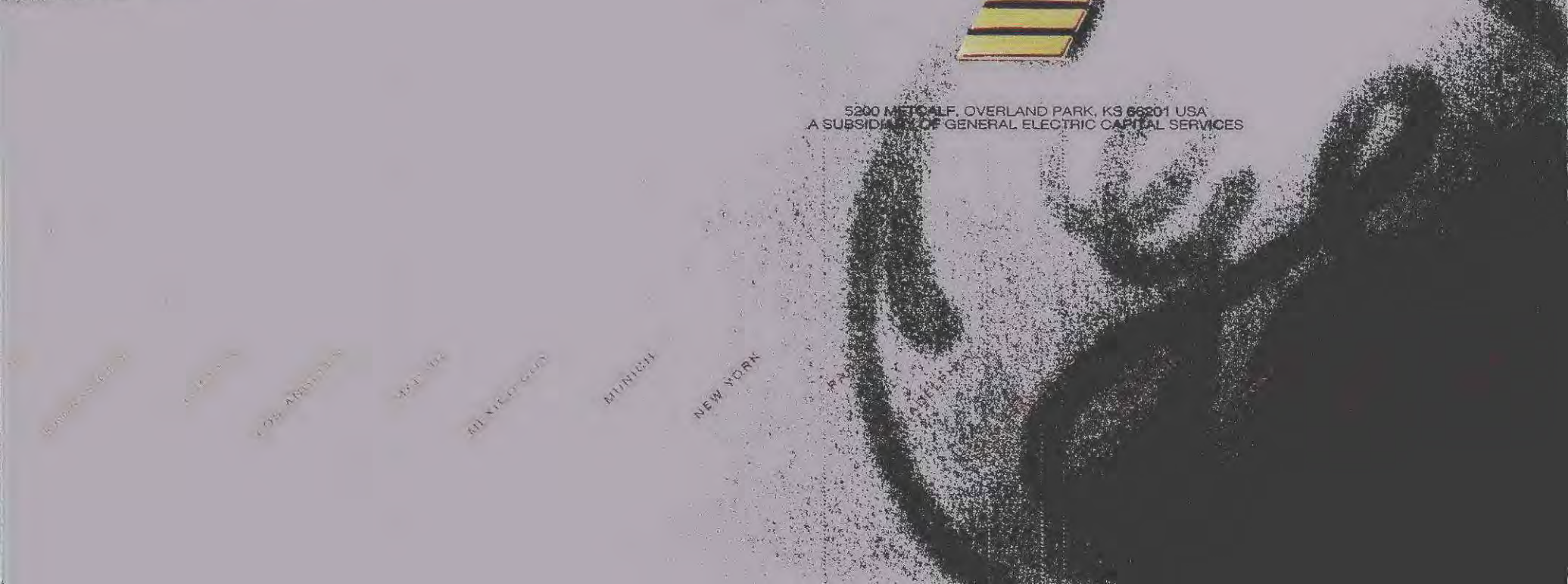

Dow Corning finds no way out on implants

Even Dow Chemical drawn into liability morass

What a difference a year makes.

A year ago, it looked as if Dow Corning Corp. was about to put its silicone gel breast implant liabilities behind it.

Now, Dow Chemical Co., one of the parents of the joint venture company, has been drawn into the fray after Dow Corning filed for bankruptcy protection. That filing, which once looked like a bold strategic move to get some control over the litigation and shield both joint venture partners from liability, may yet backfire.

And the landmark $4.25 billion class-action settlement proposal—which would have been the largest such deal in history—has all but crumbled following U.S. District Judge Sam C. Pointer Jr.'s determination that it didn't contain enough money to cover all the implant recipients seeking compensation. (*BI*, Oct. 16).

Other silicone implant manufacturers recently have crafted a much smaller settlement offer

But it would not include participation from Dow Corning—a joint venture of Dow Chemical and Corning Inc.—which once was the leading manufacturer of silicone gel breast implants and a major supplier of silicone gel to other implant makers.

Members of the prior class-action settlement were given the opportunity to join the revised settlement, hammered out by Baxter International Inc., Bristol-Myers Squibb Co. and Minnesota Mining & Manufacturing Co., but only if they could prove their implants were made by one of the three participating manufacturers.

Injured or ill women who received implants made by Dow Corning must now take their chances against the company in court.

Since the bankruptcy filing stayed all litigation against the company, the only suits that are proceeding are those that name parent Dow Chemical (*BI*, May 22).

Dow Chemical, which has argued it is not liable for claims against Dow Corning, could become a defendant in thousands of pending breast implant lawsuits against the subsidiary if a Nevada state court judge lets stand the first jury award against the chemical giant (*BI*, Nov. 6).

Separately, the Texas Supreme Court ruled that Dow Chemical must stand trial in silicone gel breast implant suits pending in that state.

Dow Corning had asked the bankruptcy judge overseeing its petition in Michigan to extend the stay to both Dow Chemical and Corning. But the judge said the shield didn't extend that far.

It is not simply as a parent company that Dow Chemical is a target of implant litigation. Rather, injured women have alleged that the company was so involved in the early research and development of the silicone gel used in implants that it should be responsible for any harm down the line.

For example, a Nevada jury assessed a $14.1 million award—$10 million of it in punitive damages—against Dow Chemical, not because it was the parent of the bankrupt implant maker but because it tested the liquid silicone used to make the implant.

Dow Corning's only good news in 1995? More than $620 million in settlements from liability insurers.

This finding reiterated a ruling by Judge Pointer earlier this year that Dow Chemical's research and marketing activities were extensive enough to permit suits directly against the parent (*BI*, May 1).

No courts have yet pinned any liability on Corning, N.Y.-based Corning. Like Dow Chemical, it is a 50% shareholder in Dow Corning.

While the Nevada case was the first in which Dow Chemical has been held solely responsible for damages, earlier this year the company was found 20% liable and Dow Corning 80% liable in a similar case in which a Houston woman who had received implants was awarded $5.2 million. A judge later overruled the verdict against Dow Chemical.

Outside the courtroom, scientists continue to examine silicone implants.

One study earlier this year concluded there is no link between breast implants and connective tissue diseases (*BI*, July 10). Lawyers for women with implants criticize that study as irrelevant because it did not examine the particular health problems many implant recipients claim to be suffering.

There was one bright spot in the year for Dow Corning: The company has reached settlements totaling more than $620 million with its insurers.

But the manufacturer is still pursuing coverage claims against about 40 insurance companies that wrote about 400 liability policies that could cover its implant liabilities. The coverage trial opened in November in Michigan, Dow Corning's home state.

—By Joanne Wojcik

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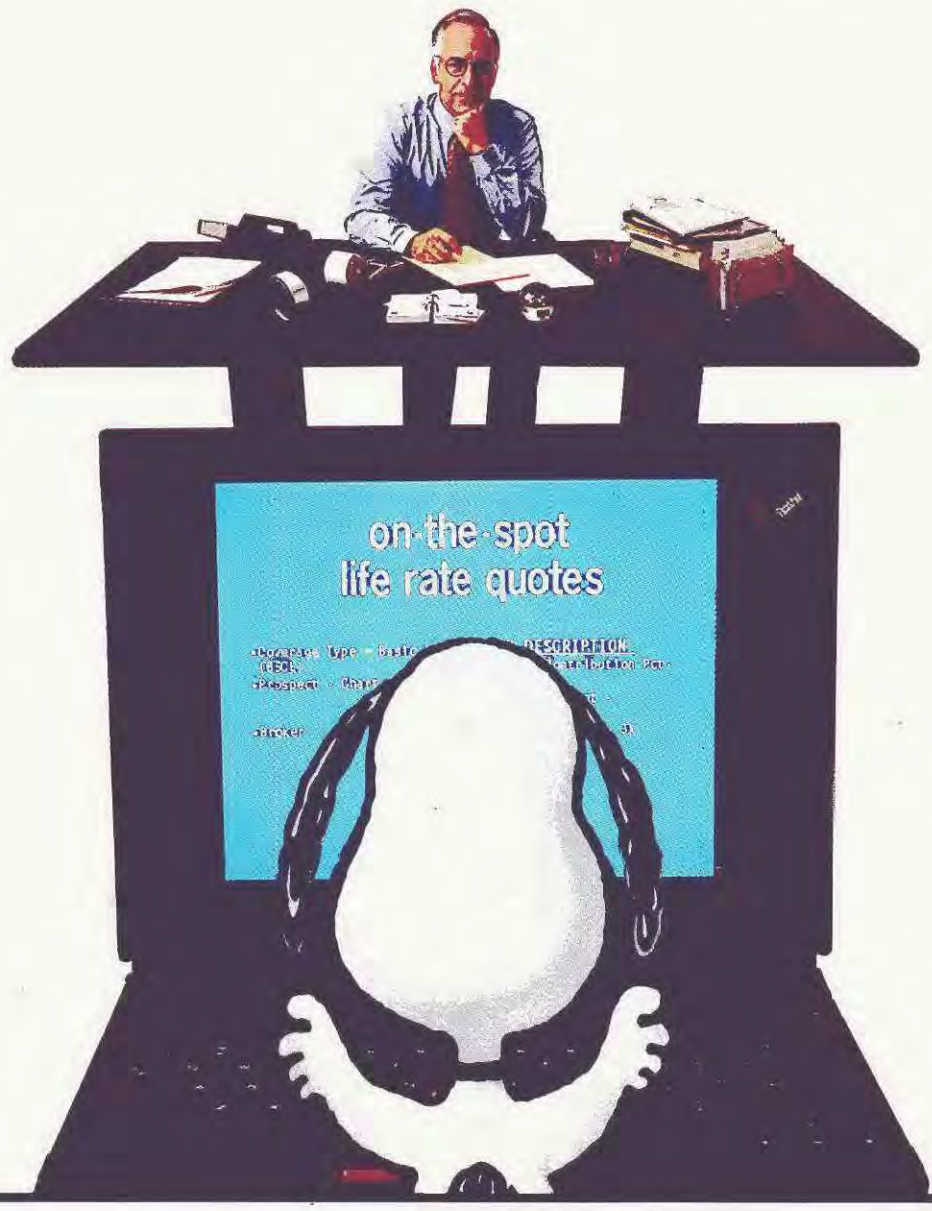

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Drop in health care costs tops benefit news of '95

Plan amendment, ERISA pre-emption rulings also of note

By JERRY GEISEL

Soaring health care costs have been the top employee benefit story of the year—for many years running.

In 1995, health care costs are again the top benefit news event, but for a different and very welcome reason: they are at last coming down.

Health care costs are falling for several reasons, including red-hot competition among managed care organizations that are holding the line on premium increases or even reducing them to keep market share.

At the same time, employers—due to a massive redesign of their health care programs over the last several years—have coaxed an ever greater number of employees into more cost-efficient managed care plans and out of high-cost traditional indemnity plans.

The drop in health care costs demonstrates that "managed care is working, is here to stay and that providers are beginning to respond to marketplace realities," said Jim Bronson, director of employee benefits at Sears Roebuck & Co. in Chicago.

The second most important story of the year was a ruling by the U.S. Supreme Court involving a retiree health care benefit plan terminated by Curtiss-Wright Corp. In that ruling, the high court said including a simple reservation of the right to modify a health care plan satisfies plan amendment rules laid down by the Employee Retirement Income Security Act.

That ruling, welcomed by employers, overturned a lower court decision that said employers had to establish detailed procedures, including identifying individuals with authority to amend a plan, before benefits could be cut or terminated.

Benefit managers welcomed the decision, noting that if the appeals court ruling had been upheld, it would have significantly expanded their benefit liabilities and interfered with their ways of doing business.

The Supreme Court decision in the *Curtiss-Wright* case "legally confirms an employer's right to make business decisions as it pertains to benefits. Benefits are a part of compensation you earn, not an entitlement," said John Cleveland, director of compensation, benefits and human resources at Xilinx Inc., a semiconductor manufacturer in San Jose, Calif.

The third most important story of 1995 is one that could raise employers' health care costs.

Earlier this year, the Supreme Court upheld a New York rate setting law that imposes a range of surcharges on hospital bills incurred by patients covered by commercial health insurance plans and health maintenance organizations, ruling that the New York law was not pre-empted by ERISA.

An appeals court later ruled that the surcharges also can be imposed on self-funded health plans.

With that ruling, the first major crack in ERISA's pre-emption clause, in place, employers worry that other states might pass similar laws as a way of raising revenue to pay for state programs to provide coverage for the uninsured.

The No. 4 benefit story of 1995—passage of tax legislation with numerous employee benefit provisions—is one that almost certainly will continue to play out in 1996.

The tax bill, formally known as a budget reconciliation measure, was vetoed by President Clinton earlier this month, chiefly because of concerns that the cuts in future Medicare spending were too great. In the months ahead, the administration and congressional leaders will try to reach a consensus on the elements of a new budget reconciliation bill.

The tax bill's benefit provisions, though, were welcomed by employers. In a small way, they would have simplified pension plan administration, such as through a new, easier way of running the basic 401(k) plan nondiscrimination test as well as giving new tax breaks to long-term care programs and medical savings accounts.

"At long last, some good legislation is coming out of Washington," said a pension administrator at an insurance company.

Ranked as the fifth most important benefit story of 1995 was the retreat of states from the broad initiatives they launched several years ago to expand health care coverage.

During the year, the state of Washington repealed a 1993 law that would have required employers to offer and pay for a share of group health care premiums. In addition, Massachusetts put off implementing—for the third time—a 1988 law that requires employers to either pay a hefty tax or provide health care coverage to employees—the so-called play or pay approach to expanding coverage.

Reasons cited for the states' retreat on health care reform include more conservative state legislatures, a greater awareness of the costs of expanding coverage and opposition from small-business groups.

The sixth most important story of the year was the bankruptcy of Orange County, Calif., due in part to poor investments in risky financial derivatives—and the revelation that some of the losses might be absorbed by participants in the county's Section 457 savings plan. A 457 plan is somewhat similar to private-sector 401(k) plans.

Participants in Orange County's 457 plan discovered that contributions made on their behalf—unlike private-sector pension plans—were not segregated in trusts and were subject to the claims of the county's creditors (*BI*, Feb. 2).

The fallout from the Orange County fiasco was felt by federal lawmakers. They included a provision in a sweeping tax bill that would require 457 plan assets to be held in trust and thus protected from creditors. But President Clinton vetoed the tax bill, keeping, at least for now, the status of 457 plan assets unchanged.

The No. 7 benefit story of the year was legislation to overhaul the financially ailing Medicare program.

Congressional Republican leaders made Medicare overhaul one of their top legislative priorities. As justification for reforming the 30-year-old program—the primary source of health care coverage for the elderly—Republicans cited a report by Medicare trustees showing that the program would go broke shortly after the turn of the century.

To bring Medicare costs, which have been rising by about 10% annually in recent years, more under control, Republicans proposed a series of changes, including more incentives for the elderly to choose managed care plans and cutting the growth in payments to hospitals and physicians for treating Medicare beneficiaries.

Other provisions involved straight cost-shifting from Medicare to employers' health care plans such as increasing the amount of time employer plans—not Medicare—are the primary payers of medical bills for individuals who develop end-stage renal disease.

Like so many other major pieces of legislation that came before Congress this year, however, Republicans and Democrats were not able to reach a consensus on Medicare reform.

The Republican-controlled Congress passed a Medicare overhaul bill—attaching it to a budget reconciliation bill—but President Clinton promptly vetoed the legislation. At year end, there were no signs that a consensus soon would be reached (*BI*, Nov. 20).

Benefit managers worried, though, that Medicare changes would mean higher costs for their own health care programs.

"Reducing federal expenditures to Medicare will have a huge impact on privately funded health care, and this impact has had virtually no publicity," said Dave Eaton, manager-risk, insurance and benefits financing at tire equipment manufacturer Bandag Inc. in Muscatine, Iowa.

The eighth most important benefit story—legislation to curb pre-existing medical condition exclusions in group health care plans, including self-funded plans—also will continue into next year.

In late July, the Senate Labor and Human Resources Committee, in a rare display of bipartisanship, unanimously passed the pre-existing conditions bill. Under the measure, group health care plans generally would be allowed to exclude coverage for pre-existing conditions for up to 12 months. A pre-existing condition is defined as one that is treated within six months of an individual joining a health care plan (*BI*, Aug. 7).

However, the 12-month period in which pre-existing medical conditions were excluded would be offset by the amount of time a new employee was covered under previous health plans.

For example, if an individual changing jobs had been covered under a previous group plan for six months, the new employer could not deny coverage for that condition for more than six months.

While the proposal would force many employers to amend their health care plans, the cost impact only would be minor. A 1993 survey by the U.S. Bureau of Labor Statistics found that 57% of employees working for companies with at least 100 employees were enrolled in indemnity plans with pre-existing medical condition provisions.

While companies would have to take on some new health care obligations, that cost would be offset by the increased likelihood that people with costly health care problems will leave a company and reduce overall costs under COBRA.

Despite broad support, the future of the measure to curb pre-existing medical conditions—co-sponsored by Senate Labor and Human Resources Committee Chairman Nancy Kassebaum, R-Kan., and ranking minority member Sen. Edward Kennedy, D-Mass.—remains in doubt.

Business groups, which have generally been supportive of the measure, could turn against the bill if, as promised, Sen. James Jeffords, R-Vt., attaches an amendment that would bar group health care plans from imposing lifetime limits on benefits.

Ranked as the ninth most important benefits story of the year was the purchase of MetraHealth Cos. by managed care giant United HealthCare Inc., a merger that makes UHC the nation's second-largest HMO, with 5.4 million people enrolled.

That acquisition follows a spate of mergers in the managed care industry.

Benefit managers, though, increasingly have questioned whether HMO mergers and acquisitions are in their best interests.

In particular, managers are asking whether HMOs would be better off using resources to improve the quality of care or keep costs under control rather than spending hefty sums on buying up other HMOs (*BI*, June 26).

Still, not all HMO mergers had smooth sailing. The merger of two of California's largest HMOs, WellPoint Health Networks Inc. and Health Systems International Inc., is all but certain to be officially called off after a series of charges and countercharges that the two managed care organizations have hurled at each other in recent weeks.

Rounding out the top 10 stories was the establishment in May of the first employer coalition to negotiate contracts with HMOs.

Members of the National HMO Purchasing Coalition, which includes such corporate giants as American Express Co. and International Business Machines Corp., say they will have much more clout and leverage in dealing with HMOs through a group effort than by acting individually (*BI*, May 29). BI

Health care costs bring good tidings

Costs dipped in '95 and employers expect more of the same in '96

Good news emerged this year for employers that had grown accustomed in recent years to unrelenting double-digit health care inflation.

For the first time in more than a decade, various government and private industry sources reported that average group health care costs dipped in 1994. And with managed care strengthening its grip in all markets, it's likely that health care costs will fall again this year or, at worst, increase only slightly.

The first evidence of nationwide health care cost reductions came in February, when employee benefit consultant A. Foster Higgins & Co. Inc. released its annual study of employer health plan costs. That study found that total costs for all health care plans fell by 1.1% to an average of $3,741 per employee in 1994 from $3,781 in 1993 (*BI*, Feb. 13).

The decline in average plan costs—fueled mostly by increased managed care penetration in the Northeast, where costs have traditionally been highest—was the first drop in the nine-year history of the Foster Higgins study. The results were a testament to the cost-cutting power of managed care and the breakdown of long-standing resistance to managed care among many employers and employees, especially those in organized labor unions.

Where managed care has made its greatest strides in the past two years is clearly in the Northeast, where average per-employee costs fell by nearly 10% to $3,851 last year from $4,267 in 1993. Conversely, average costs actually increased by 0.7% to 3.9% in the other major regions of the country.

In 1994, nationwide enrollment in managed care plans soared—a shift that continued in 1995.

Foster Higgins reported enrollment in traditional indemnity plans fell to 37% of employees in 1994, down from 48% in 1993. Meanwhile, enrollment in health maintenance organizations climbed to 23% in 1994 from 19% in 1993, and point-of-service plan enrollment more than doubled to 15% from only 7% in 1993. Preferred provider organization enrollment dipped slightly to 25% from 27%.

Other surveys during the year affirmed the finding that health plan cost increases are under better control.

The U.S. Chamber of Commerce, in a study of about 900 employers, found that group medical plan costs fell 9.5% to $2,579 per employee on average in 1994 from $2,851 in 1993 (*BI*, Dec. 4).

Like the Foster Higgins study, the Chamber also attributed the drop in costs to employers making intense efforts to move away from expensive unmanaged indemnity plans toward less costly managed care plans.

The industries that made the most progress in cutting health care costs, according to the Chamber, were: petroleum; miscellane-

Continued on next page

Continued from previous page

ous non-manufacturing: printing and publishing; trade; and food and beverage.

And, as might be expected given their purchasing clout, it was the larger employers, regardless of industry, that scored the largest reductions in group health care costs. For example, Foster Higgins noted that average per-person health care costs dropped by about 2.5% to 3% among employers with more than 5,000 employees.

In another survey of employers' health plan costs, KPMG Peat Marwick L.L.P. found that overall group health care premiums—or, in the case of self-funded plans, claims paid—rose an average of 2.1% between the spring of 1994 and the spring of 1995 (*BI*, Oct. 2). The survey did not ask for actual dollar amounts spent on health care for the prior year.

The surveys illustrate that employers have succeeded in getting their arms around what seemed to be never-ending cost increases without government intervention.

"The health care delivery system is in the process of reforming itself" without government intervention, noted David Rahill, a Foster Higgins principal in New York in February.

While it its still too early to tell exactly how group health care costs fared this year, compared with 1994, all signs point to a continuation of the cost reduction trend, especially among heavily managed care plans.

Approximately a year ago, the Group Health Assn. of America, the leading trade group for the HMO industry, projected that average HMO premiums would fall by 1.2% in 1995 (*BI*, Dec. 19, 1994).

This year, insurer-owned and independent HMOs are generally predicting that premiums will stay flat or will decrease by as much as 5% in 1996, though less-managed plans will experience some premium inflation (*BI*, Dec. 11).

—By Michael Schachner

Court protects plan amendments

Benefit plan sponsors dodged a judicial bullet that could have killed all benefit plan changes made in recent years when the U.S. Supreme Court overturned two lower court decisions against Curtiss-Wright Corp. in a closely watched dispute over plan amendments.

The ruling probably will shift the focus of lawsuits over benefit takeaways from whether the takeaways were permissible to whether plan sponsors followed their own plan amendment rules when they made changes.

The Supreme Court unanimously ruled on March 6 that Curtiss-Wright's reservation of its right to modify its health plan satisfies the plan amendment requirements in the Employee Retirement Income Security Act of 1974 (*BI*, March 13). Section 402(b)(3) of ERISA requires plan sponsors to provide "a procedure for amending such plan and for identifying the persons who have authority to amend the plan."

If the court had required plan amendment procedures to be more specific than a reservation of rights to amend, many of the nation's employers could have faced a tide of litigation with retirees over recent cuts in their benefits and the addition of managed care features to their health plans. Up to 75% of plan sponsors rely on plan amendment language similar to Curtiss-Wright's, some benefit experts estimate.

The case, though, is not over for Curtiss-Wright. The high court remanded it to a lower court to determine whether "authorized" Curtiss-Wright officials approved a plan change that led to the termination of health benefits for about 520 retirees. A Pennsylvania federal district court has not yet set a trial date.

The dispute centers on language that Curtiss-Wright added to its governing plan documents in 1983. The addition said retirees' health coverage would cease if the plant from which they retired closes.

That year, Curtiss-Wright shut down its Wood-Ridge, N.J., facility and terminated the health benefits of the plant's retirees.

The retirees sued, claiming the additional language was an invalid plan amendment. They argued that the plan, in violation of Section 402(b)(3), did not specify how beneficiaries could determine which company representatives could make amendments and the procedures they would be required to follow.

Curtiss-Wright said the new language was a clarification of its health plan, not an amendment. Even if the addition was an amendment, Curtiss-Wright argued, it had noted in plan documents that "the company" reserved its right to amend the plan.

But under corporate law, "the company" generally refers to the board of directors, which apparently played no role in drafting or approving the new plan language, the retirees contended.

Both a federal district court and the 3rd U.S. Circuit Court of Appeals ruled the new language was an amendment and invalidated it. The courts ordered Curtiss-Wright to pay the retirees nearly $2.7 million—the value of their benefits over a nearly seven-year period (*BI*, Jan. 10, 1994).

The Supreme Court disagreed.

Writing for the court, Justice Sandra Day O'Connor said, "Section 402(b)(3)'s primary purpose is to ensure that every plan has a workable amendment procedure," though she acknowledged that it is an unclear employer guideline.

The court found that a plan sponsor like Curtiss-Wright that only identifies those who may amend a plan as "the company" does provide a procedure for identifying the responsible company officers. That procedure is to always look to the company rather than to outside parties, like a union or a third-party trustee, Justice O'Connor wrote.

The high court said the tougher issue was whether the company's reservation of rights provided a valid amendment procedure.

The court took an approach very similar to how it resolved the first issue. The court found that the reservation established a procedure that only the company—not a third-party trustee or a union, for example—may amend the plan.

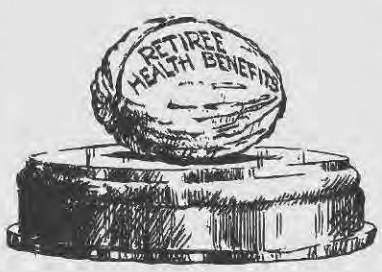
On remand, a lower court must rule whether the company complied with its own amendment procedure.

A "fact-intensive inquiry" will be necessary because there is no clear record that states which Curtiss-Wright officials or committees were expressly or impliedly authorized to make plan changes and whether those individuals approved the plan change, Justice O'Connor noted.

Even if the retiree benefit termination provision was improperly adopted, the lower court must determine whether a company executive's letter to the retirees that explained the plan change "served to ratify the provision ex post," Justice O'Connor wrote.

Also left unclear is what ramifications Curtiss-Wright faces if it loses this next round in court. The Supreme Court did not rule on whether an amendment can be voided if a plan sponsor violates its plan amendment procedures.

—By Dave Lenckus



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December 1, 1995

Narrowing ERISA pre-emption sparks fears

High court reverses broad reading of pre-emption, upholds surcharges

The U.S. Supreme Court narrowed the focus of the Employee Retirement Income Security Act's pre-emption of state laws and increased the cost of some benefits last April when it upheld New York's ability to impose a state surcharge on hospital bills paid by commercial insurers and HMOs.

The court's April 26 ruling in *New York Conference of Blue Cross & Blue Shield Plans vs. Travelers Insurance Co. et al.* marked a significant and, for benefit managers, troubling reversal of its tendency to read ERISA's pre-emption of state laws as broadly as possible (*BI*, May 1).

And even though the unanimous court did not address the issue of whether such a surcharge applied to self-insured plans, within four months the 2nd U.S. Circuit Court of Appeals ruled that the surcharge could be applied to hospital bills paid by self-insured plans (*BI*, Aug. 21).

Connecticut also benefited from the decision as the same appellate court ruled that Connecticut's surcharge on hospital bills also was within the bounds of ERISA. And another federal court cited the Supreme Court decision in upholding Minnesota's right to slap health care providers with a surcharge to help pay for the care of the uninsured.

Other states may follow suit by imposing new employee benefit levies, thus creating the possibility of a tide of litigation over just how far states can go in imposing their will on ERISA plans.

At the center of the Supreme Court case was a New York law that allows the state to impose a 13% surcharge on hospital bills of people covered by commercial insurance and 9% on those covered by HMOs. The state extended the surcharge to cover self-insured plans but specifically exempted patients covered by Blue Cross & Blue Shield-affiliated plans.

Federal courts were divided on the issue of whether such surcharges violated ERISA, which generally pre-empts state laws that "relate to" employee benefit plans.

For example, the 2nd U.S. Circuit Court of Appeals read the ERISA pre-emption broadly and voided the state law in early 1993 (*BI*, Feb. 8, 1993). The appeals court reasoned that by increasing the costs for commercial insurance and HMO coverage, the surcharge "related to" benefit plans because it interfered with the choices that ERISA plans made.

But the 3rd U.S. Circuit Court of Appeals ruled the same year that a New Jersey surcharge on hospital bills presented no ERISA violation.

So the final word rested with the Supreme Court, which held that the New York surcharges did not relate to benefit plans in the manner ERISA sought to prevent.

"The basic thrust of the pre-emption clause was to avoid a multiplicity of regulation in order to permit the nationally uniform administration of employee benefit plans," Justice David Souter wrote for the court.

ERISA pre-emption means that a state cannot mandate what employee benefit plans must offer or how they are administered, wrote Justice Souter. The surcharges did not fall into that category. The surcharges would have at most an indirect economic effect on choices made by plan administrators, he wrote.

"An indirect economic influence, however, does not bind plan administrators to any particular choice and thus function as a regulation of an ERISA plan itself; commercial insurers and HMOs may still offer more attractive packages than the Blues.

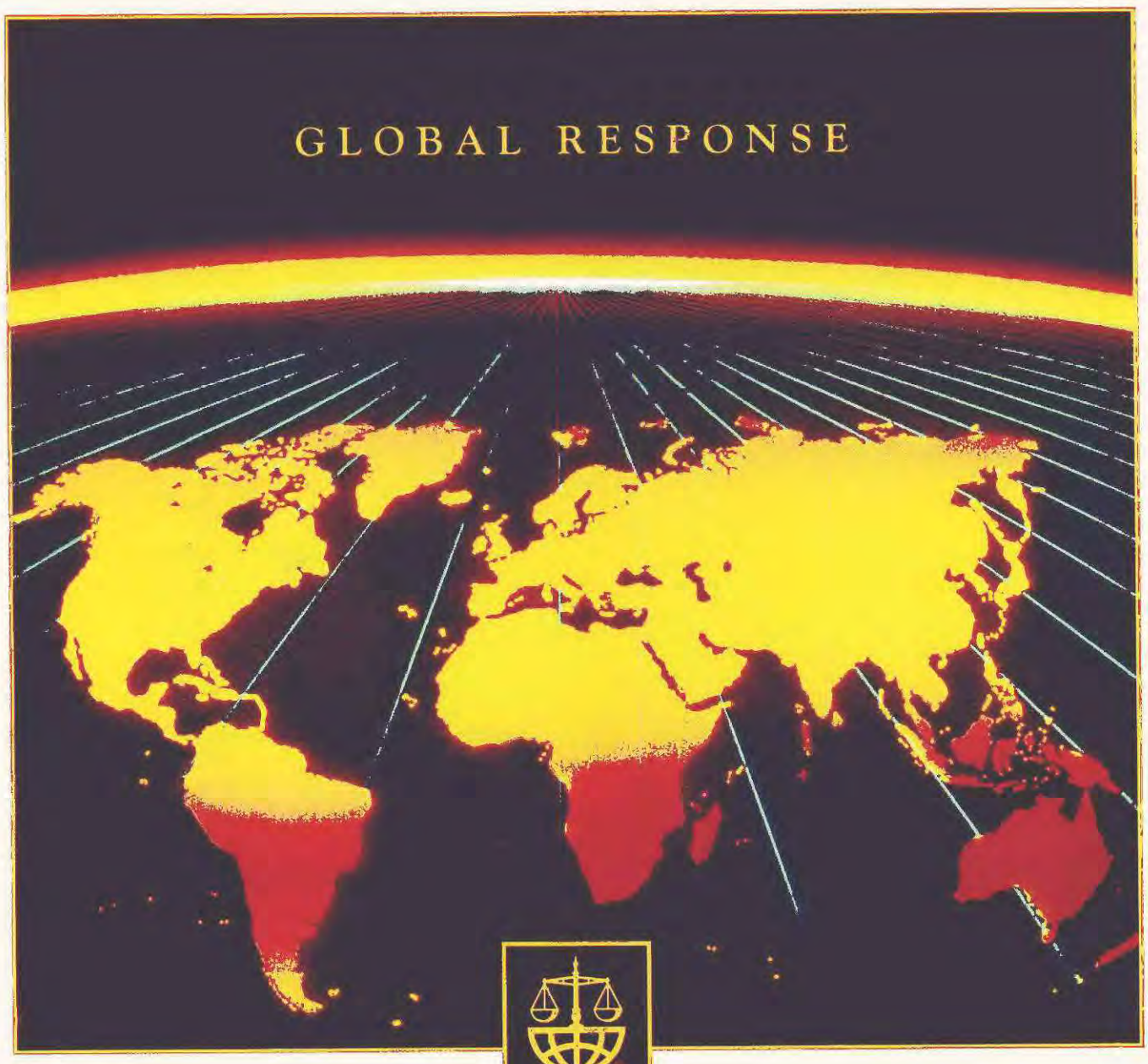
"Nor does the indirect influence of the surcharges preclude uniform administrative practice or the provision of a uniform interstate benefit package if a plan wishes to provide one. It simply bears on the costs of benefits and the relative costs of competing insurance to provide them. It is an influence that can affect a plan's shopping decisions, but it does not affect the fact that any plan will shop for the best deal it can get, surcharges or no surcharges," he wrote.

But the court refused to rule that ERISA pre-emption deals only with direct state regulation of plans. A state law could produce such "acute, albeit indirect" economic effects that would force a plan to "adopt a certain scheme of coverage or effectively restrict its choice of insurers," wrote Justice Souter.

The court's decision may have raised even more questions than it answered and led benefit consultants and managers to predict a flood of litigation.

As Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York, put it: The ruling means that courts will have to decide "When does permissible indirect economic influence become an impermissible mandate?"

—By Mark A. Hofmann



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INTERNATIONAL LOSS ADJUSTERS

Hopes override veto of benefit provisions

For longtime backers of legislation to simplify the administration of pension plans, the third time around for the package was not the charm.

President Clinton last month vetoed a tax bill that included a slew of pension simplification and other benefit reform provisions that employers had welcomed.

His action was a virtual replay of several years ago, when President Bush twice vetoed tax packages with simplification provisions. The Bush veto was unrelated to the employee benefit provisions. Similarly, the chief reason President Clinton vetoed the tax bill was because of his concerns that the cuts it made in future Medicare spending were too great.

But, the outlook for the benefit provisions is not altogether bleak. Except for a provision allowing employers under certain conditions to siphon off excess assets from their pension plans, the package was embraced by Congress and the administration. That could mean new life for the package next year, perhaps as part of another tax bill.

"Maybe the fourth time around will be when it happens," said James Anderson, vp of government relations at the National Assn. of Wholesaler-Distributors in Washington.

The benefit provisions in the tax legislation, formally known as a budget reconciliation bill, represented a

change in direction for legislators. Unlike other tax bills in recent years, which mostly made benefit plans less attractive, employers welcomed the 1995 tax bill. Some provisions made benefit programs more attractive to employers and employees, while the pension simplification provisions reduced somewhat the complexity of administering benefit programs.

Those provisions included:

• Allowing employers to withdraw surplus assets from their pension plans. Under this provision—agreed to by legislators after intense negotiations—employers could withdraw the surplus assets from plans as long as the plan was at least 125% funded after the removal.

The surplus assets only could be removed to pay for other benefit programs, such as group health and life insurance benefits.

Originally, the legislation would have let employers withdraw surplus assets for any reason. But that was changed amid intense opposition from the Clinton administration.

• 401(k) plan non-discrimination testing procedures. Under the legislation, employers would have had the option of comparing current-year salary deferrals of lower-paid employees to higher-paid employees' salary deferrals or comparing prior-year deferrals of lower-paid employees with current-year deferrals of higher-paid employees.

Through this latter technique, an employer would know at the start of a plan year how much highly compensated employees could defer at the start without violating non-discrimination rules.

• A new definition of "highly compensated." For non-discrimination testing purposes, employees would be considered highly compensated if they earned $80,000, up from the

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current $66,000 threshold. This change would increase the likelihood that employees earning between $66,000 and $80,000 would defer more to their 401(k) plans.

• Long-term care premiums. The measure would have let employers buy LTC policies—providing a daily benefit of up to $175—without the premiums being added to employees' taxable income.

• Medical savings accounts. Employers could make tax-deductible contributions to employees' MSAs. Annual contributions of up to $2,000 for single coverage and $4,000 for family coverage would have been allowed. The MSA would have to be attached to a catastrophic health care policy with deductibles of up to $1,500 for single coverage and $3,000 for family coverage. Investment income earned on the MSA would not have been taxable to the employee.

But not all provisions in the tax package would have benefited employers. For example, it would have phased out the tax advantages associated with taking out loans from leveraged corporate-owned life insurance policies and would have eliminated five-year forward averaging—a way of reducing taxes—on lump sum pension distributions.

—By Jerry Geisel

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Health care reforms lose ground in states

When comprehensive health care reform legislation died in Congress last year, the conventional wisdom was the states would pick up the reform banner.

If so, someone forgot to tell the states.

In fact, 1995 may be remembered as the year in which states retreated on many reform initiatives launched several years ago.

The state of Washington, for example, gutted a 1993 law that would have required employers to offer and pay for group health care coverage.

Vermont, where legislators only two years ago were seriously considering either a Canadian-style single-payer system or an employer mandate, opted for a far less ambitious plan.

In Minnesota, legislators delayed to 2000 from 1997 the target for achieving universal coverage for state residents.

Massachusetts legislators delayed for the third time in seven years the implementation of a "play or pay" law.

Under the 1988 law, once seen as a model for other states to adopt, employers are liable for a tax of up to $1,680 per employee. But that tax is offset for each dollar an employer spends on a group health care program. Employers that spend more than $1,680 per employee are exempt from the tax altogether.

While Massachusetts legislators delayed implementation of play or pay until Aug. 1, 1996, state benefit observers say it is unlikely that the law ever will actually go into effect.

There are several reasons that states have retreated on broad initiatives to reform the health care system.

One reason is the new political climate in Washington. When Republicans gained control of both houses of Congress in 1994, it ended the possibility—at least for the immediate future—that the U.S. Senate and House would approve waivers to provisions in the Employee Retirement Income Security Act that bar states from implementing health care reform laws that "relate" to employee benefit plans.

Republicans in Congress generally have been sympathetic to business arguments that letting states act on their own would make health plans for employees more costly to administer. With ERISA waivers unlikely, states would have been wasting their time passing major health care reform bills.

Republican control of more state legislatures also dampened interest in sweeping reform initiatives. Washington state's Republican majority led the effort to repeal the 1993 law that included an employer mandate.

Changes at the gubernatorial level also made a difference. For example, former Massachusetts Democratic Gov. Michael Dukakis was an outspoken champion of the play or pay approach to expanding health care coverage.

His successor—Republican Gov. William Weld—has urged the repeal of play or pay.

Unremitting opposition from small employers also caused states to back away from sweeping reform measures. In Massachusetts, a persistent small-business lobby

was a factor in the state's retreat from play or pay.

In addition, a changing business climate had an impact on the direction of health care reform at the state level.

For example, in 1988, when Massachusetts adopted its play or pay law, the state was in an economic boom. Soon, though, the state economy began to falter, a development that gave potent ammunition to business groups who argued that a health care mandate or tax would impose too great a burden on employers and drive companies out of the state.

While comprehensive health care reform legislation was a non-starter in 1995, states did consider and pass more modest proposals.

For example, four states—Maryland, Massachusetts, New Jersey and North Carolina—passed measures this year requiring commercial health insurers and health maintenance organizations to offer at least 48 hours of inpatient maternity coverage for a normal delivery and 96 hours of coverage for Caesarean section births.

Those measures were seen as a backlash against ever-shortening hospital stays mandated by managed care organizations.

And 1996, thanks to a U.S. Supreme Court decision this year, could be the year that states try a new approach to expand health care coverage.

The high court said a New York surcharge on hospital bills incurred by patients covered under group and individual policies is not pre-empted by ERISA. That decision could prompt other revenue-hungry states to adopt similar surcharges and use the resulting revenue bonanza to fund health care coverage for the uninsured.

The high court ruling came too late to have an impact—this year—on state legislatures.

—By Jerry Geisel

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Benefit managers might have held their breath a bit two years ago when they learned that the nominee as the nation's top pension official had no background in private pensions, favored economically targeted investments for public ones and whose backers included labor unions and Sen. Howard Metzenbaum.

But if benefit managers have been waiting to exhale, now is the time.

In her third year with the Labor Department, **Olena Berg** has emerged as a leader in the administration's recent push for better guidance for employers buying annuities for pension plans and faster employer transfers of employees' salary deferrals to 401(k) plans.

As head of the Office of Pension Welfare Benefits Administration, Ms. Berg was the public point person in what she called "guideposts" for employers to use in evaluating annuity providers. That issue has haunted employers since liability concerns surfaced with the 1991 collapse of Executive Life Insurance Co., a huge provider of annuities to employers that terminated overfunded pension plans.

So far, the former deputy treasurer of California has had no reason to run for cover in Washington. But if she did, there is reason to think she'd make it to safety. A regular participant in a local corporate three-mile road race, Ms. Berg is usually found among the top finishers. Among female, sub-Cabinet level officials, that is.

•

If Olena Berg has proved a pleasant surprise for benefit managers, her ultimate boss must be accorded the same recognition.

President Clinton's epic health reform flop, perhaps the greatest failure of his presidency to date, dominated our 1994 Year in Review issue.

How times have changed. This year, with any big federal health reform efforts put on ice by the Republican-controlled Congress, benefit managers saw a different president. This year, they noted his support for modest health care legislation that would, for instance, curb pre-existing medical condition exclusions. And they noted that he urged Congress to pare down regulations to make it easier for small businesses to offer pension plans.

And it was President Clinton who resurrected many ideas from a bill President Bush vetoed to make it easier for employers to run non-discrimination tests on their 401(k) plans. Of course, it was also President Clinton who vetoed a tax bill that included many employee benefit provisions that employers welcomed. The presidential veto, though, wasfor reasons unrelated to the tax bill's benefit plan provisions.

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As even his admirers must acknowledge, one can get too much Newt.

But as even his detractors must acknowledge, **House Speaker Newt Gingrich**, R-Ga., was a force to be reckoned with in 1995 on legislation critical to risk management.

What he and his compatriots conceived as an "agenda worth fighting for" in the early 1990s coalesced into his "Contract with America," the campaign manifesto of the 1994 Republican revolution.

And the ideas animating that revolution—including revamping the nation's product liability and securities laws in ways long favored by businesses—struck a chord with many risk managers. What's more, the GOP sweep he led ultimately took the wind out of the sails of federal insurance regulation, comprehensive national health care reform and other ideas that make both risk managers and benefit managers uneasy.

Of course, legislators ultimately are measured by the laws they put on the books, and the Gingrich record is still a work in progress. President Clinton's veto of the securities legislation Congress sent him may still stand and, ever the politician, Mr. Gingrich himself seems to be holding up conference committee work to resolve differences in product liability reform bills earlier passed by the House and Senate, possibly to better position Republicans to take advantage of the issue in the 1996 elections.

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Among those who follow insurance company personnel moves, there is no more shopworn parlor game than "Who will succeed Hank?"

Variations have been played in the pages of *BI* and elsewhere for years.

Hank, of course, is American International Group Inc. Chairman and Chief Executive Officer Maurice R. Greenberg and, until recently, at least some of the smart money was on elder son **Jeffrey W. Greenberg**, who was one of the company's five executive vps.

Not anymore. After 17 years at AIG, Jeffrey Greenberg stunned the insurance world by resigning abruptly in June without another job lined up. Not that it took him long to land on his feet: By October, he had signed on as a senior partner of Marsh & McLennan Cos. Inc.'s insurance investment arm, M&M Risk Capital Corp. In November, he also was named a director of ACE Ltd.

As to succession, it is probably safe to say only this: Another senior executive, this one with an attention-getting name, has joined the rather illustrious ranks of former heirs apparent.

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As 1995 draws to a close, the hottest seat for an insurance regulator to be occupying is in Harrisburg, Pa.

That's where **Linda Kaiser** is presiding over the hard-fought and occasionally tempestuous battle over the proposed reorganization of CIGNA Corp., where Ms. Kaiser worked as a staff lawyer for seven years.

In a drama in which CIGNA has been criticized for shirking its responsibilities, the Pennsylvania insurance commissioner has been criticized for being too adamant about fulfilling hers. Citing her CIGNA connection, competing insurers and some policyholders have pressured her to stand down. Even *BI* has editorialized that she should recuse herself to avoid untoward appearances.

She appears to have no inclination to do so. Because CIGNA's plan is widely considered a precedent for vast segments of the property/casualty industry, Ms. Kaiser is in the national spotlight for the first time in her nine months as commissioner.

Just how seriously she takes her task will be on display next week when, three days after Christmas and two days before New Year's Eve, she again convenes hearings in Harrisburg.

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Whether Lloyd's of London's ballyhooed revitalization plan will ultimately be the tonic for the three-century-old market is anybody's guess.

But this much is certain: Whatever happens will happen without the man widely seen as the architect of the plan.

Former monk, former banker, former diplomat and now former Lloyd's CEO **Peter Middleton** rode his motorcycle off into the sunset last month. He left two years on his five-year employment contract and an unfulfilled pledge to see the revitalization plan through.

Many disaffected members, with whom Mr. Middleton had worked hard to build a rapport, took the news hard. Less distressed were those working in the market, from whom he had grown alienated, and his bosses at Lloyd's—who accepted his resignation without reservation and immediately replaced him. His rapport with members may be sorely missed as the dates for implementing the plan get closer.

Next week, Mr. Middleton begins a high-profile job in London at Salomon Brothers International Inc.

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For once, the weatherman was right.

Based on factors such as the rains in western Africa and the shift in upper atmospheric winds, forecasters predicted an active hurricane season. How right they were.

In late October, **Hurricane Tanya** brought down the curtain on a remarkable storm season. Among this year's 19 named storms—the worst toll in more than half a century—were 11 hurricanes, the highest total ever.

Despite the frequency of the hurricanes, insured losses often were far lower than they could have been. Erin hit Florida twice in early August, causing an estimated $375 million in total insured damages. After buffeting Bermuda in August, Felix headed for North Carolina but swerved back out to sea before doing major damage.

One exception was Opal, which caused an estimated $2.1 billion in insured damage to Georgia, Alabama and primarily Florida.

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Talk about infamous risk management firsts.

The $200 billion Los Angeles subway project had been under way for more than a decade when a yearlong corruption investigation netted its first quarry: **Abdoul Sesay**, risk manager for the Metropolitan Transit Authority.

Charged July 21 with taking a bribe, taking an illegal gratuity, and filing a false tax return, he soon pleaded guilty to taking $105,000 in illegal payments from insurance consultants and not paying taxes on them, but not before going undercover to help investigators and lighten his sentence. He is free on bond and to be sentenced in January.

To Mr. Sesay, his five years at MTA were an experiment in an "urban guerrilla approach" to risk management. So demanding was his work in litigation-crazy California, he complained last year, that the stress wore him down. Arranging kickbacks and dodging taxes, as well as handling renewals, cost overruns and so on, would probably strike most risk managers as stressful indeed.

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Perhaps no part of ERISA has been more critical to corporate benefit managers in recent years than Section 514(a).

In a big victory for big business, that section was drafted to read that the Employee Retirement Income Security Act pre-empts all state laws that "relate to" benefit plans.

For years, federal courts have been reading that term to mean that any law that conceivably bears any relation to a benefit plan is pre-empted.

Wrong, concluded Supreme Court **Justice David Souter** in a unanimous April ruling upholding a surcharge on insured hospital bills in New York.

The ruling interpreted "relate to" more strictly than businesses had expected and it didn't take long for this new view to be adopted elsewhere. Soon a federal appeals court ruled that the surcharge also could apply to self-insurers.

Justice Souter's writing for the court even had an impact outside the benefit realm. Under the reasoning of a pair of recent appeals court rulings, managed care companies may find themselves more likely to be held liable for medical malpractice, a claim against which ERISA had long served as a shield.

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In a year of big insurance deals, nobody's were bigger than **Sanford I. Weill's**.

When the chief executive wanted to get his Travelers Inc. out of the group health business, he did. Only a year after Travelers and Metropolitan Life Insurance Co. put their group health operations into a joint venture, the venture, MetraHealth Cos., was sold to United HealthCare Corp. in a deal worth up to $2.3 billion. It made United HealthCare the nation's second-largest HMO.

When Travelers wanted to get deeper into the property/casualty business, it proposed one of the biggest insurance deals ever: the $4 billion purchase of the property/casualty operations of Aetna Life & Casualty Co. With the Aetna business, Travelers would be the nation's No. 3 commercial insurer.

Mr. Weil is no stranger to deals. During his watch, Primerica Corp. has become a power in industries like securities, with its purchase of Smith Barney, and insurance, with its Aetna deal and its 1993 purchase of Travelers for $4 billion.

All deals befitting a man famous for his habit of putting fireplaces in his Manhattan skyscraper offices and for his paychecks: a $2.6 million bonus in 1994 on top of a $1 million base salary.

—By Timothy Stanton

A look at the year in employee benefit news

JANUARY

■ The U.S. Department of Labor issues long-awaited rules to help employers comply with the 1993 Family and Medical Leave Act. The nearly 500 pages of regulations provide guidance on dozens of day-to-day compliance problems.

■ Legislators in the state of Washingtcn begin a drive to pare down a 1993 law that requires—effective July 1—employers to offer and pay much of the cost of health care plans to their employees. While the Washingtcn law once was touted by Hillary Rodham Clinton as a model for the nation, Republican legislators say a health care mandate should not be forced on employers.

FEBRUARY

■ The Central Illinois Business Group on Health—a group of 34 employers that provides health care to 330,000 employees, retirees and dependents—reaches an agreement with 15 physical therapy and rehabilitation clinics in Illinois that requires the providers to adhere to a fee schedule developed by the coalition. The agreement also prohibits the clinics from raising 1996 and 1997 fees more than increases in the overall Consumer Price Index.

■ A new survey finds that group health care plan costs fell slightly in 1994. The 1.1% decline in costs—the first in the nine-year history of the A. Foster Higgins & Co. Inc. survey—is credited to the large-scale shift of employees to managed care plans.

■ Health plan premiums will fall by an average of 5.2% under new contracts negotiated between The California Public Employees Retirement System and its health maintenance organizations. The agreement between CalPERS and the HMOs also includes the launch of a new project in which the health plans will develop a system to measure and improve the quality of care.

■ More employers are turning to so-called subacute care facilities as lower-cost alternatives to traditional hospitals. The facilities lack emergency rooms, surgical wings and maternity floors, but can provide a wide range of medical services at costs that are 30% to 70% less than traditional hospitals.

■ The U.S. Department of Labor issues an interpretative bulletin spelling out the steps employers must follow when employers purchase annuities to replace pension benefits. Rather than setting a "bright line test," the department lays out a series of factors employers are expected to consider in evaluating the financial stability of annuity providers. The bulletin is an outgrowth of the 1991 collapse of Executive Life Insurance Co., which had been a major provider of annuities to employers that terminated overfunded pension plans to recover surplus assets.

APRIL

■ Employers with underfunded pension plans will have to provide a new disclosure statement to plan participants explaining the funding level of their plans and the limits of federal guarantees if the plans are terminated. The new disclosure statement is an outgrowth of congressional concerns that employees often find out after their plan is terminated that they will not receive all promised benefits.

MAY

■ The U.S. Supreme Court unanimously rules that a New York law that imposes surcharges on hospital bills paid by commercial insurers and HMOs is not pre-empted by the Employee Retirement Income Security Act. The ruling is the first major crack in a key ERISA provision that pre-empts state laws that "relate" to employee benefit plans. Other states may adopt surcharges—portending higher costs to employers—to pay for coverage for the uninsured.

JUNE

■ A trial in London begins to consider fraud charges against Kevin and Ian Maxwell, sons of media mogul Robert Maxwell who died when he fell from his $20 million yacht near the Canary Islands. The two sons and several other officials are accused of assisting Robert Maxwell in fraudulently using nearly $230 million in employees' pension fund assets to meet debts amassed by a failing business empire.

■ Once unheard of, offering health care coverage to employees' domestic partners has taken root. A survey by the International Foundation of Employee Benefit Plans, finds that about 200 employers now provide coverage for domestic partners.

■ President Clinton endorses a pension simplification package. While many of the provisions, such as a new, easier way to run the basic 401(k) plan non-discrimination test are borrowed from earlier measures, the endorsement is yet another sign that the administration now is courting the business community. Also, the administration announces its backing of a scaled-back health care reform plan that includes curbs of pre-existing medical condition exclusions.

■ United HealthCare Inc. agrees to purchase MetraHealth Cos., the 1-year-old group health venture of Metropolitan Life Insurance Co. and Travelers Corp. The acquisition of MetraHealth catapults Minneapolis-based UHC to the second largest HMO and continues a wave of mergers and acquisitions in the managed care industry.

JULY

■ Legislation introduced in Congress would require all health care plans, including self-funded plans, to provide at least 48 hours of inpatient care for mother and infant following a vaginal delivery and 96 hours of inpatient care following a Caesarean section. The legislation, modeled after Maryland and New Jersey laws, is a backlash against the ever-shortening hospital stays pushed by many managed care plans.

■ A private letter ruling from the Internal Revenue Service could open up a new way for highly compensated employees to maximize deferrals to 401(k) plans while reducing employers' administrative burdens. The technique involves the pairing a 401(k) plan and a non-qualified plan.

AUGUST

■ The Senate Labor and Human Resources Committee unanimously approves legislation to curb the use of pre-existing medical condition exclusions in health care plans. Employers could deny coverage for 12 months for a new employee's pre-existing condition. But that period would be offset by the length of time the employee had coverage under previous employers' health care plans.

■ The U.S. Department of Labor is proposing new rules to combat the growing problem of fraudulent health plans operated through sham unions. The rules are aimed at insurance schemes that masquerade as union benefit plans to avoid being classified as multiple employer welfare arrangements and subject to state regulation. Among other things, the rules require that for a union to be considered bona fide it must operate "for a substantial purpose" other than providing insurance.

■ Aerospace giant McDonnell-Douglas Corp. will dip into its hugely overfunded pension plan to pay 21,000 retirees and others about $500 million in increased benefits as part of the biggest settlement ever over retiree health cutbacks. Corporate benefit attorneys praised the settlement saying that it allows the company to substitute a fixed and fairly predictable cost for the uncertain costs of future retiree health care benefits. The settlement ends litigation that was triggered by the 1992 move to eliminate retiree health benefits at the end of 1996.

SEPTEMBER

■ The Securities and Exchange Commission is moving ahead to require employers to register voluntary deferred compensation plans with the SEC. Registration could be a major headache for privately held companies.

■ CSX Corp. says it is not giving up its battle to win Labor Department approval for funding group-term life insurance benefits program through its Vermont captive. In 1994, the department rejected CSX's proposal because too much of the captive's business was CSX-related, violating a department standard that no more than 50% of a captive's business be generated by the parent for the captive to be used to fund the parent's employee benefit risks. CSX intends to file a new proposal with the department which could include setting up an independent fiduciary to act as an advocate for participants and beneficiaries in its plan.

■ Employers face new federal penalties if they fail to act as the primary payer for certain Medicare-eligible employees and dependents under new federal rules. The rules, issued by the Health Care Financing Administration, cover such situations as employees who stay on the job after 65. An employer health care plan that violates the rules could be liable to pay a tax equal to 25% of the expenses the employer incurred for each large group health care plan.

■ The elevation of Sen. William Roth, R-Del., to chairman of the Senate Finance Committee puts at the helm of the Senate's tax writing committee a champion of individual retirement accounts and medical savings accounts. But benefit experts worry that Sen. Roth may lack the zeal of predecessor Sen. Robert Packwood, R-Ore.—who resigned amid allegations of

See **Benefits** *on next page*

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A look at the year in risk management news

JANUARY

■ An investment group, led by Zurich Insurance Group, unveils an offer to buy Home Holdings Inc. Under the Zurich proposal, the Swiss insurer will take over a large block of The Home Insurance Co.'s business and use a $1 billion reinsurance program to cover old liabilities, which are being run off.

■ The Vermont Department of Banking, Insurance and Securities has petitioned a state court for approval to liquidate the Beverage Retailers Insurance Co. Risk Retention Group. The failure of BRICO—Vermont's first captive insolvency—is being blamed on adverse risks selection and the soft market.

■ Kobe, Japan, is devastated by the country's worst earthquake in more than 70 years. Estimated insured losses, though, are only $1.3 billion in large part because few Japanese businesses or homeowners buy the very expensive earthquake coverage.

FEBRUARY

■ Companies in several Northern European countries report big losses from some of the worst flooding of the century. Property losses in France, Germany and the Netherlands are likely to exceed $2 billion. Insured losses are expected to be much less.

■ A chemical company has agreed to pay $241,500 in sanctions to United Capitol Insurance Co. for pursuing a groundless bad faith lawsuit. The settlement came after a Texas judge approved the sanctions against Pioneer Chlor Alkali Co. in what is believed to be the first "reverse bad faith" award in the state.

MARCH

■ The National Assn. of Insurance Commissioners and its accreditation program are coming under attack by state legislators who say the NAIC is usurping state power to regulate insurance. NAIC officials counter that its accreditation program has significantly improved state regulation.

■ Insurers could face claims of about $160 million on bankers bond and directors and officers liability insurance policies after the spectacular collapse of blue chip British bank Barings P.L.C.

■ For the first time ever, the House of Representatives has approved sweeping tort reform legislation. The measure, approved on a 265-161 vote, would cap punitive damage awards in all civil actions to $250,000, or three times economic damages, whichever is greater as well as bar product liability suits in

accidents involving products that were more than 15 years old. Clinton administration officials warn the bill could be vetoed if it is not modified.

■ Property/casualty insurers reported another anemic performance in 1994, with slow premium volume growth, smaller but still hefty underwriting losses and weak investment gains.

APRIL

■ Workers compensation insurers are celebrating a second year of much improved underwriting results. Industrywide, the combined ratio after policyholder dividends improved by a whopping 8.1 percentage points to 101%, according to estimates by the National Council of Compensation Insurance. Reform laws and greater use of managed care are among the reasons for the improvement.

■ In the most deadly case of domestic terrorism, the Alfred P. Murrah Federal Building in Oklahoma City, Okla., is destroyed by a massive bomb, killing nearly 170 people and injuring hundreds of others. The blast damages about 300 commercial structures and 200 homes. Insured damages is expected to top $300 million.

MAY

■ Led by falling workers compensation costs, the average company's cost of risk fell sharply in 1993, ending a decade of increases. U.S. companies spent an average of $7.70 for every $1,000 in revenues on the cost in 1993, a 7% decrease from the prior year.

■ A powerful storm, which dumped grapefruit-sized hail on the Dallas-Fort Worth area, caused $700 million in insured property losses. The storm came only a week after another brutal hailstorm hit the same area resulting in $275 million in damages.

■ Highly protected risk insurers are raising rates, increasing deductibles and scrutinizing losses more carefully in an effort to recover from bad underwriting results in 1994. HPR insurers are hitting some policyholders with double-digit rate hikes and say they won't let up the pressure until their financial results improve.

■ Dow Corning Corp. files for bankruptcy after the federal judge overseeing the consolidated breast implant litigation rules that a proposed settlement could be inadequate to cover existing claims. Dow was to have put up $2 billion of the doomed $4.25 billion settlement offer. The judge also rules that one partner in the Dow Corning joint venture, Dow Chemical Corp., can be sued for damages in connection with the implants.

■ Lloyd's of London unveils a broad restructuring plan designed to raise new capital, segregate past liabilities and settle member litigation. The plan would place open years of account into reinsurer Equitas Ltd., raise billions of pounds through special charges and diverted funds and offer a package worth nearly $4.5 billion to settle members' litigation.

JUNE

■ The Vermont Department of Banking, Insurance and Securities now has an open road to becoming accredited. The National Assn. of Insurance Commissioners, bowing to intense pressure, said that it would not require insurance departments, such as Vermont's, to regulate risk retention groups like they regulate traditional insurers in order to become accredited.

■ The House of Representatives is beginning debate on legislation to overhaul the federal Occupational Safety and Health Administration. Under the measure, introduced by Rep. Cass Ballenger, R-N.C., at least half of OSHA's budget would be earmarked for consultation and training programs. OSHA later begins revising its mission before the legislation is acted upon.

JULY

■ Weather forecasters predict one of the most active hurricane seasons in 25 years with perhaps as many as three severe hurricanes striking the United States.

■ Aetna Life & Casualty Co. strengthens its environmental liability reserves by nearly $1.1 billion, becoming the latest insurer to make a major reserve addition. The move follows earlier and smaller reserve additions by Fireman's Fund Insurance Co. and Swiss Re America Corp.

■ Abdoul Sesay, risk manager for the Metropolitan Transit Authority in Los Angeles, is charged with taking a bribe, accepting an illegal gratuity and filing a false tax reform, in connection with a kickback scheme at the $200 billion Los Angeles subway project. He is the first person charged in a yearlong corruption investigation.

AUGUST

■ Risk management departments aren't quite ready to toss out their operating systems in favor of Windows 95. They are concerned about the new system's reliability and ability to run risk management software not written for the new operating system.

■ For the second time in four months, policyholders won a major federal appeals court ruling on allocation in directors and officers liability policies. This 7th Circuit ruling, which involved Caterpillar Inc., follows a similar April ruling by the 9th Circuit.

■ Owners of captive insurers cannot take tax deductions for premiums paid to captives if the captives do not adequately shift risk away from the parents, the 6th U.S. Circuit Court of Appeals ruled in a case involving Malone & Hyde Inc.

SEPTEMBER

■ D&O policyholders win their third major federal appeals court victory of the year on the issue of allocation. The 9th Circuit ruling in a case involving Safeway Stores Inc. is the latest in a string that is expected to affect the market in 1996.

■ Reinsurer Risk Capital Holdings Inc. begins trading publicly after delaying a planned initial public offering amid a backlash against Normandy America Inc., which withdrew its offering. It is one of several reinsurer offerings during the year, including Prudential Reinsurance Co. and Renaissance Holdings Ltd.

■ Absent a major hurricane, property/catastrophe reinsurance rates worldwide will probably fall 10% to 15% at year end with a general softening continuing, according to predictions by brokers, insurers and reinsurers at the annual Rendez Vous de Septembre meeting.

OCTOBER

■ New House and Senate bills to overhaul the federal Superfund program doesn't go as far as many risk managers and insurers would like. They would leave the current system of joint and several liability intact, though they would streamline remedy selection and require risk assessment.

■ CIGNA Corp. plans to boost its asbestos and environmental loss reserves by more than $1 billion and restructure its property/casualty insurance operations. Under the restructuring, CIGNA would shift most of its financially draining asbestos and environmental liabilities into a new runoff operation. The plan comes under fire from rivals and policyholders who fear the runoff operation could end up insolvent and become a drain on guaranty funds.

■ The U.S. Supreme Court hears oral arguments in *BMW vs. Gore*, a case that could result in a new constitutional standard on punitive damage awards.

NOVEMBER

■ The political risk insurance market is expected to hold steady in the wake of the assassination of Israeli Prime Minister Yitzhak Rabin. Both public and private sector political risk insurers say they will continue to offer programs that will encourage foreign investment in Israel, Jordan and the Jericho and Gaza regions.

■ A group of international airlines is proposing to eliminate passenger liability limitations on international flights. The intent of the agreement, signed by 12 airlines, is to eliminate the Warsaw Convention's $25,000 to $150,000 limits on liability. The airlines say the limits are too low and invite litigation.

DECEMBER

■ Travelers Corp.'s offer to acquire Aetna Life & Casualty Co.'s property/casualty operations for $4 billion in cash is expected to strengthen both companies and fuel additional mergers and acquisitions in the insurance industry. The new holding company that Travelers will form to include both insurers' property/casualty operations will immediately vault to the No. 3 position among commercial lines insurers.

■ The Clinton administration budget proposal could throw premium deductions for many captive owners into doubt. Owners only could take tax deductions for premiums paid to captives that draw more than 50% of their net premiums from risks unrelated to their owners.

■ One of the nation's largest producers of polyester fleece linings for outdoor clothing is "completely and amply insured" for an estimated $140 million in damage caused by a fire at its major manufacturing plant in Lawrence, Mass. Highly protected risk coverage for Malden Mills Inc. is underwritten by Commercial & Industry Insurance Co. BI

Benefits

Continued from previous page
sexual harassment—in defending employer-sponsored benefit programs.

OCTOBER

■ Employees do not have to ask their employers specifically for leave under the Family and Medical Leave Act to take advantage of the federal law, a federal appeals court has ruled. In a case involving an employee with a history of excessive absenteeism who took time off to recuperate from complications following the removal of an ingrown toenail, the 5th U.S. Circuit Court of Appeals says there is nothing in the FMLA that requires employees who give notice of their need for unpaid leave to assert their rights under the FMLA. But employees generally have the obligation to tell employees that they need to take leave.

■ Dresser Industries Inc. is freezing its traditional defined benefit pension plan and putting more emphasis on its 401(k) salary reduction plan. Dresser says it is moving away from its defined benefit plan because of a lack of employee appreciation, high legal and administrative charges and the need to make frequent plan amendments. Dresser's move is yet another sign of the reduced corporate interest in maintaining traditional defined benefit plans.

■ A tax bill, whose employee benefit plan provisions were a welcome relief to many employers, faces a presidential veto. President Clinton says he will veto the measure, which includes a slew of pension simplification provisions and new tax breaks for long-term care premiums and medical savings accounts, because of his concerns that Medicare spending cuts it makes are too great.

DECEMBER

■ Employers' average total benefit costs—including medical and pension programs—fell 0.8% to $14,678 per employee from $14,807 in 1993 according to the U.S. Chamber of Commerce. Benefits costs, as a percentage of payroll, also fell to 40.7% from 41.3%. While only a slight drop, the decrease was the first in the nearly five decades that the Chamber has been doing the surveys.

■ Pension plan underfunding among the nation's 50 largest underfunded pension plans fell 66% to $10.9 billion in 1994 from $32.3 billion in 1993. The sharp decline in liabilities is attributable to higher interest rates, which reduce reported liabilities, and employers stepping up contributions to their plans.

■ Employers will have to speed up the transfer of employees' contributions to 401(k) plans under proposed Labor Department rules. Employers, depending on their size, would have as little as a few days, to as long as a month to transfer the deferrals. The proposed rules would replace a 1988 regulation that gives employers up to 90 days to transfer deferrals.

■ With the call-up of 3,800 men and women reservists to train for possible duty in Bosnia, a 1994 law designed to clarify benefits due employees when they return from military service will get its first test. The 1994 law sets precise rules on the type and the manner in which employers must extend benefits to returning reservists. BI

Datebook

JANUARY 1996

JAN. 10-12. The Public/Private Behavioral Healthcare Summit Regional Winter Symposium in San Francisco, sponsored by CentraLink; $695. **Also Jan. 31-Feb. 2** in St. Petersburg, Fla. CentraLink, 1110 MarWest St., Suite E, Tiburon, Calif. 94920; 415-435-9879.

JAN. 11-12. Civil Rights and Governmental Tort Liability Seminar in Phoenix, sponsored by the Defense Research Institute; $445 for DRI members, $495 for non-members. DRI, Civil Rights Seminar, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

JAN. 16-17. Disaster Planning and Preparedness seminar in San Juan, Puerto Rico, sponsored by Factory Mutual Engineering and Research; $495. **Also Jan. 23-24** in San Antonio, Texas; **Jan. 25-26** in Las Vegas; **Jan. 29-30** in San Jose, Calif.; **Mar. 12-13** in Nashville, Tenn.; and **Mar. 14-15** in Columbus, Ohio. FME&R's Insured Education, 1151 Boston-Providence Turnpike, P.O. Box 9102, Norwood, Mass. 02062; 617-255-4606.

JAN. 17. Allegheny Chapter, CPCU Society All Industry Day in Pittsburgh, sponsored by Chartered Property and Casualty Underwriters; $45. Rebecca Duckworth, 4 Station Square, Suite 620, Pittsburgh, Pa. 15219; 412-392-4030.

JAN. 17-19. Second Annual Conference on Outsourcing Employee Benefits and HR Functions in Orlando, Fla., sponsored by Kwasha Lipton L.L.C., Prudential Service Bureau, International Quality & Productivity Center; $895 for employee benefit or human resource executives, $1,195 for others. International Quality & Productivity Center, 1500 Clove Road, P.O. Box 401, Little Falls, N.J. 07424-0401; 800-882-8684.

JAN. 18-19. The 13th Annual Insurance, Excess and Reinsurance Coverage Disputes program in New York, sponsored by the Practising Law Institute; $795, PLI members receive a 10% discount. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 800-260-4PLI.

JAN. 18-19. Third Party Liability: Current Trends and Issues seminar in San Diego, sponsored by the Defense Research Institute; $445 for DRI members, $495 for non-members. DRI, Third Party Liability Seminar, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

JAN. 18-20. Behavioral Healthcare Outcomes Management Skills in Costa Mesa, Calif., sponsored by CentraLink; $695. CentraLink, 1110 MarWest St., Suite E, Tiburon, Calif. 94920; 415-435-9879.

JAN. 22-24. The Fifth Annual P&I Defined Contribution Conference in New York, sponsored by International Business Forum; $1,095. IBF, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525.

JAN. 23-24. The New Wave of Long-Tail Torts conference in New York, sponsored by American Conference Institute; $995. ACI, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

JAN. 24-26. Behavioral Healthcare Delivery System Integration conference in Washington, sponsored by the National Community Mental Healthcare Council and the Managed Care Technical Assistance Group; $1,195. CentraLink-I, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94028; 415-851-8411.

JAN. 28-FEB. 3. Security, Audit and Risk Management Conference in New Orleans, sponsored by American Bankers Association; $805 for members, $1,005 for non-members. ABA, 1120 Connecticut Ave., N.W., Washington, D.C. 20036; 800-338-0626.

JAN. 29-30. Directors' and Officers' Liability: Critical Legal and Insurance Issues conference in New York, sponsored by American Conference Institute; $1,095. ACI, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

JAN. 29-30. D&O Liability: Critical Legal and Insurance Issues conference in New York, sponsored by American Conference Institute; $695 for government and academics, $1,095 for others. ACI, 175 5th. Ave., Suite 2182, New York, N.Y. 10010; 416-926-8200.

JAN. 30-31. Private Placement Investing 1996 conference in New York, sponsored by International Business Forum; $1,095. IBF, 7 Penn Plaza, Suite 901, New York, N.Y. 10001; 212-279-2525.

JAN. 31-FEB. 2. Advanced Pension Conference in Orlando, Fla., sponsored by Corbel; $595. Craig Hoffman, General Counsel, Corbel, P.O. Box 47720, Jacksonville, Fla.. 300-326-7235.

FEBRUARY

FEB. 5. The Environmental Insurance Information Exchange forum in San Francisco, sponsored by ECS Underwriting Inc.; no charge. **Also Feb. 6** in Newport Beach, Calif. and **Feb. 7** in Los Angeles. ECS Marketing, 520 Eagleview Blvd., P.O. Box 636, Exton, Pa. 19341-0636, 800-ECS-1414.

FEB. 5-7. Collection Procedures Institute in Bal Harbour, Fla., sponsored by the International Foundation of Employee Benefit Plans; $685 for members, $775 for non-members. International Foundation of Employee Benefit Plans, P.O. Box 69 Brookfield, Wis. 53008-0069; 414-786-6700, ext. 257.

FEB. 7-9. The Third Annual Executive Conference Integrating Health, Managed Care & Disability Programs in Coronado, Calif., sponsored by UNUM, Associated Claims Management Inc., International Business Communications, Infoline, Integrated Health Management Associates; $1,195. IBC USA Conferences Inc. 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

FEB. 12-14. The Essentials of Medical Case Management conference in Aspen, Colo., sponsored by Reed Group Ltd.; $895. Stacey Grace, Reed Group Ltd., The Citadel, Suite 650, 3200 Cherry Creek South, Denver, Colo. 80209; 800-347-7443.

FEB. 13-14. WCRI Annual Issues & Research conference in Cambridge, Mass., sponsored by Workers Compensation Research Institute; $325 for WCRI members, $425 for non-members. WCRI, 101 Main St., Cambridge, Mass. 02142; 617-494-1240.

FEB. 21-23. Insurance Seminar: Extra Contractual Claims—Bad Faith—Punitive Damages—First Party and Third Party Claims in Tampa, Fla., sponsored by the Defense Research Inc.; $445 for members, $495 for non-members. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

FEB. 26-MARCH 1. Fundamentals of Industrial Hygiene course in New Orleans, sponsored by American Industrial Hygiene Association; $955 for members, $1,095 for non-members. **Also July 15-19** in Williamsburg, Va. and **Sept. 30-Oct. 4** in San Antonio, Texas. AIHA Continuing Education Department, 2700 Prosperity Ave., Suite 250, Fairfax, Va. 22031; 703-849-8888.

FEB. 28-MARCH 3. Seventh Annual Work Injury Management '96 National Conference & Exhibit in Dallas, sponsored by Work Injury Management News & Digest and Managed Health Resource Inc.; $445. Managed Health Resource Inc., 3417 Timberline, Eugene, Ore. 97405-1274; 503-484-5853.

MARCH

MARCH 5-6. Environmental Necessities-Permitting & Compliance course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; $300. NATLSCO, K-4, 1 Kemper Drive, Long Grove, Ill. 60049-0075; 708-320-4091.

MARCH 6. The Future of Lloyd's and the London Insurance Market: How Recent Developments Affect Your Clients program in New York, sponsored by sponsored by the Practising Law Institute; $995. PLI, 810 Seventh Ave., New York, N.Y. 10019; 800-260-4PLI.

MARCH 6-7. ERISA Compliance Seminar in Las Vegas, sponsored by Pellerino Consulting Services Inc.; $735. Randee Talmadge, Pellerino Consulting Services Inc., 115 Union St., Marine City, Mich. 48039; 800-882-2496.

MARCH 7. OSHA Compliance in the 90's course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; $195. NATLSCO, K-4, 1 Kemper Drive, Long Grove, Ill. 60049-0075; 708-320-4091.

MARCH 7. Violence in the Workplace course in Long Grove, Ill., sponsored by National Loss Control Service Corp.; $250. NATLSCO, K-4, 1 Kemper Drive, Long Grove, Ill. 60049-0075; 708-320-4091.

MARCH 7-8. Advanced ERISA Litigation conference in New York, sponsored by American Conference Institute; $895. ACI, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

MARCH 7-8. London/New York/Bermuda Reinsurance Symposium in New York, sponsored by American Conference Institute; $1,095. ACI, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

MARCH 10-12. Eighth Annual National Risk Retention Assn. Conference in Washington, sponsored by NRRA; $495 for members, $595 for non-members, discount for 2 or more from the same company. NRRA, Box 1740, 3421 M Street N.W., Washington, D.C. 20007; 800-999-4505.

MARCH 25-26. Litigating Bad Faith Claims and Punitive Damages conference in New York, sponsored by American Conference Institute; $995. ACI, 175 Fifth Ave., Suite 2182, New York, N.Y. 10010; 416-927-7936.

MARCH 25-28. Quantitative Industrial Hygiene course in Cleveland, sponsored by American Industrial Hygiene Association; $855 for members, $995 for non-members. **Also July 29-Aug. 1** in Cleveland. AIHA Continuing Education Department, 2700 Prosperity Ave., Suite 250, Fairfax, Va. 22031; 703-849-8888.

APRIL

APRIL 1-2. The 1996 Annual Workers Compensation Issues Symposium in Orlando, Fla., sponsored by the National Council on Compensation Insurance; $495 for attendees, $750 for exhibitors. James Wolfe, NCCI, 750 Park of Commerce Drive, Boca Raton, Fla. 33487; 407-997-4749.

APRIL 17-19. The 17th Annual Petroleum Insurance and Environmental Protection Conference in Houston, sponsored by the Professional Development Institute, University of North Texas and Self-Insurance Resource Inc.; $545 for conference only, $195 for April 17, workshop only, $645 for both. Mary Ann Crow, Professional Development Institute, P.O. Box 13288 NT Station, Denton, Texas 76203-6288; 800-433-5676.

APRIL 21-26. The 34th Annual Risk & Insurance Management Society Inc. conference in Toronto; full-week until Feb. 16: $695 for RIMS members; $795 for non-members; after Feb. 16: add $100. Risk & Insurance Management Society Conference Department, 655 Third Ave., New York, N.Y. 10017-5637; 212-286-9292.

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INTERNATIONAL

Lloyd's capacity to drop in '96

LONDON—Lloyd's of London's capacity will drop 3% next year to £9.85 billion ($15.17 billion), while nearly a third of the market's capacity will come from limited liability corporate capital.

In light of all the difficult changes the market is undergoing, the slight drop from £10.2 billion ($15.96 billion) in capacity this year "clearly demonstrates the resilience and confidence of both the traditional membership and the established and new corporate members," Lloyd's Chairman David Rowland said in announcing 1996 capacity.

For the 1996 underwriting year, 12,811 individual members will contribute 69% of the market's capacity, or £6.84 billion ($10.53 billion). Of this amount, £4.26 billion ($6.56 billion) will be written through members agency pooling arrangements, or MAPAs, which are in effect member-backed investment trusts managed by members agencies. The number of individual names represents a 14% drop from 1995 membership, as 2,073 members will resign at year end. Altogether, more than 20,000 members have stopped underwriting at Lloyd's since the 1980s.

A total of 165 corporate members, participating via 71 corporate member groups, will provide the remaining 31%, or £3.01 billion ($4.64 billion), of the market's capacity next year.

Separately, Duncanson & Holt Europe Ltd. last week announced that its underwriting agency subsidiaries had acquired the right to manage aviation syndicate 957, previously managed by Barder & Marsh Ltd. and underwritten by John Cackett, with non-marine syndicate 55, managed by Cater Allen Syndicate Management Ltd. and underwritten by George Lloyd-Roberts.

—By Stacy Shapiro

Cat reinsurance may be too low for natural disaster exposures

By CAROLYN ALDRED

ZURICH, Switzerland—Catastrophe reinsurance limits are often insufficient for the exposure in most markets, though the cost of the coverage is declining, says Swiss Reinsurance Co.

Zurich-based Swiss Re focused on the catastrophe excess-of-loss reinsurance market in the most recent edition of "SIGMA," the company's international research publication.

Swiss Re's analysis is based on a survey at the beginning of 1995, in which 1,025 layers of catastrophe reinsurance of 367 primary insurers in 11 countries were studied.

The countries in which insurers were located were Australia, Japan, Germany, the United States, the United Kingdom, South Africa, Mexico, Canada, the Netherlands, Belgium and France.

A worldwide comparison of the size of insured losses caused by natural disasters over the last 25 years shows that 1989 was a watershed year, according to Swiss Re.

Before 1989, insured natural catastrophe losses accounted for only about 0.2% of the gross domestic product of industrialized countries; since then, such losses have accounted for more than 0.4% of the GDP.

In 1992, driven largely by Hurricane Andrew, insured natural catastrophe losses reached a maximum of $22.5 billion—or 1.2% of GDP.

To assess the adequacy of cat cover purchased in each country, Swiss Re established one or more reference losses in each market. A reference loss corresponds to a major loss that insurance companies with average capitalization should take as a basis for deciding on the level of catastrophe excess-of-loss reinsurance cover they require.

"The reference losses chosen are such that they are rare, but nevertheless possible," Swiss Re said.

For European markets a realistic windstorm loss scenario was chosen for each market, while for markets at risk from hurricanes a loss event with a return period for 100 years was chosen. For the earthquake reference losses, return periods of 100 years in countries of high seismic activity, 500 years in countries of moderate seismic activity and 1,000 years in countries with low seismic activity were chosen. For the United

See **Swiss Re** *on next page*

Cat cover

Non-proportional reinsurance against damage caused by natural disasters

Change in limits 1994/95		Change in premium 1994/95
+7.1%	Australia	-0.8%
+7.9%	Canada	-6.3%
+6.9%	France	+0.9%
+3.8%	Germany	+3.3%
-5.3%	Japan	-25.0%
+25.3%	Mexico	+27.3%
+33.4%	United Kingdom	-5.8%
+6.6%	United States	+4.8%

Source: Swiss Reinsurance Co.

GRAPHIC BY JOHN HALL

Pension suggestion for German plans

The German government could do more to stimulate growth in private pension funds, concludes a study released late last month by Deutsche Bank A.G., which manages plan assets totaling more than $100 billion.

With legislative initiatives and tax incentives, German companies would set up more pension funds with "huge potential for capital markets," the study said.

A "fundamental change in taxation and the legal environment" is needed if pensions are to play a more significant role in German financial markets, the report concludes.

Among other measures, Deutsche Bank favors a change in German tax law that would permit an employer to give its pension reserves to an outside pension fund manager to invest without taxing the employer on interest earned by the investment of those funds. As an intermediate step toward external financing of pension funds, Deutsche Bank calls for the use of asset funding of pension reserves—in effect allowing the use of stocks and bonds to fund the reserves for a company's future pension liability.

In Germany, most company pensions are financed through book reserve plans, which keep records of the amount a plan will pay but do not actually set aside funds. According to Deutsche Bank Research, four means of funding company pension plans are possible:

- Forming pension reserves, which is the method used by 56.3% of all German pension plans in 1993.
- Allocations to an external

See **Pensions** *on next page*

Australia may amend marine cargo law

By KATE TILLEY

CANBERRA, Australia—Australia may abandon its plan to adopt new marine cargo liability rules and opt instead to lobby its trading partners to amend the international convention under which they currently operate.

A Marine Cargo Liability Working Group, established by the federal government's Transport Department, delivered a report to Transport Minister Laurie Brereton in October that advises against automatically adopting the so-called Hamburg Rules, which is slated to occur in 1997, and instead recommends modernizing the Hague-Visby rules.

In the meantime, the group, which started working on the report in January, has asked Mr. Brereton to amend the country's Carriage of Goods by Sea Act 1991, which implemented the Hague-Visby rules (*BI*, Oct. 8, 1990).

The proposed amendment would: ensure that all shipping documents are covered by the act, including electronic contracts; extend carrier liability to periods when cargo is being loaded or unloaded; allow for arbitration of disputes; cover on-deck cargo (except live animals); and make carriers liable for limited losses due to delays.

The working group urged the Australian government to lobby its trading partners to agree to an amendment of the Hague-Visby rules. The group proposes adopting the Hamburg Rules' higher liability limits for loss or damage to goods, which are 835 Special Drawing Rights ($1,242) per package/unit or 2.5 SDRs ($3.72) per kilogram, as well as adopting a two-year time limit on claims. Under the current rules, damage is limited to 666.67 SDRs ($991.60) per package/unit or 2 SDRs ($2.97) per kilogram, and there is a one-year statute of limitations on claims.

If international trading partners agree to the proposed changes to Hague-Visby, the working group has suggested that Australia amend its current cargo act to reflect those changes and drop a

See **Cargo** *on next page*

AP/WIDE WORLD

While votes from Russian elections still are being tallied, insurers do not expect big changes.

Elections not causing insurers red scare

Little change expected for Russian insurance industry

By ELENA KUDIMOVA

MOSCOW—Despite preliminary results indicating that the Communist Party won back many seats in recent Russian parliamentary elections, insurers and brokers are not expecting radical changes for the country's expanding insurance market.

Insurance was never considered a priority by the old Duma, or parliament, observed Sergei Danilychev, a Willis Faber & Dumas representative in Moscow. "Neither will it be considered a priority matter by new legislators."

The Russian parliament has about a hundred more urgent matters already on its agenda, according to Mr. Danilychev.

"I do not expect a renewed Insurance Law to pass the parliament before next summer," he added.

Preliminary election results indicate that Communist Party members will gain about 200 seats out of 450 in parliament. The final election results are to be announced Jan. 6.

Yuri Tikhonov, a representative of loss adjuster Thomas Howell Group in Moscow, said he is sure that "there will be no radical changes, because a class of owners who need property coverage has already formed here."

Willis Faber & Dumas' Mr. Danilychev also said that long-awaited amendments to the Insurance Law of 1992 still have not been implemented. Approved by the lower and upper chamber of the parliament, the amendments were rejected by President Yeltsin in October.

The amendments were not protectionist enough, Mr. Yeltsin wrote in a letter to the Speaker of the Duma. He stressed that Russia's domestic insurance companies still are not able to compete against long-established foreign insurers. BI

Swiss Re

Continued from previous page
States, Canada, South Africa and Australia, several reference losses were defined in each case, based on different regional catastrophe events.

Swiss Re then compared the upper limits of cat XL coverage bought in different markets with the reference loss established for each market.

Of the surveyed countries at risk from windstorms—Australia, Belgium, France, Germany, Japan, Netherlands, the United Kingdom and the United States—the highest limits of cat cover were purchased by insurers in Germany and Australia.

In Germany, maximum limits averaged 87% of Germany's reference loss and 84% of Australia's reference loss. The upper catastrophe reinsurance limits among insurers in the United States reached 50% of the U.S. reference loss on average.

Limits in all other countries fell under 50% of reference losses, with cat XL limits in Japan as low as 33% on average.

Of the earthquake exposed markets—Australia, Japan, Belgium, South Africa, Canada, the United States and Mexico—there was sufficient cover among insurers in Japan, where average maximum limits were 616% of the reference point, and Mexico, where limits were 313% of the reference point, Swiss Re said.

In Australia, average upper limits reached 87% of the earthquake reference loss, while in all other countries it reached only about 50%.

"It is quite clear that in most markets the (maximum limits) lie below the reference losses defined by Swiss Re. In the event of disastrous natural events, primary insurers would accordingly have to bear a large proportion of any losses themselves," Swiss Re concluded.

The reference losses relate only to natural catastrophe losses covered by property insurers, the reinsurer noted. Damage to infrastructure, such as bridges and roads, lost working hours, and other uninsured costs, such as falls in stock prices, are not included in those amounts.

"The level of insurance in some markets is so low that a large part of the burden of loss falls on the people affected or the state," Swiss Re noted.

Non-proportional catastrophe coverage limits totaling $46.8 billion was bought in 1995 by insurers in the 11 counties studied, an increase of $3.5 billion or 8% from 1994 levels. U.S. insurers accounted for 36% of the coverage, Japanese companies 15% and U.K. insurers 12%, with the remainder spread among insurers in the other countries.

Premium volume for non-proportional coverage, meanwhile, fell 3.2% this year to $3.8 billion for the 11 markets, with U.S. insurers accounting for the largest share of premium volume at 41%, following by insurers in Japan and the United Kingdom with 15% each.

"The fall can be attributed to reduced prices," according to Swiss Re.

Cat XL prices are defined as "rate on line," which is the ratio of premium to limits. Swiss Re calculated this using paid premiums net of brokerage commissions.

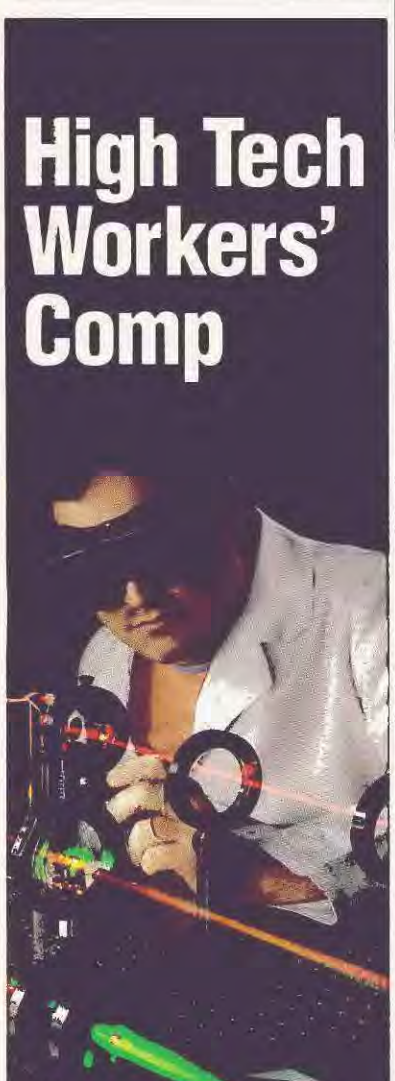
In 1995, the average rate on line for cat XL coverage in the 11 countries studied was: Australia, 5%; Belgium, 9.6%; Canada, 4.8%; France, 9%; Germany, 9.5%; Japan, 7.7% (with 11% for windstorms and 4% for earthquakes); Mexico, 4.5%; the Netherlands, 8.2%; South Africa, 2.5%; the United Kingdom, 10%; and the United States, 9.1%.

Between 1994 and 1995, prices for the coverage fell in most countries, due to smaller catastrophe losses and increased capacity. The United Kingdom, in particular, saw rates on line plummet from 14.2% in 1994 to 10% this year, as loss expectations were revised downward.

In the United States, however, prices held up due to the fact that U.S. insurers suffered steep claims from natural hazards in 1994 and because the United States takes up such a large share of worldwide capacity that it can not easily be diversified.

•

For a copy of SIGMA report No. 6/95, contact Swiss Reinsurance Co., Economic Research Section, P.O. Box 8022, Zurich, Switzerland; 41-1-285-25-51; fax: 41-1-285-29-99.



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Cargo

Continued from previous page
planned automatic implementation of the Hamburg Rules on Oct. 31, 1997.

In addition to higher liability limits, the Hamburg rules, officially known as the United Nations Convention on the Carriage of Goods by Sea, would impose a new standard of strict liability and presumption of negligence on vessel owners for lost or damaged cargo unless the cargo carriers could prove they took all possible measures that could be reasonably expected to avoid the loss (*BI*, Feb. 29, 1988).

Shipowners generally oppose the Hamburg Rules, claiming they introduce a dramatic shift of liability to shipowners.

Mr. Brereton has not yet committed to adopting the working group's recommendations, but he is expected to do so, given that the working group was chaired by Danny Scorpecci, assistant secretary of the international and commercial shipping policy branch of the Transport Department.

Andrew J. Black, managing director of Marine & Aviation Management Services Ltd., a unit of Norwich Winterthur Australia Ltd. in Sydney, said that though the Hamburg Rules were unanimously adopted at a 1978 United Nations conference, and were expected to come into force on Nov. 1, 1993, so far only 23 nations, none of which is a major trading partner for Australia, have implemented the stricter rules.

No leading industrialized country has adopted them, and an international questionnaire, completed by member countries of the Comite Maritime International, a group of countries that cooperate on marine issues, have indicated greater support for amending the existing Hague-Visby rules.

"Ultimately there needs to be a worldwide, uniform liability regime, rather than the proliferation of differing legal regimes," Mr. Black said.

Gerfried E. Brunn, liaison officer-international organizations for the International Union of Marine Insurers, told the IUMI conference in Tokyo earlier this year (*BI*, Oct. 9), that there are currently eight different cargo liability regimes in use worldwide. The Hamburg Rules have not achieved their aim of establishing a uniform liability system, he said.

He advocates modernizing the Hague-Visby rules because "the cargo owner will know exactly which risks are excluded from the shipowner's liability and which risks...his cargo insurance must cover."

Mr. Brunn said vagueness in some provisions in the Hamburg Rules could lead to uncertainty. In contrast, Hague-Visby balances risk allocation between the cargo owner and insurer, and between the shipowner and the protection and indemnity insurer.

Under Hague-Visby, the shipowner's liability is limited to a fixed amount, excluding catastrophic losses, and the cargo insurer protects the owner against loss or damage from door to door, he said.

Mr. Brunn argues that the Hamburg Rules greatly expand shipowners' liability and would lead to increases in P&I insurance costs. "As it is, P&I insurers refuse to indemnify customers for claims if those customers have voluntarily accepted a Hamburg regime."

Sydney-based marine insurance attorney John Levingston, of Levingstons Solicitors, who was a member of the working group, said that while the group recommended repealing a "trigger" in the Australian law to automatically bring the Hamburg Rules into effect in 1997, it would continue to be monitored. If major trading partners changed their minds and adopted the Hamburg Rules, Australia likely would have to consider doing the same, he said.

Mr. Levingston represented the Australian Peak Shippers' Assn. on the working group. Shippers are in favor of Hamburg. Though Mr. Levingston agreed to the working group's recommendations, he said that shippers still see the proposals as an interim measure. "Shippers want Hamburg and they want it now. In view of the government's position, they will be happy to get the defects in the current regime fixed now, but see it as a step toward eventual implementation of Hamburg."

Stuart Hetherington, an attorney with the Sydney office of law firm Ebsworth & Ebsworth, and immediate past president of the Maritime Law Assn. of Australia & New Zealand, also was on the working group. He said its recommendations were "a compromise," but demonstrated the need for new rules.

"Neither scheme is perfect, but everyone is being more realistic," he said.

The working group's report noted that 64% of Australia's international trade was with nations that use Hague-Visby Rules, and 25.7% with nations using Hague Rules alone, including the United States.

The Maritime Law Assn. of the United States is expected to consider amendments to the U.S. Carriage of Goods by Sea Act 1936 at its spring meeting in mid-1996, according to the Australian working group's report. BI

Pensions

Continued from previous page
pension fund, 22.9%.

• Allocation to a support fund, 8.7%. A support fund is a pension fund to which multiple companies contribute money to fund pensions and then withdraw from the fund as needed. It is supervised by the German insurance supervisory authority.

• Annuities, 12.1%.

The German stock market would greatly benefit from external corporate investment in pension funds, the study concludes, especially in light of the impending European Currency Union and growing competition in the financial markets.

Deutsche Bank Research estimates 230 billion DM ($160.4 billion) in capital used to cover pension plans in 1993 could be freed for investment in financial markets under better tax and legal conditions.

Pension fund assets in the United States and Great Britain amount to 57% and 77% of gross domestic products, respectively, while German pension fund assets amount to only 6% of GDP.

The German Life Insurance Assn. supports the Deutsche Bank study's findings, an association spokesman in Bonn said. German insurers have been managing pension funds since June 1994, and fund management is an important area of business for larger insurers, he said.

—By Don Lewis Kirk

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For the Record

Ohio Blues to pass on negotiated discounts

CLEVELAND—Blue Cross & Blue Shield of Ohio, beginning Jan. 1, will take into account negotiated hospital discounts when it calculates deductibles, copayments and benefit maximums.

That step may help placate critics who accuse the insurance company of unfair practices, but it falls short of refunding past discounts.

Consumers around the country have filed suits arguing that Blues members are unwittingly paying a larger proportion of their bills than they thought because the plans do not pass on discounts they get from hospitals. The U.S. Department of Labor late last month said it would investigate all Blues plans on the discounts (*BI*, Dec. 4).

A federal judge in Toledo is considering whether BC/BS of Ohio, the state's largest health insurer, must make restitution to patients or plan sponsors.

"The bottom line is Blue Cross has not received a penny from the current form of benefit calculation," a company spokesman said, arguing discounting has lowered costs for all consumers.

New Jersey bars HIV/AIDS screening

TRENTON, N.J.—Group health insurers in New Jersey will not be allowed to use blood tests that screen applicants for human immunodeficiency virus and then deny coverage based on those tests.

New Jersey's recently appointed insurance commissioner, Elizabeth Randall, this month killed a proposed regulation giving insurers that power.

When the proposal was published in the state register in October, regulators said that it was designed to safeguard applicants' rights because previous state AIDS testing regulations did not have any legal standing (*BI*, Oct. 16).

Ms. Randall said among the reasons she scrapped the proposal was concern that it may have violated the Americans with Disabilities Act.

The proposal also appeared to run counter to other state insurance regulations that prohibit unfair discrimination, according to Ms. Randall.

NationsBank settles investor lawsuit

CHARLOTTE, N.C.—NationsBank Corp. will pay $30 million to settle a Texas state court suit that alleges it misled investors about the risks involved in two investment funds.

The settlement amount includes $25 million, which the Charlotte, N.C.-based company will pay into the two publicly traded funds to buy U.S. government securities, and $5 million to be distributed to customers who sold shares in the two funds at a loss.

Investors' legal fees, which the settlement agreement says will not exceed $6 million, will be paid out of the total.

An estimated 16,100 investors hold the 31.6 million shares in the two funds.

NationsBank President G. Patrick Phillips denied that the investors had been misled. He called the settlement "a response to a unique market situation" that would put the matter behind the company.

The settlement is subject to judicial approval.

Scaffold firms settle claim from accident

BOSTON—The family of a Massachusetts man who died after falling from a scaffold while making repairs at the Suffolk Downs racetrack has settled with two scaffold companies for less than the $2.1 million awarded by a jury last month.

The undisclosed settlement amount was agreed upon to end the litigation first filed in 1992 against Triple G Scaffold Services of Marshfield, Mass., and All-Safe Scaffold Inc. in Carver, Mass., according to David McMorris, plaintiffs attorney with Boston law firm Thornton, Early & Naumes. The sister companies made scaffolds used at the site where Walter M. Nicoletti, a 61-year-old plasterer, fell in 1992.

Mr. Nicoletti later died from his injuries.

The Suffolk Superior Court jury found the companies negligent because access to the upper levels of the scaffolding was determined to be inadequate.

The companies have adequate liability insurance to cover the settlement amount, according to Mr. McMorris.

Information in brief

New York Supreme Court Justice Stuart L. Ain has refused to reconsider a May decision that says computer **online service provider Prodigy Services Co.**, based in White Plains, N.Y., could be held liable as a publisher for statements that appeared on its bulletin board, despite new facts that have been presented in the case. Richard Kurnit, an attorney with Frankfurt, Garbus, Klein & Selz in New York, which represents Prodigy in the case, said that if the judge refuses to reconsider his latest decision, it will probably be appealed. . . .Some **39.7 million people lacked health insurance** during all of 1994, the same number as in 1993, according to a new report issued by the U.S. Bureau of the Census. . . .The **Pension Benefit Guaranty Corp.** will guarantee a monthly maximum benefit of $2,642.05 to participants in underfunded pension plans that terminate in 1996 and are taken over by the PBGC. The 1995 maximum benefit guaranteed by the agency is $2,573.86. . . .The **Federal Aviation Administration** has extended safety regulations that currently cover airplanes with more than 30 seats to planes with as few as 10 seats. The regulations include mandatory pilot retirement at age 60, installation of additional safety equipment such as airborne weather radar and enhanced pilot training. In addition, smaller airlines would have to employ a full-time safety supervisor. The airlines have 15 months to comply with the regulations, which were issued Dec. 14. . . .**Property/casualty insurance companies' rates of return** lag behind those of most other industries, even though insurers face at least as much risk as other competing uses of capital, says a recent study released by the Insurance Services Office Inc. Property/casualty insurance companies ranked 24th in terms of profitability among 31 industry groups. BI

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Retirement savings increase but still lag historic levels

Full-time workers are increasing the amount of money they set aside for retirement, but they are still saving far less on average than they did only three years ago.

That was one of the key findings of the fourth annual "Workplace Pulse National Survey" released by the Washington-based Employers Council on Flexible Compensation and Colonial Life & Accident Insurance Co. of Columbia, S.C. They surveyed 1,000 employed people working at least 30 hours a week.

The respondents reported that they increased, on average, the amount they are putting aside for retirement, excluding any employer-sponsored retirement plan, to $2,160 per year. That represented an increase of 21.6% over the average $1,776 that respondents to a similar survey reported saving in 1994. But 1994's savings figure was the lowest since the survey began in 1992. In fact, the amount saved in 1992—$2,688—was the highest recorded by the survey.

The survey found that the oldest group of workers, those age 45-64, had retirement accounts worth $109,075 on average, more than double the average amount held by the next oldest group—$50,893 for those 35 to 44 years old. The average retirement account size for workers of all ages was $54,546.

Despite those savings levels, surveyed workers expected an annual retirement income of more than $24,600 on average.

"Obviously, a pending crisis exists for retiring American workers. Although older workers are saving more than younger workers, accumulated retirement funds are inadequate to meet expected needs. Even if total retirement amounts available were $250,000 for retiring Americans, those dollars would not generate necessary income to meet expectations," noted the report.

Sixty percent of the respondents to the survey said they participate in an employer-provided retirement plan, 10% said they didn't participate and 30% said they had no employer-provided plan.

An overwhelming majority of the respondents—82%—said that the government fails to provide adequate incentives for retirement saving; only 14% said that government incentives were sufficient, and 4% were uncertain. In addition, nearly two-thirds—64%—agreed with the statement: "The government has required employers to design workers' pension and retirement plans to meet government's need for tax revenue more than workers' needs to save for retirement." Twenty-nine percent disagreed and 7% were uncertain.

Single copies of "Workplace Pulse," are available free of charge by contacting Donna Windham, Colonial Life & Accident Insurance Co., P.O. Box 1365, Columbia, S.C. 29202; 803-798-5555, ext. 8272.

—By Mark A. Hofmann

Principal Health to acquire ADMAR

ROCKVILLE, Md.—Managed health care company ADMAR Group Inc. has agreed to be acquired by Principal Health Care Inc. in a deal worth an estimated $20 million.

Under the agreement, Rockville, Md.-based Principal Health Care, a privately held managed care company and member of the Principal Financial Group, would acquire all outstanding ADMAR stock for $2.25 per share, or about $20 million. If the acquisition is completed, Santa Ana, Calif.-based ADMAR would become a wholly owned subsidiary of Principal Health Care.

The deal would expand Principal Health Care's service area as well as the health care services it offers in areas where both companies operate. ADMAR managed care plans cover 6.97 million lives and Principal's group managed health care plans cover 952,000 lives.

The merger, which is subject to various conditions, including the approval of ADMAR shareholders, is expected to be completed by the end of January

Markets

Dow Radian formed

HARTFORD, Conn.—Wholly owned subsidiaries of the Hartford Steam Boiler Inspection & Insurance Co. and the Dow Chemical Co. are forming a new company, Dow Radian L.L.C., to provide environmental, information technology and strategic chemical management services to industries and governments around the world

The new company, consisting of assets contributed by Dow Environmental Inc. and Radian Corp., will have headquarters in Austin, Texas. Ownership of the new company will be 60% Midland, Mich.-based Dow and 40% Hartford, Conn.-based Hartford Steam Boiler, through the wholly owned subsidiaries of each company. The transaction, subject to board approval from both companies, is expected to be completed near the end of the month.

Dow Radian is expected to have 1996 revenues of about $400 million.

Hartford Steam Boiler subsidiary Radian Corp. is an international environmental, engineering and technical services firm based in Austin. Dow Environmental is an Austin-based Dow subsidiary specializing in remediation and strategic chemical management.

Donald M. Carlton, president and CEO of Radian, will have the same positions with Dow Radian.

New RHH division

CHICAGO—Rollins Hudig Hall Group Inc. has acquired the Transportation Risk Management Services operations of William Frederick Prester & Co. Terms of the acquisition were not disclosed.

TRMS, which specializes in providing insurance programs, risk management services and safety products to the transportation industry, will operate as a division of Rollins Hudig Hall of Illinois Inc. The firm is located at 1111 Plaza Drive, Suite 600, Schaumburg, Ill. 60173. For more information, call 708-330-5000.

Spine-support services

SAN FRANCISCO—The San Francisco Spine Center is working with San Francisco-area employers to reduce health care and workers compensation costs through a program of accurate diagnosis, intense short-term physical therapy and exercise equipment designed by a doctor specifically for back patients.

The staff, headed by Dr. Kenneth Light, includes doctors, exercise physiologists, clinical psychologists and nutritionists to focus on the physical and psychological needs of back patients.

For more information, contact the Spine Center at 415-353-6464. The Spine Center also recently went online with a World Wide Web site offering a variety of medical back news at http://www.spinenet.com, and can be reached by e-mail at spinectr@spinenet.com.

Chubb managed care

NEW YORK—The New Jersey Department of Insurance has certified ChubbHealth to operate its Premier and Premier Plus managed care plans in New Jersey. The company received approval for its selective contracting agreement to offer point-of-service-style benefits to groups of two to 49 employees.

New York-based ChubbHealth is a joint venture of The Chubb Life Cos. and managed care company Healthsource Inc. For more information, call 212-880-5400. BI

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Commercial Consumers

Administrative:
CEO's, Presidents, and Owners 1,866
Vice Presidents, General Managers and Other Administrative Personnel 5,213

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Chief Financial Officers and Vice Presidents of Finance 3,180
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Risk/Employee Benefits:
Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations 16,931

Sub-total 30,243
Associations 355
Government, Unions and Educational Institutions 955

Commercial Consumers
Sub-total 31,553
Insurance Agents and Brokers 8,658
Insurance Companies 7,857
Accountants, Actuaries, Attorneys & Consultants 3,556
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers 1,935
Others Allied to the Field 960

Total Qualified 54,519
Non-qualified 9
Single Copy Sales 0

TOTAL CIRCULATION 54,528

★ *Source Business/Occupational breakdown of qualified circulation, May 29, 1995 Issue, as submitted to BPA for June 1995 BPA Publisher's Statement*

Christmas

Continued from page 43

"In fact," Dr. Spleen righteously ordained,
"Profitability margins could be retained."
He shot a glance at Dick Sly, feeling a thrill.
If P/C was gone, he'd be king of the hill!
I'll be Sly's right hand man! thought that crafty old Spleen.
Property Casualty and Katt will both be has-beens.
At Sly's interested nod, Spleen leapt up and cried,
"Our indemnity business is now nationwide!
A regional company that has the urge
Might find that attractive. . .and approach us to merge."
From the back of the room came a cough from Lloyd Lloyd,
Who—it must be said—did not look overjoyed.
New to Nearly Defunct, he had come from Bermuda
And correctly pinned Sly as a sharp barracuda.
He'd sold his old home and had come to this nation
To run Nearly Defunct's international P/C operation.
He'd been there for a month, and already, heck,
He was in the position of saving his neck.
"We're small," he said, hesitant to offer more,
"But I'd like to think we could be viewed as a core.
I can build on what's there," he told Sly. "Nothing to it.
Assuming," he muttered, "I'm still here to do it."
Ann Nuity then commanded everyone's attention.
(She managed life insurance, and products of pension)
Her strange shiftly sidestep, evident as she marched,
Was supposedly due to some fallen arch,
But the limp, or so said office rumors and theories,
Came from years of dodging tough industry queries.
"The truth," Sly demanded. Ann's mouth went bone dry.
Then she smiled with a force that beguiled old Sly.
"Our new products are going to be state-of-the-art!"
She lied through her teeth. She lied from her heart.
"Our distribution methods are also unique!"
But she knew, truthfully, her business was quite bleak.
Richard Sly looked around at the small, frightened group.
Did they truly think he was easy to dupe?
As Nearly Defunct was investigated
It grew clear that their problems were capital-related.
He was dabbling in too many things at once.
Without the capital to service all fronts.
Keeping fingers in so many pots was too hard.
He'd keep one or two, and the rest he'd discard.
It came down to P/C, and also Health Care
(The other divisions were too small to compare)
He'd grow them, and/or he would turn them around
Till profitability was sure and sound—
If that didn't work, if he had his druthers,
He's take P/C or Health Care and sell them to others.
Sly turned to Dr. Spleen, and craftily asked,
"How much capital would bring Health Care to a critical mass?"
His gut feeling: the P/C business was messed up.
If his own P/C business were to be dressed up
And sold. . .then his quarantined Health Care business
Could get a fat influx of money for Christmas.
Intrigued by the plan, Sly's eyes brightly lit.
He asked Mr. Katt, "Are reserves adequate?"
Katt hemmed and he hawed. "We're not fit as a fiddle,
But we're chopping away at it little by little."
Sly frowned and he started to rub his jaw.
"Have you cut enough people? Or are there yet more?
Are you operating at your most efficient level?"
Katt swallowed, convinced he was facing the Devil.
"We're getting there," he said, and though he was trying,
He sensed that Dick Sly knew damn well he was lying.
Disgusted with Katt, Sly turned to the three
Who could give him the dirt on property/casualty.
The head of Human Resources, Anita Job,
Heard Sly's pointed questions, and let her head bob.
"Three cutbacks," she said, "have been absolute hell.
There's been no change in results, though morale surely fell.
However," she said, somewhat timidly,
"With more effective use of technology,
I think productivity would begin to soar,
And we'd be able to cut staff, up to one-third more."
The chief actuary, who was named Ken B. Short,
Took one look at Sly and knew he was caught.
"You certainly don't have to be omniscient
To see that environmental reserves are deficient.
Moreover, rating agencies say they deserve
Some number from us, estimating reserves!"
The Chief Investment Officer, Flo F. Cash,
Had the grace to blush rosy and look quite abashed.
"Growth is sluggish and labored," she said with a frown.
"With interest rates falling, net investment income might be down."
Richard Sly hadn't realized that things were so bad.
It was clear there were not many options he had.
"How much more can we write off?" he found himself stating,
"Without scaring the folks who give us our rating?"
Ken B. Short cleared his throat. "When it's put in those terms,
There are only a few actuarial firms
To work with us. There's Slipp & Slide, and it wouldn't be awful
To hire the services of Waffle & Waffle."
Sly caught the eye of Ms. N. Formation,
Nearly Defunct's head of investor relations.
"Could we run up our stock by circulating a story
Without giving details, sordid or gory?
Say we're going to restructure. . .say it will be terrific. . .
But don't mention anything clear and specific."
Knowing her job was right smack on the line,
Ms. N. Formation smiled and said that would be fine.
"You bet we can! Analysts and investors I call
Will gobble that up and then run with the ball."
Sly smiled, having quickly developed his plan.
"We'll restructure the P/C business as best as we can.
Not that I have a plan firmly in mind,
But at least long-range goals have been firmly defined.
We'll restructure to match with some new buyer's style,
Or make sure if he buys it, that it's worth his Weill.
And if that doesn't work, we still won't be had.
We'll split the company up in one good book, one bad.
Then we'll dress up the bad book till it looks like a dream—
Knowing all along things aren't quite what they seem."
He laughed with delight. "Of course, it would behoove us
To make sure the commissioner still will approve us.
To that end, the insurance liaison staff might
Take extra care to play all their cards right."
Then all of a sudden there arose such a clatter
Sly rose from his seat to see what was the matter.
And suddenly, right on the board table appeared
A miniature sleigh and eight tiny reindeer
And a little old driver whose ire was pricked—
Sly knew in that moment that he'd angered St. Nick.
"You Sly. And you Katt. And you Lloyd. And you, Spleen!
Shame, Ms. Nuity. Job, Short and Cash—now, come clean.
Did you really think you could prevent your firm's fall?
Give it up. Give it up. Give it up all."
He turned on his heel and let out a sigh.
Coming to stand near DoNothing and Sly.
"I said there would have to be changes last year,"
He said sadly. "Apparently, you didn't hear.
An agent of change?" Santa shook his white head.
"Give up the quick fix. Try real change instead."
His eyes—how they burned! His mouth—what a frown!
His cheeks had gone pale and he had to sit down.
He had a broad face and a round little belly
That shook when he cried like a bowl full of jelly.
"Yes, consolidation is finally here,
And believe me, I've waited for many a year.
Downsizing? We have to face it—it's Fate—
Since DoNothing's stewardship never was great.
You can take it as a fact, or take it as bunk—
But it's the only way to save Nearly Defunct."
Santa pursed up his mouth. His head started to wag.
"You just might pull it off. You restructure this bag
And you sell it to some unsuspecting old fool—
But you're muddying up the guaranty pool.
What really riles me is your backup plot,
To split business by what is good and what's not.
How far do you actually think you will get?
And if you pull it off, then the precedent's set.
Suppose as a result of this tactical blunder
The companies doing bad business go under. . .
The good guys will be there to bail them all out
Until the dawns when they're riddled with doubt.
Mark my words, firms like you will come to regret
How the guaranty pool found out you were all wet."
Santa glanced 'round the room at the silent, stunned faces.
Then he climbed on the table and unhooked the traces
That held in place his eight famous reindeer,
Who got down, stretched their legs, and moved to stand clear.
"Reindeer don't know insurance," Santa said with infection,
"But at least these guys have a good sense of direction."
Then he reached for the vps and Dick Sly as well
And carefully hooked up each harness and bell
Until Nearly Defunct's department heads
Were tied well and good to a small Christmas sled.
On Richard Sly's bridle old Rudolph was named—
Apropos, since the change agent was quite ashamed
And his cheeks and his nose had a deep, ruddy glow
To light Santa's path as they started to go.
St. Nick chuckled, "Don't think that I'll be so forgiving.
It's about time you eight learned to work for a living."
And laying a finger aside of his nose,
And giving a nod, up the chimney they rose.
Almost DoNothing nearly broke down and cried.
He stared at those antlers, at eight furry hides.
Reindeer, he discovered, made him want to sneeze—
A small price to pay to get rid of vps—
They stunk up the board room, and their snorts sounded funny,
But then, they'd probably work for considerably less money.
Above DoNothing's head came a voice, faintly sad:
"It's wrong when the good guys must bail out the bad.
And let me tell you. . .that's just the icing.
This comes after losing business to underpricing.
It's wrong when the good guys get beat up twice.
Take it from Santa, it's naughty, not nice." BI

Myron M. Picoult is a managing director and senior insurance analyst at First Manhattan Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts.

Jodi Picoult Van Leer is his daughter and the author of several novels. Her most recent novel, "Picture Perfect," was published by Putnam.

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D&O

Continued from page 2

seeking indemnification for the $600,000 in defense costs and unspecified punitive damages.

The coverage dispute began when five volunteer commissioners of the non-profit Urban Renewal Authority were sued in state court by 10 taxpayers who were unhappy about the price they received for Oklahoma City property that was condemned as part of a redevelopment project.

The condemned property was to be conveyed to a private redevelopment corporation that was responsible for compensating the property owners and paying other costs of the project, according to Dan Batchelor, a partner with Batchelor & Powers, an Oklahoma City firm that represents the Urban Renewal Authority along with Anderson Kill Olick & Oshinsky P.C. in New York.

The taxpayers sued in the name of the state under an Oklahoma statute allowing such claims in cases of alleged mishandling of public assets. However, the state court found that no public money or property was involved in the dispute and dismissed the suit for lack of a governmental claimant.

In the meantime, the Urban Renewal Authority had spent about $600,000 defending the case and sought indemnification from Gulf, its primary D&O insurer. The Gulf policy, in effect from May 1988 through May 1989, had limits of $1 million.

When Gulf denied coverage, the Urban Renewal Authority sued the insurer for bad faith in U.S. District Court in Oklahoma City, seeking to recover its defense costs in the underlying action and punitive damages.

Gulf responded by seeking summary judgment dismissing the complaint on several grounds. Among these was a policy endorsement barring coverage for "any claim made against the directors or officers brought by or on behalf of any city, state or government body."

The taxpayer action, Gulf argued, was brought on behalf of the state and fell within the municipality exclusion.

In a Dec. 7 ruling, however, Judge Vicki Miles-LaGrange denied Gulf's summary judgment motion, finding that the state was only a "nominal party" in a suit brought by 10 private taxpayers and that the municipality exclusion, therefore, does not apply.

Judge Miles-LaGrange also rejected Gulf's claims that it was entitled to summary judgment because the Urban Renewal Authority concealed its knowledge of the taxpayer dispute in its D&O coverage application and because a legitimate coverage dispute barred the bad faith claim.

The judge ruled that Gulf's claims involve factual questions that should be resolved in a trial.

Lawyers for the Urban Renewal Authority could find no previous rulings on the applicability of the municipality exclusion in such a case, according to Randy Paar, a lawyer with Anderson Kill.

Four years ago, the Oklahoma Municipal Assurance Group, a public entity risk pool, added an exclusion to its policies barring coverage of the kind of taxpayer claims for misuse of public assets allowed under Oklahoma laws, according to Harold Pumford, the pool's chief executive officer.

Though such claims are "not unheard of," the pool has not had to invoke the exclusion so far, Mr. Pumford said. BI

How to help workers avoid holiday stress

By SALLY ROBERTS

When the holiday season begins to wind down, people can look forward to watching college football bowl games and beginning their New Year's resolutions.

Benefit managers, however, can also look forward to increased disability claims.

The average number of disability claims filed in the month of January is 11.8% higher than the average monthly volume of claims filed from February through December, according to a recent study by CIGNA Corp. that tracked disability claims over the past five years.

"During the holiday season, the pace becomes almost frenetic," said Jacalyn Reinberg, assistant vp-managed disability for CIGNA in Philadelphia.

Not only is this the time when people stop their normal exercise routines and overindulge in food and drink. It also is when many employees are pressured to finish up year-end chores at work, as well as get ready for the holidays at home, she said.

If those stresses weren't enough, cold weather can exacerbate chronic conditions like asthma and other ailments like the flu or bronchitis, Ms. Reinberg added.

In its study, CIGNA found that asthma and bronchitis disability claims in January increase 75.1% over the monthly average for the rest of the year while the number of sprain and strain claims is 34.6% higher and back injury claims are 10% higher in January.

In addition, the number of mental illness claims in January is 16.8% higher than the rest of the year, and depression claims alone are up 15.9% over the rest of the year, CIGNA found.

Employers need to understand that even though they may not feel the impact of increased disability claims right away, "it's there, it's significant and it can be avoided," Ms. Reinberg said.

She suggests several ways employers can mitigate disability claims during the holiday season:

• Put notes in paycheck envelopes reminding employees to take care of themselves over the holidays.

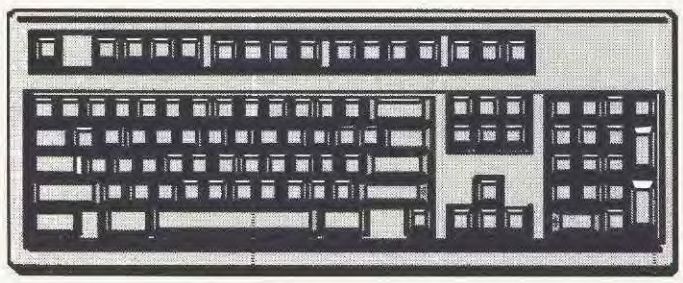
• Serve carrots and celery sticks as snacks, rather than the candy and cookies often distributed at work during the holidays. People tend to overeat and drink too much during the holidays, so this is one way employers can help out, she said. Employers with cafeterias can also help by offering healthier foods rather than heavy, fatty foods during the season.

• Reduce employee stress by offering flex vacation time. By taking extended lunches or half-days to finish shopping, for example, employees will be less stressed than if they have only one day off to finish it all, Ms. Reinberg said.

• Reduce the number of sick employees by offering flu inoculations prior to the holidays, she said.

• Offer budgeting seminars to help alleviate the financial stress employees often experience during the season.

• Improve lighting in the workplace to reduce depression. During the winter, employees who leave home in the dark and return home in the dark can become depressed, she explained. BI



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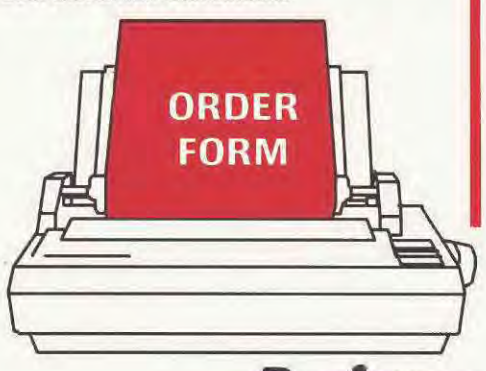

Business Insurance®

Comp

Continued from page 1

vider. Of those, 11 have accomplished that through implementation of managed care arrangements that require use of network providers.

And, an employee's ability to change providers after initial selection is now limited in 38 states, including six through managed care arrangements.

However, the states vary widely in their approach to provider choice.

At one end of the continuum are Delaware, Maryland and Ohio, which place no restriction on the employee's initial choice.

At the other end are Indiana, Kansas, Missouri and New Jersey, which not only restrict the employee initially to the employer's choice but also essentially prohibit any changes by the employee.

• **Treatment guidelines.**

Twelve jurisdictions have recently developed treatment guidelines for use in workers comp, and another nine are still developing them.

"The most prominent use of guidelines is for low-back injuries and pain," the study said. Treatment guidelines describe cost-effective measures for treating comp injuries.

• **Medical fee schedules.**

Eight jurisdictions have implemented fee schedules since the last study, bringing to 40 the number with such schedules.

"Use of Medicare's resource-based relative value scale has emerged as a leading method for designing fee schedules," the study said.

Seven states now use an RBRV scale, compared with none at the time of the last study, though the states that made the change were primarily ones that already had workers comp fee schedules.

• **Hospital charges.**

Eight additional jurisdictions regulate hospital charges for workers comp treatment, bringing to 35 the total number that do.

The most common approaches to regulating those charges include predetermined discounts, fee schedules, diagnostic-related-groups and cost-based discounts.

• **Managed care.**

Eight additional jurisdictions now have managed care policies, bringing to 24 the number that have some type of explicit managed care policy for treatment of workers.

The study was developed to help policymakers and practitioners learn about strategies authorized and in use in other jurisdictions.

The latest research, the fourth in the series, includes a section on managed care definitions and activities, and a section with detailed information on medical cost-containment activities by jurisdiction.

The 1995 study was developed from detailed surveys of state workers comp officials about initiatives in place or planned as of January 1995, with notes on additional changes made or planned through July 1995 in some cases. Data was obtained with help from the International Assn. of Industrial Accident Boards and Commissions and Workers' Disability Income Systems Inc. Stacey M. Eccleston, a WCRI analyst, compiled the data and wrote it.

It is a "unique reference that employers, insurers and public officials can use to frame the decisions they need to make," said Richard Victor, the WCRI's executive director.

However, it does not assess those strategies' effectiveness, their impact on quality of care or the merits of regulating or not regulating their use. It also does not address the actions and policies of employers and other private payers in those jurisdictions.

"It's a very handy tool for policymakers," said Edward M. Welch, a workers comp expert, teacher and newsletter editor. However, "we are paying an awful lot of attention to how we pay for medical care and not enough to the quality and value of the medical care."

Though many jurisdictions have made progress in implementing cost-containment techniques, several challenges remain.

Implementing a workers comp managed care program aimed at achieving the cost control and quality-care goals, including passing statutes and furnishing services, can be difficult, the study said. Reasons for this include the sometimes adversarial nature of workers comp and varying provider choice provisions.

Also, states have varying abilities to apply managed care in workers comp.

Finally, wide variations among fee schedules point to an area that needs improvement, the study added.

•

A copy of "Managed Care and Medical Cost Containment in Workers' Compensation: A National Inventory, 1995-1996" is available free to WCRI members or for $195 to all others. Send written orders to Workers Compensation Research Institute, 101 Main St., Cambridge, Mass. 02142. Fax orders can be sent to 617-494-5240. No phone orders.

Talegen

Continued from page 1

chase.

The Talegen deal is likely to have little effect on policyholders, said Alan Levin, managing director of Standard & Poor's Insurance Rating Service in New York.

"Subject to financing, it's just a change in ownership," he said. KKR, like Xerox, would be a "deep pocketed" parent, he added.

In its 1994 annual review, KKR's management said it was looking to continue to invest in "undervalued" insurers. "The insurance industry—complicated, regulated and subject to its own accounting system—is still avoided by most investment firms, and that's one of the reasons why we like it," KKR said.

KKR has a reputation as a savvy investor and any investment it is involved in is almost certain to be fruitful, said John L. Ward, chief executive officer of Ward Financial Group in Cincinnati.

Policyholder interests probably be well protected by regulators who would have to approve the deal, he said.

Nevertheless, the final structure of the deal has yet to be announced and there is often a danger in leveraged buyouts that too many demands can be made of an acquired company, said John Snyder, senior vp at A.M. Best Co. Inc. in Oldwick, N.J. "In leveraged deals you sometimes have companies trying to take out more money than they should and that puts a financial strain on the company," he explained.

The deal also will be subject to regulatory approval in Delaware and other states in which Talegen units are domiciled.

Known for complex deals, KKR is expected to use several instruments to finance the deal, as it has its previous insurance transactions.

In June 1992, KKR paid Aetna $1.41 billion for American Re. The payment was $1.21 billion in cash; $100 million in subordinated notes; $70 million in preferred American Re Corp stock; and $30 million in common stock of a new holding company for the reinsurer (*BI*, June 15, 1992). Three months later, it sold a portion of the company in an initial public offering for $31 a share, more than three times the original purchase price of $10 a share.

In January 1995, KKR made its second insurance investment when it purchased Canadian General for $216.3 million Canadian ($153.7 million), together with insurer's management. KKR put up $170 million Canadian ($120.8 million) and $46.3 million Canadian ($32.9 million) was drawn from a line of credit from the Bank of Nova Scotia and Chase Manhattan Bank (*BI*, Feb. 6).

With a growing collection of property/casualty insurance companies, KKR will be well-placed to make more purchases in the future, Mr. Ward said. "They will be able to play off their existing investments. For example, they could piggy back on the computer system, or distribution system, or policy processing system of Talegen," he said.

The deal is also good for Xerox, which has been looking to dispose of its insurance interests for two years, said Mr. Levin of S&P. "It's a reasonable price based on the position that Talegen has in the industry."

In 1994, Talegen wrote $2.8 billion in gross premiums and, in the first nine months of 1995, the insurer, which sold two units during the year, wrote $1.6 billion.

Xerox bought the then-Crum & Forster Inc. in 1983 for $1.6 billion. The insurer quickly became a headache for the business machines company as its book of long-tail liability business deteriorated.

In September 1993, Xerox restructured Crum & Forster's companies into separate units under the holding company Talegen, with the intention of selling them off.

Mr. Brown, who joined Crum & Forster in 1992, after serving as CEO of Fireman's Fund Insurance Co., was given the task of priming the companies for sale. He is largely credited with slashing expenses and restructuring the companies over the past two years. All of the companies have various levels of A ratings from both S&P and Best.

The first unit to be sold was Constitution Reinsurance Corp., which was acquired by Exor America Inc. for $400 million in 1994 (*BI*, Dec. 12, 1994). Next was Viking Insurance Holdings, which in July was sold for $103 million to Guaranty National Corp. (*BI*, July 24).

All remaining units are expected to be included in the KKR deal. However, Xerox may retain its Bermuda reinsurer subsidiary to provide coverage for the sold units. Xerox owns Bermuda-based Ridge Reinsurance Ltd., which has previously provided excess-of-loss reinsurance for the other Xerox insurance subsidiaries. BI

Superfund

Continued from page 1

Assn. of Manufacturers and the Chemical Manufacturers Assn.

The group "urges reform sooner rather than later—and not solely limited to liability. Reform must ensure that remedies protect human health and the environment by addressing real risks, where cost-effective remedial options are chosen in a logical and timely manner. Additionally, reform must provide an opportunity for state participation in the program, realistically define what does and doesn't constitute a natural resource damage, put brownfield sites back into productive economic use and harmonize the conflicting requirements of Superfund with its Resource Conservation and Recovery Act counterpart, the Corrective Action Program."

The letter goes on to praise H.R. 2500, the Reform of Superfund Act sponsored by Rep. Michael Oxley, R-Ohio, as a "bold legislative framework for achieving these goals" and calls for an acceleration of reform efforts that can garner bipartisan support.

The Superfund Action Alliance letter came only a few days after the insurance executives had their hour-long, closed-door meeting with the GOP leadership.

The meeting was notable because insurers have come under severe criticism as inflexible on retroactive liability repeal, and have often been painted as wanting full repeal at all costs.

A spokesman for the Chemical Manufacturers Assn., a group that has often been at loggerheads with the insurance industry over the nature of Superfund reform, praised the insurers' clarified position. "The leadership in the House and Senate have to put Superfund on the short list in this session of Congress. We now have indications that's happening. The meeting the speaker had with the insurers sent a signal that he's getting serious about passing Superfund reform and that's an encouraging sign," said the spokesman.

Reform has entered "a new hopeful phase," agreed David Pratt, senior vp at the American Insurance Assn. in Washington. The meeting indicates that "we realized what Chairmen Oxley, and Thomas Bliley, R-Va., had been telling us—that funding wouldn't be available for full repeal. Recognizing that reality, let's go get a bill," with the maximum repeal of retroactive liability possible, said Mr. Pratt.

Other insurer groups shared that optimism.

David M. Farmer, senior vp-federal affairs for the Alliance of American Insurers in Washington, said the meeting "served to demonstrate that we're really committed to getting as much reform as we can get."

"I'm much more upbeat," said Joel Wood, vp-government affairs for the Council of Insurance Agents and Brokers in Washington, who said, "It's unbecoming for the business community to be divided on issues on which we share such common basic goals."

The insurers' position received understanding, but not unqualified support, from the Risk & Insurance Management Society Inc.

"I can understand why the insurance industry would be concerned with setting a precedent of an insurer-specific tax; nevertheless, the repeal of joint and retroactive liability remains a priority and something we hope can still be accomplished. RIMS is going to continue to fight for full repeal," said Paul Brown, director of government affairs for RIMS in New York.

In addition, both Mr. Wood and Mr. Farmer warned that the bill can't be stalled much longer. "We need to have markup early next year," said Mr. Wood, while Mr. Farmer called the first three months of the coming year "very crucial for reform."

In fact, the time for action may have slipped past, said John Lobert, senior vp-government relations for National Assn. of Independent Insurers in Washington.

"We're caught up in the Republican leadership wanting to make sure that its messages are clearly defined. One of them that hasn't been clear to the public is its environmental message," he said.

"I think at least the meeting the other day made it clear to the GOP leadership that from the insurance industry perspective, we weren't pursuing full retroactive repeal at any cost. Get what we can get. We're willing to support them in whatever that effort is," he said. BI

CIGNA

Continued from page 2

While the spokesman said CIGNA has not set its own deadline for approval of the plan, he said, "Each day it's delayed hurts us in the marketplace and we would like to get it resolved as quickly as possible."

A Pennsylvania department spokeswoman said the department is preparing a response to the suit and declined further comment.

AIG, St. Paul and Chubb filed the suit as public hearings go forward on the restructuring plan, through which CIGNA intends to separate its long-tail asbestos and environmental liabilities from its ongoing property/casualty operations.

Under the plan, CIGNA's Insurance Co. of North America unit would be split in two, with one unit retaining INA's long-tail liabilities and the other keeping ongoing business and the INA name.

CCI Indemnity Co., the entity retaining the old liabilities, would then be merged into CIGNA's Century Indemnity Co. unit, which would function as the lead unit in a runoff operation separately capitalized with $7.3 billion (*BI*, Dec. 18).

In their suit, AIG, St. Paul and Chubb cite a number of objections to the restructuring, most of them already raised in the regulatory review process. They include:

• The alleged illegality of a plan that would "extinguish policyholder rights against INA without their consent."

• The alleged unreliability of CIGNA's asbestos and environmental reserve estimates.

• The Pennsylvania department's refusal to allow access to CIGNA actuarial documents and to allow cross-examination of CIGNA witnesses by policyholders and guaranty fund participants.

• The refusal of Pennsylvania Insurance Commissioner Linda S. Kaiser to recuse herself because of her former employment with CIGNA as an attorney.

If the department were to approve the reorganization plan the day after Thursday's hearing, "it is likely that CIGNA would be able instantaneously to consummate the many mergers and billions of dollars of asset and liability transfers that make up the restructuring," the complaint asserts. "The same is true even if, as it now appears, the commissioner defers her approval until some later date."

"Once these transactions occur and the corporate identity and asset base of the many CIGNA entities involved change, it will be difficult if not impossible 'to unscramble the eggs,' " the insurers charge.

"The very substantial issues raised by this attempt should not escape judicial scrutiny simply because CIGNA wants to railroad the transaction through," the suit says.

Describing the complaint as "completely without merit," the CIGNA spokesman pointed out that the issues presented for court review are already being dealt with in Insurance Department administrative proceedings.

"The arguments (the suit) raises have all been raised and addressed. There's nothing new here." BI

Rules

Continued from page 2

less.

The IRS, though, never has published rules on a variety of loan administration issues, such as when a loan is considered to be in default and the tax consequences of making certain administrative mistakes.

"The regulations clarify what you can and cannot do and will be helpful," said Gerald Uslander, a principal with William M. Mercer Inc. in Washington.

For example, employers are allowed to give employees a grace period beyond which the outstanding loan would be considered a "deemed distribution" and taxable income to the employee.

A grace period cannot extend beyond the last day of the calendar quarter following the calendar quarter in which the required installment is due. For example, if a loan payment was due on Jan. 31, the payment would have to be made no later than June 30 to prevent the outstanding balance being considered a deemed distribution.

The rules also explain how much of a loan is considered taxable when more than the maximum amount is borrowed. For example, if an employee with an account balance of $200,000 borrowed $70,000, she would be considered to have received a deemed distribution of $20,000—the excess over the $50,000 limit—and would be taxed on that amount.

The IRS rules also provide guidance on repayment of loans for employees who go on a leave of absence. Employers can reset the required installments when an employee returns so the account balance is paid off.

Under an example provided by the IRS, an employee on July 1, 1997, takes out a $40,000 loan from his defined contribution plan and agrees to make monthly payments of $825 over five years. After making nine monthly payments, the employee goes on a one-year leave of absence.

The new monthly payments then would be increased to $1,130 when the employee returned so the loan could be paid off by June 30, 2002. Alternatively, the employee—after returning to work—could continue to make the original $825 monthly payments and then make a balloon payment on June 30, 2002, so the loan was repaid by the due date.

The FMLA/flexible benefit plan rules address a very basic problem facing employers with flexible benefit plans: how can employees make pretax contributions to cover health insurance costs when they are on unpaid FMLA leave?

The answer, according to the IRS, is relatively easy. An employee could, for example, prepay the premiums that would be due while on leave before taking the leave. Alternatively, an employee could make the required payments—on a pretax basis—when returning to work from any available taxable compensation, including cashing out unused sick days and vacation days.

"In all, these rules are pretty straightforward and provide welcome clarification," said Judy Bauserman, a Mercer consultant in Washington.

The PBGC rules cover the financial and actuarial information that employers with pension plans with at least $50 million in unfunded liabilities must submit annually.

For the most part, the final regulations follow rules the agency proposed earlier this year (*BI*, Aug. 21). But the PBGC did make a significant change, noted Pam Scott, a principal with Kwasha Lipton L.L.C. in Fort Lee, N.J.

Under that change:

- Employers have a choice of using one of two ways of calculating whether or not their pension plans have $50 million in unfunded vested benefits.

Under a new proposed method, employers would use an interest rate assumption of 100% of the 30-year Treasury bond rate and the fair market of plan assets. Generally, that method will make it less likely that the employer's pension plan will exceed the threshold of $50 million in unfunded vested benefits than the way the PBGC originally proposed: using an interest rate assumption of 80% of the 30-year Treasury bond rate and the actuarial value of assets. BI

Crash

Continued from page 1

Claims & Litigation Management Group Inc. in Chapel Hill, N.C., and Airclaims Ltd. in London.

The flight from Miami, carrying 152 ticketed passengers, four infants and eight crew, crashed late Wednesday night in the Andes mountains during its descent into Cali, southwest of Bogota. According to news reports, at least eight people survived the impact, and as of Friday investigators were searching for more survivors.

Though the cause of the crash had not been determined last week, speculation focused on navigational problems. Reports indicate the plane was at the proper altitude on its approach, but had strayed into the mountains, 13 miles from the normal approach.

There were no reports of bad weather in the area at the time.

U.S. National Transportation Safety Board officials are on site at the request of the Colombian government, and an FBI team is helping with fingerprint identification of victims.

The crash is the first major disaster this year involving a major U.S. carrier.

"This loss obviously is the biggest this year (of any carrier) and could double the cost of total losses," said a London-based loss adjuster.

Before the American crash and a Tower Air loss (see related story), hull and liability claims for 16 losses involving Western-built jets this year had only totaled about $350 million (*BI*, Dec. 18).

The Boeing 757-200 jetliner in last week's disaster, insured for $51 million, was delivered to the airline in August 1991.

The jet underwent "an extensive overhaul" earlier this year, according to Robert Crandall, CEO of Dallas-based AMR Corp. Mr. Crandall, speaking at a press conference, said the 757-200 has a "flawless safety record" at American and other airlines.

AMR renewed its hull and $1 billion of liability coverage on Dec. 1 with a $50 million aggregate self-insured retention on at least 65% of its coverage.

Approximately 42% of the coverage is placed in London by Alexander Howden Aviation of London and is led by Mr. Maylam and British Aviation Insurance Group. The U.S. portion of the insurance program is placed by Alexander & Alexander of Texas Inc.

According to underwriting documents, AMR insures each aircraft for a maximum of $150 million with a standard $1 million deductible. It insures 905 aircraft.

The airline also is insured under the hull and liability program for up to $76 million from any one occurrence for "statutory workers' compensation and employer's liability," the documents show.

The Colombia crash is only the latest mishap at AMR Corp. in recent years.

This spring, the company suffered millions of dollars in hull damage from a severe hailstorm at Dallas airport (*BI*, May 15).

On Dec. 13, 1994, an American Eagle Jetstream 3200 turboprop crashed near Raleigh N.C., in rain, fog and near-freezing temperatures, killing 13 passengers and two crew (*BI*, Dec. 19, 1994).

And on Oct. 31, 1994, an American Eagle ATR-72 crashed in Roselawn, Ind., killing 64 passengers and four crew (*BI*, Nov. 7, 1994).

AMR's incurred hull and liability losses totaled $100.8 million in the policy year ended Dec. 1, 1994, and $94.7 million at its policy year ended Dec. 1, 1995, underwriting documents show. The airline's loss ratio totaled 135.5% for the five years ended Dec. 1.

Under the current Warsaw Convention limits, if all 152 passengers and four infants were ticketed to make the Miami to Cali flight, AMR's maximum liability could be as little as $11.3 million. Damages could exceed the cap only if the airline were found guilty of willful misconduct.

However, as one London source put it, "anyone worth their salt could sue in Dade County, Fla., so awards could be as much as $3 million per person. If it was me, I'd slap $150 million (in reserves) in my books—at $1 million per person—and bump it up when necessary."

Lloyd's underwriter Mr. Maylam called this approach "nonsensical." But, he added, "records show that we've always done our best to handle claims on a sensible basis."

Passenger liability claims could be complicated, though, by proposed changes in aviation liability rules for international flights.

A new agreement proposed by the International Air Transport Assn. would waive Warsaw liability limitations and base future passenger compensation on the "law of the domicile" of each passenger. The agreement, which does not go into effect until next November, was drawn up because airlines and governments believe the existing limits are too low (*BI*, Nov. 6).

All IATA members, including American Airlines, approved a resolution to adopt that agreement at the association's annual general meeting on Oct. 30. At least 22 airlines have signed the IATA resolution pledging to implement the agreement, possibly by changing their conditions of carriage on passenger tickets.

Last week, the European Commission adopted a document in support of IATA's initiative. The commission's proposal, to be approved by the European Parliament, calls for strict liability for European airlines up to 100,000 European Currency Units ($127,500) per passenger and unlimited liability above that. The proposal also calls for legal actions by survivors to be filed in the country of each passenger's residence, said a spokeswoman for the E.C.'s air transport policy division in Brussels.

But no U.S. airline has yet agreed to implement the IATA's intercarrier agreement, and the U.S. Department of Transportation still opposes the wording of the proposal.

However, legal sources question whether American Airlines would have to formally waive the current Warsaw limits because it has agreed in principle to IATA's intercarrier agreement.

Claims from last week's disaster—the worst loss of life for a U.S. airline since the 1988 explosion of Pan American World Airways Flight 103 over Lockerbie, Scotland, which killed 243 passengers and 15 crew—will highlight the inadequacy of the current Warsaw limits, said a plaintiffs attorney.

"It will squarely raise the issues" of the Warsaw Convention's liability system, said Lee Kreindler, a partner with Kreindler & Kreindler in New York, who represents families of Flight 103 victims.

Airlines may voluntarily waive the Warsaw limits, he noted.

In fact, Robert Albert, president of ICALM, a loss adjusting firm that was working in Colombia for American Airlines last week, resigned as claims manager for United States Aircraft Insurance Group in 1989 in part because USAIG would not settle Pan Am Lockerbie claims for more than the Warsaw limits three months after the disaster (*BI*, July 20, 1992).

After years of litigation, a court found that Pan Am's "willful misconduct" caused the Flight 103 loss and thus damages were not limited by the Warsaw Convention.

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Michael Bradford contributed to this story.

Tower Air crash investigated

NEW YORK—Insurers and federal investigators are taking a close look at a Tower Air 747 to determine how badly it was damaged and why it veered off a runway at John F. Kennedy International Airport last week.

One engine was broken off, and the nosegear and right wing gear were damaged when the aircraft slid off an icy runway and struck a low concrete casing over electrical cables.

Passengers were evacuated down stairs and 16 were sent to a hospital for treatment. Another 28 were treated by emergency medical personnel at the airport, according to a Tower Air spokeswoman.

National Transportation Safety Board officials were investigating the crash late last week. Tower Air did not have any estimates of damage.

Insurance sources in London predict that the 747 will be considered a constructive total loss. They say the hull is insured for $25 million under coverage led in London by British Aviation Insurance Group and placed by Willis Corroon Group P.L.C. Neither company could be reached for comment.

The Tower Air spokeswoman referred questions to its U.S. insurer, U.S. Aviation Underwriters Inc. in New York. Claims personnel there were unavailable to comment on the extent of damage or the airline's coverage.

—By Michael Bradford

Updates

Explosion settlement insured

Continued from page 2

Yazoo City, Miss.-based Mississippi Chemical designed a tube that Terra Industries Inc. alleges was defective and caused the December 1994 explosion at its Port Neal, Iowa, fertilizer plant (*BI*, Sept. 11). That explosion destroyed the facility, killed four workers and injured scores of other employees (*BI*, Dec. 19, 1994).

Earlier this year, Terra sued Mississippi Chemical, claiming ammonium nitrate built up in a tube designed by the chemical company and caused the explosion. When Terra made this allegation, the wrongful death and personal injury suits followed. Mississippi Chemical, which sued Terra for defamation, disavows any fault in the explosion. The defamation suit is pending in an Iowa state court.

"From the evidence we have seen, it is apparent that Terra was at fault in causing the explosion. Nevertheless, our insurance carriers have agreed to the resolution of these claims to ensure that Terra does not benefit from an emotional response to the suffering of the victims and their families," Mississippi Chemical President Charles Dunn said.

Briefly noted

Moody's Investors Service is **downgrading Prudential Reinsurance Co.** to A2 from A1. The downgrade reflects a competitive broker reinsurance market, as well as the challenge facing Pru Re as it establishes itself as a stand-alone company, Moody's said. . . .Massachusetts is **suing six tobacco companies** to recover more than $1 billion in Medicaid costs the state charges are tobacco related. The companies attempted to block the suit last month with a suit of their own, holding that the state was attempting to deny them due process. . . .New York-based KPMG Peat Marwick L.L.P. plans to "vigorously defend itself" against charges of breach of contract and professional negligence in **a suit by bankrupt Orange County, Calif.** The suit, filed last week in U.S. Bankruptcy Court in Santa Ana, Calif., seeks $3 billion in damages plus legal and other expenses. Earlier this month, Orange County sued Merrill Lynch & Co. Inc. for $2 billion (*BI*, Dec. 11). . . .The Colorado securities commissioner and attorney general filed a **fraud suit against Lloyd's of London** last week, alleging that the insurance market violated Colorado securities law. About 30 Lloyd's members in Colorado have lost more than $12 million at Lloyd's. . . .The U.K. Court of Appeals has upheld the **"pay now, sue later" clause** in Lloyd's of London agency agreements, allowing Lloyd's to go after millions of pounds from members who have refused to pay cash calls. The decision follows an October ruling upholding the clause. The appeals court denied a petition to appeal to the House of Lords. . . .The **National Assn. of Insurance Commissioners** last week disclosed top staffers' annual salaries: Executive Vp David B. Simmons, $165,000; Washington Counsel Kevin T. Cronin, $139,252; Director of Financial Analysis Terry L. Boyer, $127,150; Life/Health Actuary Mark D. Peavy, $126,056; and Director of Information Systems James D. Rose, $120,430.

A snow job for the holidays

Guess who's been naughty, not nice?

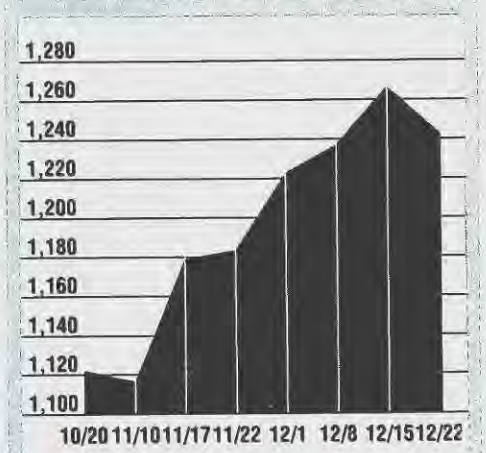
By MYRON M. PICOULT and JODI PICOULT VAN LEER

Special to *Business Insurance*

'Twas the night before Christmas; the halls were all decked,
And some vps were trying to save their own necks.
Rumors flew through the firm: It seemed Nearly Defunct
Was about to find some of its business junked.
And Almost DoNothing, that old CEO,
Looked out from his boardroom to the city below,
Aware that on Christmas, that holiday of hope,
He'd finally, futilely, run out of rope.
His leadership was truly in question. . .oh, hell. . .
Years had passed since he'd last managed marginally well.
The investment community no longer believed him,
His board of directors now sought to relieve him.
First they'd brought in a vice chairman, an agent of change.
Then they canceled the Christmas party that had been all arranged.
(A company bash would be somewhat contrary,
In a season with no plain reason for making merry.)
So there was no joviality among employees,
But instead a widespread mood of guarded unease.
The executives summoned to this night's stopgap meeting
Knew there wouldn't be pies and cakes set out for eating. . .
Indeed, the main source of their stress and their strife
Was the knowledge their jobs would be under the knife.
The meeting was called to start promptly at 4.
DoNothing watched his vps slink through the door.
They came to the oak table and sat in their places,
Surreptitiously peeking at each other's faces.
DoNothing took sips of his tall glass of water,
And at 4:45 called the meeting to order.
(A 4 o'clock meeting? The summons was moot.
Time management wasn't this group's strong suit.)
DoNothing stood up and smiled. "I believe
We all have better places to be Christmas Eve.
I'll keep this one short. . .and, oh, by the by. . .
Have you all had a chance to meet Richard Sly?"
He gestured quite vaguely and swallowed his pride,
Introducing the vice chair just there at his side.
Sly's got hubris, DoNothing then silently mused,
Though he sure had the board of directors enthused.
"Mr. Sly is a sort of restructuring pro.
He helped sell off Gotham Bank not so long ago.
And at Great Divide bank. . .if you all get my drift. . .
Mr. Sly is the guy who crafted the shift.
And restructuring that led to Great Divide's sale. . ."
DoNothing's voice faded, he let his words tail.
He was certain it wouldn't take all that much urging
For Sly to think Nearly Defunct should be merging
With some larger firm. It was anyone's guess
Whether consolidation could clean up the mess
That the property/casualty business now was,
As it was said in the industry buzz.
Sly stood up, effectively taking control.
All watched, wondering whose head would be first to roll.
"My friends," Sly began, "change is good. Change is fair.
Change can bring up the value of each little share.
But before I can make an informed decision,
I need to rely on expert supervision.
So, from each of your outfits, I need a review.
A sense of where you'll be in a year or two."
The vps all stirred, anxious to begin.
A chance, in advance, to save their own skin!
If they chose their words right, if they altered the facts,
Their particular unit might avoid being axed!
Dick Sly grinned at the group and then carefully sat,
Turning expectantly toward Tom Katt.
Katt had been at Nearly Defunct for just under two years,
But the P/C industry was his career.
For 20 years he'd worked all sorts of places,
With all sorts of titles and all sorts of faces,
Industry travails Katt had always survived,
Which had set forth the rumor the man had nine lives.
Katt's assessment was candid and very succinct—
He'd had adequate time to observe and to think.
"P/C operations," began Katt's admission,
"are actually in a really dreadful condition.
Underwriting standards are soft, and I find
That this year's expenses were way out of line."
"And," he continued with his grim disclosures,
"Policies for toxic and environmental exposures
Aren't covered by reserves. I haven't a clue
What would be the best course to pursue."
DoNothing grimaced and pulled at his collar.
It was coming quite clear, squandered dollar by dollar,
At how poorly Nearly Defunct had been run.
(Translation: How shoddy a job he had done.)
At Dick Sly's curt nod, Dr. Sam Spleen then rose
To address the firm's indemnity business, and HMOs.
For years he'd been on Almost DoNothing's back,
Saying Health Care could return the firm to the black.
If it was made Nearly Defunct's main operation,
The firm could become a clear business sensation.
In spite of Spleen's vesting, DoNothing had looked askance.
But, oh my! Now. . .with Sly. . .here was Spleen's golden chance.
He smiled brightly at Sly before he began
(The firm had a good dental benefit plan)
"The wave of the future is Health Care. You'll see.
It's more lucrative than the business of P/C.
You can grow the top line! And forget any notion
Of finding habitual margin erosion."

See **Christmas** *on page 39*

BI Insurance Index



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

PCS catastrophe options

As of Dec. 22

Call spread	Price bid/ask
Eastern September 1996	
40/60	4/4.6
50/70	4/6.5
80/100	2.5/4.0
Northeast Sept. 1996	
40/60	1.4/2
West Annual	
40/60	2.5/4.6
80/100	2.4/3
California Annual	
40/60	2/4.5

Total volume: 0 Total open interest: 826
For information on PCS cat options, call 312-435-3674.
Source: Chicago Board of Trade

British Issues

Dec. 21 Companies	Price pence	P/E	Div. pence	Yield %	1 week high—low
Comml Union	626	12.5	35.0	5.6	626—614
Genl Accident	653	9.3	38.8	5.9	653—623
Gdn Royal Exch	267	8.9	11.3	4.2	267—255
Independent	361	8.0	13.8	3.8	361—334
Royal	380	7.8	18.8	4.9	380—371
Sun Alliance	368	8.0	21.3	5.8	373—367
Brokers					
Bradstock	70	11.7*	7.1*	10.1	72—70
Fenchurch	138	9.3*	10.6*	7.7	141—138
CE Heath	150	9.4	12.5	8.3	150—148
JIB Group	104	10.9	9.4	9.0	104—104
Lloyd Thmpson	161	9.9*	11.3*	7.0	164—160
Lowndes Lmbrt	137	7.4	11.0	8.0	143—137
Nelson Hurst	143	9.5	9.5	6.6	143—142
Sedgwick Grp	124	10.9	8.1	6.5	126—122
Steel Brt Jones	35	4.4	5.6	16.0	35—35
Willis Corroon	144	13.1	8.3	5.8	144—142

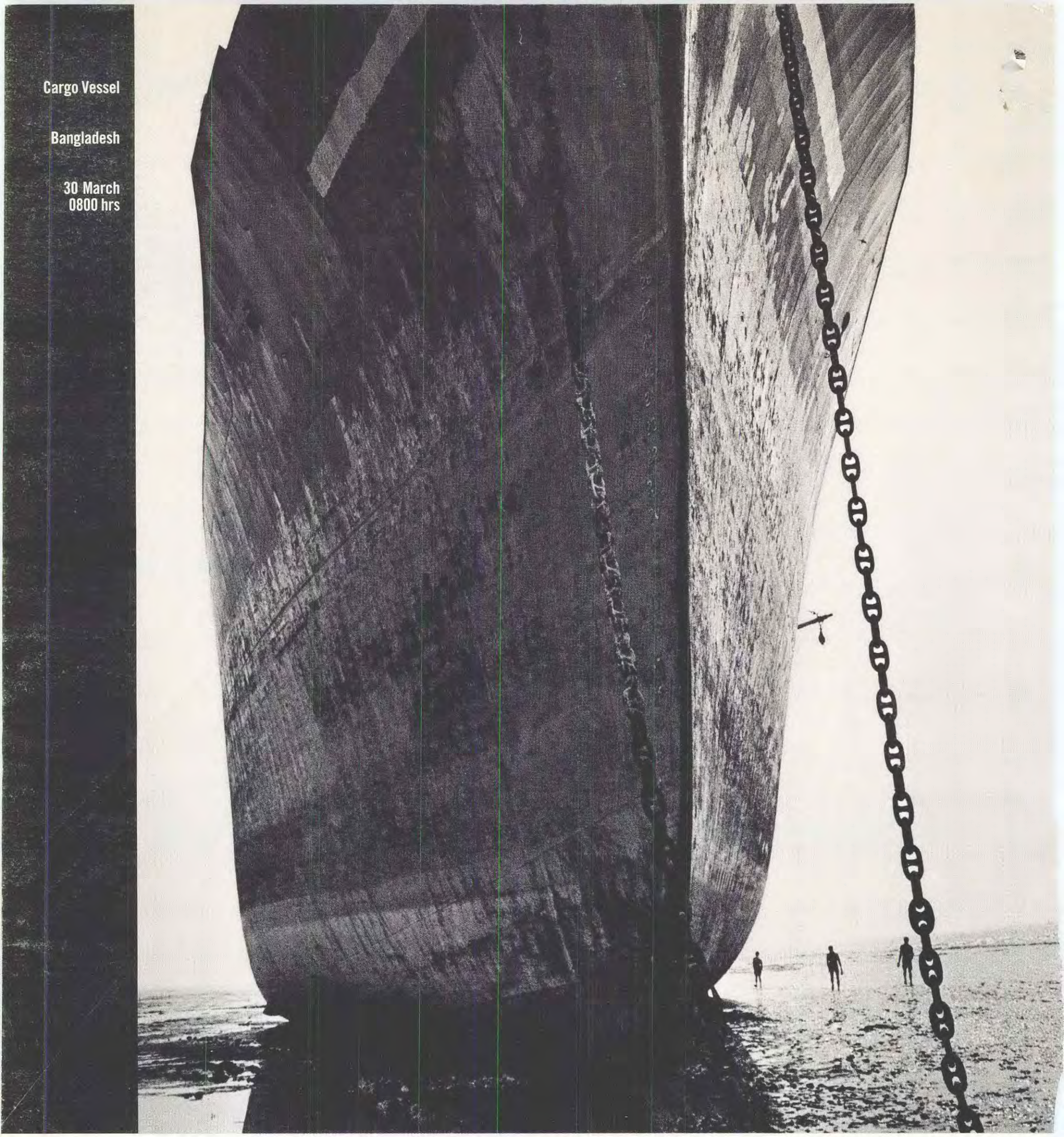
Source: Philip Olsen, London * Actual. Others estimated.

BI Industry Stock Report DEC. 18, 1995, THROUGH DEC. 22, 1995

		Price	Weekly % change	Year to date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt./Bk. value
BROKERS												
Acordia Inc.	NYS	29.5	2.16	-11.94	34.50	23.50	19	0.72	2.44	16	14.00	2.11
Alexander & Alexander	NYS	19.25	-1.91	4.05	26.44	18.50	265	0.1	0.52	-15	19.17	1.00
E.W. Blanch Holdings Inc.	NYS	22.875	1.67	10.91	22.88	16.50	149	0.4	1.75	18	4.93	4.64
Gallagher Arthur J. & Co.	NYS	37.375	3.82	16.80	38.00	30.00	103	1	2.68	15	6.48	5.77
Hilb, Rogal & Hamilton	NYS	13.375	-2.73	10.31	14.38	10.50	165	0.6	4.49	16	1.21	11.05
Kaye Group Inc.	NDQ	7.25	-3.33	-25.64	10.75	6.75	33	0.1	1.38	8	NA	NA
Marsh & McLennan	NYS	89.125	-0.28	12.46	90.13	76.13	521	3.2	3.59	17	19.95	4.47
Poe & Brown	NDQ	24.625	1.03	13.22	25.25	20.25	21	0.48	1.95	15	5.15	4.78
BROKERS	AVERAGE		0.1	3.8					2.7	13		
INSURERS/REINSURERS												
ACE Ltd.	NYS	38.75	1.31	65.78	40.00	21.00	745	0.00	0.00	0	22.45	1.73
Acceptance Insurance Cos.	NYS	15.375	1.65	2.50	17.50	13.13	54	0.3	1.95	31	10.76	1.43
AEGON N.V.	NYS	42.5	0.29	67.32	42.75	25.25	21	1.08	2.54	16	17.28	2.46
Aetna Life & Casualty	NYS	72.25	1.23	53.32	76.75	46.38	2194	2.76	3.82	35	48.85	1.48
AFLAC Inc.	NYS	42	0.60	31.25	44.75	31.88	900	0.52	1.24	12	17.58	2.39
Allied Group Inc.	NDQ	35.625	1.06	43.94	36.75	23.31	321	0.68	1.91	8	21.81	1.63
Allmerica Prop. & Casualty	NYS	25.625	0.49	51.85	26.50	15.13	212	0.16	0.62	11	19.87	1.29
Allstate Corp.	NYS	40.625	2.85	71.05	42.13	23.50	5104	0.78	1.92	11	18.75	2.17
American Financial Group	NYS	30.25	2.54	44.05	32.13	22.88	621	1	3.31	29	24.94	1.21
American General	NYS	34.625	1.84	22.57	39.13	27.50	1994	1.24	3.58	13	17.03	2.03
American Heritage Life Ins.	NYS	23	4.55	21.05	23.25	16.25	63	0.72	3.13	12	12.51	1.84
American Indemnity/Fin'l	NDQ	9.875	3.95	-2.47	13.25	9.00	9	0.3	3.04	13	15.92	0.62
American International	NYS	92.5	-2.25	-5.61	95.50	64.13	4435	0.34	0.37	18	34.66	2.67
American Re Corp.	NYS	40.75	-8.94	26.36	45.00	29.13	415	0.32	0.79	14	16.77	2.43
Aon Corp.	NYS	50	-0.99	56.25	50.88	31.25	536	1.36	2.72	15	18.30	2.73
Argonaut Group	NDQ	33.25	1.14	17.70	34.50	27.75	28	1.32	3.97	14	29.91	1.11
AVEMCO Corp.	NYS	16.25	-0.76	5.69	18.25	13.63	15	0.48	2.95	18	6.28	2.59
Baldwin & Lyons Inc.	NDQ	15.8125	-1.94	7.20	17.63	14.25	3	0.32	2.02	8	13.90	1.14
Berkley W.R. Corp.	NDQ	49.25	-1.75	31.33	50.50	34.50	326	0.48	0.97	19	34.46	1.43
Berkshire Hathaway Inc.	NYS	32500	-2.11	59.31	33400.00	20050.00	1	0.00	0.00	68	10089.11	3.22
Capital RE Corporation	NYS	31.5	2.86	15.07	31.63	22.00	78	0.24	0.76	11	22.30	1.41
Capsure Holdings Corp.	NYS	17.75	3.65	21.37	17.75	12.38	84	0.00	0.00	16	14.61	1.21
Chubb Corp.	NYS	98.125	-0.88	26.82	100.63	57.00	652	1.96	2.00	13	48.92	2.01
CIGNA Corp.	NYS	105.75	-2.08	66.21	115.00	61.13	1218	3.04	2.87	69	80.46	1.31
CNA Financial Corp.	NYS	112.375	-2.92	73.22	123.25	64.25	123	0.00	0.00	10	71.13	1.58
EMC Insurance Group Inc.	NDQ	13.75	3.77	44.74	15.25	9.50	5	0.56	4.07	9	11.13	1.24
EXEL Ltd.	NYS	61.25	-0.61	55.06	65.50	38.25	304	0.00	0.00	0	31.47	1.95
Fremont General Corp.	NYS	36.875	3.15	57.75	36.88	18.88	337	0.8	2.17	10	19.04	1.94
Frontier Insurance Group	NYS	31.875	0.79	45.71	33.75	20.25	71	0.48	1.51	13	14.65	2.18
Gainsco Inc.	ASE	11.5	-3.16	39.39	12.38	7.75	150	0.05	0.43	16	3.98	2.89
General RE Corp.	NYS	154.125	-0.56	24.80	158.25	121.63	1178	1.96	1.27	16	59.35	2.60
Guaranty National Corp.	NYS	15.5	3.33	-15.65	19.00	13.75	80	0.5	3.23	16	11.60	1.34
Harleysville Group	NDQ	32	-0.78	31.96	33.00	23.00	110	0.76	2.38	11	20.72	1.54
Hartford Steam Boiler	NYS	48.5	5.15	21.63	49.38	38.38	324	2.28	4.70	17	14.68	3.30
HCC Insurance Holdings	NYS	37.5	14.94	78.57	38.00	18.75	241	0.00	0.00	20	11.76	3.19
ITT (Hartford Group)	NYS	51.75	0.00	0.00	52.25	47.50	6611	1.98	3.83	5	45.46	1.14
Lincoln National	NYS	52.5	-1.87	50.00	53.75	34.63	687	1.84	3.50	11	28.90	1.82
Markel Corp.	NDQ	72.5	-2.68	74.70	75.50	40.50	43	0.00	0.00	14	25.71	2.82
Meadowbrook Insur. Group	NYS	30.25	12.56	NA	31.13	24.00	163	0.08	0.26	28	NA	NA
Mid Ocean Ltd.	NDQ	37	-2.63	35.78	38.75	24.50	638	0.00	0.00	0	22.18	1.67
Mutual Risk Mgmt. Ltd.	NYS	43.625	1.75	66.19	43.63	24.88	104	0.4	0.92	21	9.72	4.49
NAC Re Corp.	NYS	34.375	-0.72	2.61	39.00	28.25	96	0.2	0.58	12	18.23	1.89
National Re Corp.	NYS	35.125	2.18	33.81	35.38	25.13	88	0.2	0.57	18	17.05	2.06
Navigators Group	NDQ	18.25	-3.31	25.86	19.75	12.75	69	0.00	0.00	18	10.21	1.79
Nobel Insurance Ltd.	NDQ	11.75	1.62	42.42	12.25	8.13	40	0.2	1.70	5	6.84	1.72
Ohio Casualty Corp.	NDQ	38.625	0.00	36.73	39.00	27.00	443	1.52	3.94	21	23.64	1.63
Old Republic Int'l	NYS	34.375	1.10	61.76	35.25	20.63	614	0.52	1.51	11	25.79	1.33
Orion Capital Corp.	NYS	43.25	-3.35	22.70	45.25	32.25	162	0.92	2.13	9	26.00	1.66
Partner Re Ltd.	NDQ	25.5	0.49	22.89	28.38	18.75	5056	0.00	0.00	0	20.37	1.25
Penn-America Group Inc.	NDQ	14	-3.45	89.83	14.50	6.50	81	0.12	0.86	12	6.40	2.19
Philadelphia Cons. Holding	NDQ	17	2.26	38.78	21.88	12.00	203	0.24	1.41	14	9.05	1.88
PXRE Corp.	NDQ	26.125	1.46	-7.52	29.75	21.00	160	0.72	2.76	5	21.27	1.23
Provident Life	NYS	28.375	-2.16	30.46	29.75	20.50	100	0.72	2.54	13	22.34	1.27
Prudential Reinsurance	NYS	22.875	2.81	NA	23.38	18.50	1045	0.12	0.52	14	NA	NA
Reliance Group Holdings	NYS	8.375	0.00	61.45	9.25	4.88	505	0.32	3.82	12	3.42	2.45
Reliastar Financial Corp.	NYS	41.375	-4.61	42.67	44.50	27.38	295	1	2.42	10	24.53	1.69
RenaissanceRe Holdings Ltd.	NDQ	29.25	-6.02	NA	33.13	20.72	259	0.00	0.00	0	NA	NA
Risk Capital Holdings	NDQ	20	-6.43	NA	22.50	19.88	98	0.00	0.00	0	NA	NA
RLI Corp.	NYS	24.375	-0.51	48.63	24.88	16.25	50	0.52	2.13	33	20.51	1.19
St. Paul Companies	NYS	56.375	-1.96	25.98	59.38	43.50	970	1.6	2.84	10	32.46	1.74
SAFECO Corp.	NDQ	34.625	-6.73	33.17	39.25	25.13	2170	1.06	3.06	12	44.95	0.77
SCOR U.S. Corp.	NYS	15.25	0.00	82.09	15.75	7.50	0	0.2	1.31	17	13.60	1.12
Seibels Bruce Group	NDQ	1.625	36.84	-35.00	3.06	0.44	790	0.44	27.08	-1	0.04	40.63
Selective Ins. Group	NDQ	37.5	-0.66	48.51	38.38	23.75	68	1.12	2.99	11	23.23	1.61
Sphere Drake Holdings	NYS	13.875	-0.89	0.00	19.13	12.88	75	0.00	0.00	0	13.86	1.00
TIG Holdings	NYS	28.25	1.80	50.67	29.00	17.75	861	0.2	0.71	17	16.62	1.70
Titan Holdings, Inc.	NYS	13.875	-5.13	42.31	15.75	9.38	174	0.3	2.16	10	9.04	1.53
Tokio Marine & Fire	NDQ	66	7.54	8.64	66.00	49.88	31	0.4	0.61	58	57.72	1.14
Torchmark Corp.	NYS	44.75	2.29	29.71	44.75	34.25	669	1.16	2.59	12	17.37	2.58
Transatlantic Holdings	NYS	72.875	-0.17	30.43	73.88	52.25	140	0.48	0.66	13	33.30	2.19
Transnational Re Corp.	NDQ	24.8125	-0.25	5.59	27.25	18.75	38	0.00	0.00	7	18.84	1.32
Travelers Corp.	NYS	58.75	-2.89	81.47	63.00	31.50	4392	0.8	1.36	13	24.77	2.37
Trenwick Group Inc.	NDQ	55	3.53	29.79	55.00	40.50	385	1.12	2.04	13	29.23	1.88
United Fire & Casualty	NDQ	42	-4.00	51.81	43.75	26.75	24	0.9	2.14	10	28.96	1.45
Unitrin	NDQ	48.625	0.26	13.08	50.50	42.00	166	2	4.11	13	37.51	1.30
UNUM Corp.	NYS	56.375	2.50	49.34	56.38	37.63	1227	1.06	1.88	15	26.45	2.13
US Facilities Corp.	NDQ	21.25	0.59	112.50	23.38	9.63	282	0.2	0.94	9	11.66	1.82
USF&G Corp.	NYS	17.125	0.00	26.85	19.50	13.38	1748	0.2	1.17	10	10.86	1.58
USLIFE Corp.	NYS	29.375	0.00	26.34	32.00	22.63	493	0.93	3.17	10	38.45	0.76
Washington National	NYS	26.75	6.47	40.79	27.75	17.75	205	1.08	4.04	11	25.13	1.06
Zenith National Ins.	NYS	21.125	1.20	-7.14	24.63	19.38	62	1	4.73	28	16.35	1.29
Zurich Reinsurance Centr.	NYS	30	0.84	3.90	30.88	26.50	104	0.00	0.00	107	21.64	1.39
INSURERS/REINSURERS	AVERAGE		0.7	34.0					2.3	17.1		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	NDQ	28.375	-2.99	10.19	30.00	19.50	1246	0.00	0.00	149	28.15	1.01
Humana Inc.	NYS	26.75	-1.38	18.23	28.00	17.00	3089	0.00	0.00	23	6.56	4.08
Pacificare Health Sys.	NDQ	89	3.49	36.66	89.00	44.50	170	0.00	0.00	25	15.02	5.93
Safeguard Health Enter.	NDQ	11.625	-3.13	25.68	13.25	8.25	7	0.00	0.00	29	6.15	1.89
Sierra Health Services	NYS	31.75	2.01	0.40	33.63	22.13	140	0.00	0.00	17	9.22	3.44
United Healthcare Corp.	NYS	62.875	-3.08	39.34	65.00	34.13	5918	0.03	0.05	31	16.17	3.89
U.S. Healthcare	NDQ	45.5	1.96	10.30	47.50	26.50	6599	1.1	2.42	19	5.66	8.04
Wellpoint Health Networks	NYS	31.75	-2.68	9.01	37.00	27.00	245	0.00	0.00	14	14.26	2.23
HMOs	AVERAGE		-0.7	18.7					0.3	34		
ALL COMPANIES	AVERAGE		0.0	18.8					2.4	21		

Top advancing issues: Seibels Bruce Group, HCC Insurance Holdings, Meadowbrook Insur. Group. Leading decliners: American Re Corp., SAFECO Corp., Risk Capital Holdings. Most active issue: ITT (Hartford Group). The BI Index fell 1.9%; the Dow Jones 30 Industrials fell 1.5%; the S&P 500 decreased 0.7% and the NYSE Composite lost 0.7%.

System design: Nordby International Inc.



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