

Business Insurance

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

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Acordia sale likely as Anthem shifts away from P/C business

INDIANAPOLIS—In a move that could signal still more brokerage consolidation, Anthem Insurance Cos. Inc. announced late last week that it has retained Credit Suisse First Boston to explore the possible sale of its Acordia Inc. subsidiary's property/casualty brokerage business.

Anthem, an Indianapolis-based mutual insurer with pending merger agreements with the Blue Cross & Blue Shield plans in New Jersey, Delaware and Connecticut, owns 67% of the world's seventh-largest broker.

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New York City eyes partner mandate

Councilman seeks to copy controversial San Francisco rule

By MICHAEL PRINCE

NEW YORK—Lawyers for the New York City Council have been asked to draft a domestic partner benefits ordinance similar to the one San Francisco adopted late last year.

The New York bill's backer, Councilman Tom Duane, D-Manhattan, wants the New York bill to be modeled on the San Francisco ordinance that requires city contractors to offer their employees domestic partner benefits equal to the spousal benefits provided.

At the same time, controversy over San Francisco's ordinance, which becomes effective in June,

continues to build.

Mr. Duane expects a draft of the New York ordinance to be completed within two months. After that, the bill will be introduced to the council for assignment to a committee and debate, which Mr. Duane predicts will occur by summer.

"This is another step towards equality for people who are not allowed to be married or choose not to be married, primarily the lesbian and gay community," said Mr. Duane, an openly gay council member. "Whatever benefits are provided to married employees should be provided to their employees with domestic partners. To not do so is discrimination."

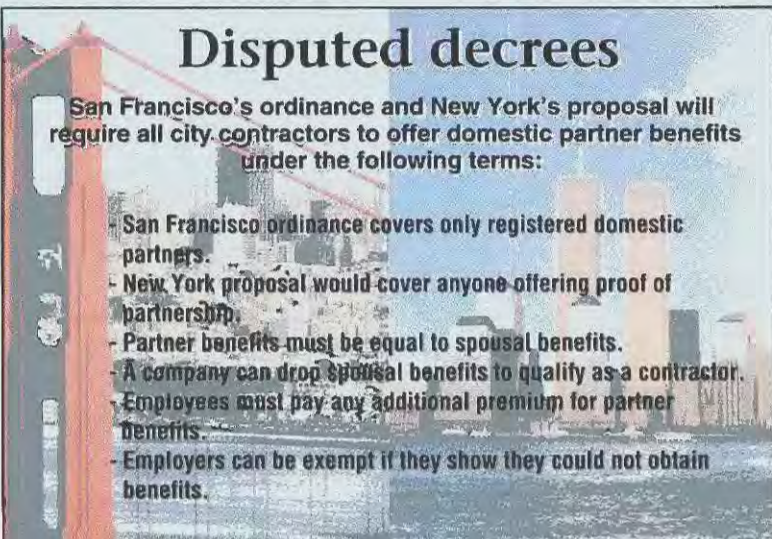
Mr. Duane's proposal differs from San Francisco's in one major provision. The San Francisco bill requires coverage only for those partners registered with the city. New York also has a registration policy for domestic partners, but the proposal would permit all employees with a domestic partner to apply for the coverage, not just registered couples. Couples should not be required to make a public statement about their status in order to receive the benefits, Mr. Duane said. His proposal would require employees to provide some proof of their partner status to employers, he said.

See Partners on page 13

Disputed decrees

San Francisco's ordinance and New York's proposal will require all city contractors to offer domestic partner benefits under the following terms:

- San Francisco ordinance covers only registered domestic partners.
- New York proposal would cover anyone offering proof of partnership.
- Partner benefits must be equal to spousal benefits.
- A company can drop spousal benefits to qualify as a contractor.
- Employees must pay any additional premium for partner benefits.
- Employers can be exempt if they show they could not obtain benefits.



PHOTOS: IMAGE BANK

Budget plan targets captive deductions

By JERRY GEISEL

WASHINGTON—The Clinton administration is renewing and stepping up its attack on captive insurance companies, with twin proposals aimed at curbing captive tax breaks.

Tucked into the massive proposed federal budget for 1998 is a provision—revamped and significantly expanded from a 1995 proposal—that would throw premium deductions for most captive owners into doubt.

The budget package, sent to Congress last week, also would revamp how the federal government pays health maintenance organizations for providing coverage to retired workers and would provide subsidies for COBRA health care premiums paid by lower-income workers who lose their jobs, as well (see story, page 21).

Like the 1995 proposal, the latest captive provision would bar a "large" captive shareholder or owner from deducting premiums paid to the captive if more than 50% of the captive's net written premiums were attributable to the insurance or reinsurance of large shareholders' risks.

While large shareholders are not defined, captive experts—based on what the administration earlier proposed—believe large shareholders would be parties that own at least 10% of a captive.

To comply with the new test, most captives would have to increase significantly the amount of third-party business they do in order for owners to continue to be able to deduct premiums paid into their insurance subsidiaries. That would be difficult for most captives to do.

The new 50% test would be a significantly higher standard for tax deductibility than those that courts have held. Several courts in the early 1990s ruled that a captive owner could take a tax deduction for premiums paid to its captive even if as little as 30% of the captive's premiums came from unrelated third-party business.

Going far beyond the 1995 proposal, the latest captive provision

See Budget on page 21



President Clinton

Builders seek better protection

Group aims to minimize building defect liabilities

By JOANNE WOJCIK

SACRAMENTO, Calif.—A group of California homebuilders and their insurers are constructing a campaign to limit their exposure to building defect litigation.

The fledgling organization, called the Coalition for Quality Affordable Housing, filed incorporation papers with the Secretary of State's Office last week and is expected to hire an executive director by the end of this week.

Once the coalition is up and running, it will seek legislation to limit builders' liability for construction defects by:

- Adding a binding arbitration clause to sales contracts.
- Halting the application of the

Montrose decision in building-defect cases. The 1995 ruling in *Montrose Chemical Corp. of America vs. Admiral Insurance Co.* adopted a continuous trigger theory in pollution liability cases.

• Instituting a program of home warranties modeled after a program run by the National Home Builders Council in Great Britain.

• Providing a definition of "latent construction defect."

An insurance association is supporting the coalition's goals.

Michael Pattinson, president of Barratt American Inc., a Carlsbad, Calif.-based homebuilder, outlined the coalition's 1997 legislative agenda during the recent annual conference of the Orange Empire Chapter of the Risk & Insurance Management Soci-

ety Inc. in Brea, Calif.

"San Diego County is a hotbed of litigation," Mr. Pattinson told RIMS members.

And the awards and settlements have pushed liability insurance rates for California homebuilders through the roof.

For example, many builders may have to pay \$650,000 for a \$1 million liability policy with a \$250,000 deductible, he said.

Some contractors can't get coverage at all if they ever were involved in housing projects with common areas such as condominiums, townhouses and some single-family communities with homeowners associations. A rise in building-defects suits and several multimillion-dollar settlements

See Building on page 23

Insurers enter bidding for Golden Eagle book

By DOUGLAS McLEOD

SAN DIEGO—A bidding war may be heating up for the business of Golden Eagle Insurance Co. as California regulators spell out details of the alleged mismanagement that triggered their seizure of the insurer Jan. 31.

Acting only days after the takeover, the California Insurance Department last week announced a rehabilitation proposal in which Golden Eagle's workers compensation and property/casualty business would be transferred into a newly formed company backed by Superior National Insurance Co., units of Zurich Centre Group and Insurance Partners L.P.

San Diego Casualty Insurance Co., a newly created insurer, would take over Golden Eagle's book with reinsurance support from Zurich Centre.

Superior National would provide underwriting, claims management and other services and would also eventually assume a portion of the business, though it will not assume obligations on Golden Eagle policies written before March 1, said Tom Boggs, a Superior National senior vp.

To support the expansion, Superior National's publicly traded parent plans to sell \$65 million in new common stock, half of which will be bought by

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California Insurance Commissioner Quackenbush last week seized Golden Eagle Insurance Co.

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Updates

Anthem considers P/C sale

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Recently, however, Anthem has focused exclusively on health and managed care business and has gradually sold non-health care operations.

In 1996, a little more than half of Acordia's \$661 million in revenues were derived from property/casualty brokerage business. The remaining revenues were derived from the sale and servicing of Anthem life and health insurance products. Credit Suisse First Boston is exploring the possible reorganization of Acordia's health business.

"We are extremely proud of the brokerage business which Acordia has built," L. Ben Lytle, president and chief executive officer of Anthem, said in a release. "Historically, it has financially outperformed its competitors. However, we have determined, preliminarily, that the property/casualty brokerage business and the structure of the current business relationship between Anthem and Acordia may no longer be consistent with Anthem's mission. Therefore we believe that in light of the brokerage industry consolidation, that now may be an opportune time to capitalize on the value of Acordia's brokerage business."

Frank C. Witthun, president and CEO of Acordia, is optimistic about Acordia's future.

With a continued focus on the middle market, Acordia has gained significant market share over the years by acquiring such brokers as Robinson-Conner Inc., American Business Insurance Inc., Pettit Morry Cos. and Bain Hogg Robinson Inc.

"We've got a very good management though our acquisitions and feel confident we will keep our management," Mr. Witthun said.

Acordia hopes to capitalize on the brokerage consolidation movement that has occurred in the recent year, Mr. Witthun said.

Acordia could be of interest to a foreign buyer or a buyer "outside the realm of an (insurance) industry partner," he said.

What Acordia is not interested in is a management buyout. "There is no intention of management to lead an effort" in that direction, said Keith A. Maib, Acordia's executive vp and chief financial officer.

ERISA pre-empts provider law

LITTLE ROCK, Ark.—Arkansas' Patient Protection Act, which requires health plans to accept any health care providers willing to meet a plan's terms and conditions, is pre-empted by the Employee Retirement Income Security Act, the U.S. District Court for the Eastern District of Arkansas ruled.

In his Jan. 31 opinion, Judge James M. Moody permanently enjoined the act's enforcement, ruling the state's any-willing-provider provision, known as the Patient Protection Act, "has a direct impact on the structure, content and administration of health benefit plans which triggers the pre-emptive provisions of ERISA." ERISA pre-empts state laws that "relate" to employee benefit plans. He did rule, however, there was insufficient evidence "of a direct or acute indirect economic impact." Over the past few years, managed care organizations in several states have opposed any-willing-provider statutes, arguing that such laws jeopardize their ability to ensure quality and control costs.

In 1995, the Arkansas Legislature passed the Patient Protection Act with the intent to give patients the right to choose the health care provider of their choice.

Prudential Health Care Plan Inc., HMO Partners Inc., Arkansas AFL-CIO, Tyson Foods Inc. and the United Paperworkers International Union challenged the Act, claiming it essentially changes the terms and conditions of benefit plans by nullifying limited panel networks and eliminating gatekeeper functions.

In a release, Norine Yukon, executive director of Prudential Insurance Co. of America's health care plan in Arkansas, said she is pleased with the ruling. "The ruling benefits employers because it safeguards their ability to offer high-quality, less expensive health care benefit plans to their employees."

On the other hand, David Wroten, executive vp for the Arkansas Medical Society, which helped draft the Patient Protection Act, said in a release. "The people of Arkansas are the real losers. With an overwhelming voice through testimony, letters and phone calls to legislators, the people of Arkansas said they wanted freedom to choose their health care providers. Yet the insurance industry has used a federal law known as ERISA to hijack the will of the people even though ERISA was originally intended to protect patients, not insurance companies."

Mr. Wroten said the case is being appealed.

Liberty Re is relaunched

LONDON—Liberty Mutual Group is setting up a London reinsurance subsidiary nearly two years after it originally planned to open the unit.

Liberty Re Ltd. will have \$400 million in capital. John Engstrom, former chief executive officer of Mercantile & General Reinsurance Co. P.L.C., has been named Liberty Re's CEO. M&G Re was bought by Swiss Reinsurance Co. last year (*BI*, Sept. 3, 1996).

"Liberty Re will be the global reinsurance unit of Liberty Mutual in Boston," said Mr. Engstrom.

The reinsurer will write a broad range of reinsurance, from property/casualty business to life and health reinsurance, he said.

Liberty Re will work more closely with its clients than most reinsurers, offering such services as claims management and product design, Mr. Engstrom said.

The launch of Liberty Re is the second attempt by Liberty Mutual to establish a global reinsurer in London.

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Errors & omissions

• The Public Risk Management Assn. will sponsor a government risk management seminar in San Diego Feb. 24-28. The cost of the conference is \$650 for PRIMA members and \$760 for non-members. For more information, contact PRIMA at 703-528-7701. A Datebook listing incorrectly reported the cost of the seminar.

Superfund reform redux

Calls to repeal retroactive liability continue, legislators say

By MARK A. HOFMANN

WASHINGTON—Congressional efforts to repeal Superfund retroactive liability will continue, according to two key House Republicans.

Both House Ways and Means Committee Chairman William Archer, R-Texas, and Transportation and Infrastructure Committee Chairman Bud Shuster, R-Pa., defended the broadest possible repeal of retroactive liability in separate addresses to the Council of



House Ways and Means Chairman William Archer endorses repeal of Superfund's regime of retroactive liability.

Insurance Agents & Brokers' legislative conference in Washington last week.

No Superfund reform legislation has yet been introduced in the House.

However, a third speaker at the conference—Sen. Don Nickles, R-Okla.—used the occasion to praise a reform bill introduced in the Senate.

S. 8, introduced by Sens. John Chafee, R-R.I., and Robert Smith, R-N.H., would not provide broad retroactive liability repeal, but it would restrict Superfund's imposition of joint and several liability. See Superfund on page 10

Retirees questioned use of plan assets to pay costs

US West settles pension suit

By JERRY GEISEL

ENGLEWOOD, Colo.—Telecommunications giant US West Inc. will absorb \$8 million in future pension administration plan costs to settle a class-action suit filed by retirees.

The proposed settlement would end a 2-year-old lawsuit filed by a retired employee who alleged that US West was not authorized by its defined benefit pension plan to pay administrative expenses from plan assets. The suit, which later

received class-action status, sought \$30 million to be paid back into the pension plan.

US West said its actions were proper and that the Employee Retirement Income Security Act specifically allows employers to pay plan administrative expenses out of plan assets—if plan documents give employers permission to do so.

Plaintiffs contended, though, that the language in US West's benefit documents were not clear on what expenses would be paid

out of plan assets.

While US West said its actions followed federal law, it agreed to settle the lawsuit to end litigation expenses.

"It came down to a semantic dispute over the interpretation of highly technical language. We determined that we'd rather put money in the pension fund, where it will ultimately benefit retirees, than spend it on attorneys fees for this needless litigation," said Sharon Naylor, vp-human resources. See US West on page 13

New Jersey issues new rules to protect HMO patients

TRENTON, N.J.—New HMO regulations, including an "HMO consumer bill of rights," take effect March 15 in New Jersey.

Among the patient rights outlined in the regulations:

- Only doctors can decide to deny or limit coverage.
- Consumers must have a choice of specialists.
- "Gag rules" that prevent physicians from discussing non-covered treatments with patients will be eliminated.
- HMOs are required to disclose to patients their payment arrangements with doctors.
- Consumers must have the right

to appeal a decision to deny or limit coverage, first within the HMO and then through an independent organization.

The independent utilization review organization will issue non-binding recommendations on coverage appeals, and the HMOs must report to the state health department whether they will accept or reject the recommendations.

The health commissioner's office will also compile a yearly report card of each HMO in the state and publish the results of enrollee satisfaction surveys. Every three years, each HMO will also undergo a quality review by an indepen-

dent organization. That report will be reviewed by the state.

The regulations are the result of a two-year effort involving the state's Department of Health and a committee of HMOs, physicians and consumers. The growth of HMO enrollment in the state to more than 2 million people prompted Health Commissioner Len Fishman to rewrite the 1974 regulations and add consumer protections.

"These are the most progressive, consumer-oriented regulations in the country," Mr. Fishman said in a statement.

—By Michael Prince

Deadlines nearing for directories

The deadlines are approaching for companies to return questionnaires to be listed in two *Business Insurance* annual directories.

The directory of employee benefit information systems will appear in the March 3 issue, which also will contain a report on benefits administration and online resources. The extended deadline for returning questionnaires is Feb. 14.

The directory of risk management consultants will

appear in the March 17 issue, which also will contain a report on risk management services. The extended deadline for returning questionnaires is Feb. 26.

If your company has not received a questionnaire to be listed in either of these directories, please request one immediately from Assistant Directory Editor Richard Trout at 312-649-5483.

There is no charge to be listed in these *BI* directories; companies need only fill out and return a questionnaire.

Inside

• Wal-Mart's 401(k) plan, to be introduced this year, will be the largest. **PAGE 6**

• New York's City Council should avoid making the same mistake as San Francisco in mandating domestic partner benefits, one of this week's editorials says. **PAGE 8**

• While risk managers are interested in the growing array of new risk financing alternatives, few actually are trying it, a broker says. **PAGE 17**

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Guaranteeing security

Financial guarantee insurers poised for growth

By JUDY GREENWALD

Business is good for both buyers and sellers of financial guarantee insurance.

Financial guarantee insurers claimed a greater percentage of the total municipal bond market in 1996, a year in which the number of bond issues also increased. The outlook for 1997 is also positive, though financial guarantee insurance companies continue to diversify into other areas—most notably international business and insuring asset-backed securities—for additional growth.

For municipalities looking to buy insurance for their bond offerings, the market remains competitive.

Municipal bond insurers traditionally confer their own AAA ratings on the lower-rated bonds they insure, which lowers mu-

nicipalities' interest costs.

Under a new policy that was introduced last month by rating agency Standard & Poor's Corp., however, municipal bond issuers must now request and pay a fee to S&P for their bonds to carry an insurer's AAA rating.

Insured AAA bonds typically trade at the same level as "natural," or uninsured, strong A or AA bonds.

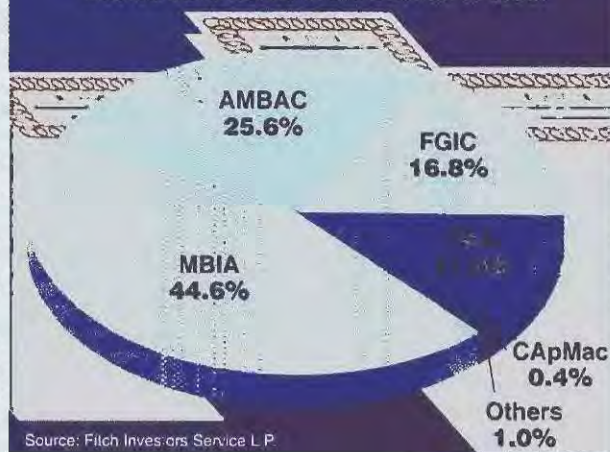
In 1996, insured bonds totaled \$85 billion, or 46.3%, of the total \$183.7 billion in new bonds issued, according to the New York-based Public Securities Assn.

This was a 24.1% increase over the \$68.5 billion in new bonds insured in 1995, when a total of \$160.3 billion in new municipal bonds were issued. Insured bonds accounted for 42.3% of the overall volume in 1995.

See Bonds on page 22

Carving up the muni bond market

Municipal bond insurers' share of the par value of insured bond issues in the first half of 1996.



Source: Fitch Investors Service L.P.

GRAPHIC BY TONY BUCCINI

Hawaii OKs suits against comp insurers

By ROBERTO CENICEROS

HONOLULU—Some insurers worry that a recent Hawaii Supreme Court decision allowing employees to sue workers compensation insurers could generate new lawsuits and increase their costs.

Employers, though, are not as alarmed and say that proper claims handling should avoid such an exposure.

In addition, in a soft workers comp market, such an exposure is unlikely to force rates higher, one risk manager says.

"Our overall concern is that this ability to sue insurance companies for bad faith is probably going to drive the cost of claims up," said Sam Sorich, assistant vp of the National Assn. of Independent Insurers in Sacramento, Calif.

With allegations being made, claims handlers "are going to have a Sword of Damocles hanging over their heads" when they try to settle workers comp claims, he said. The threat of a lawsuit could pressure some insurers to decide cases more liberally in favor of the worker, rather than risk a lawsuit over a claims denial.

The Hawaii Supreme Court ruled in *Hough vs. Pacific Insurance Co. Ltd.* that an injured worker is not barred from suing his employer's workers compensation insurer where the third-party claim is based on allegations that the insurer committed intentional torts and acted in bad faith in processing the claim, resulting in separate and additional injury to the employee.

The high court said courts in other states support its reasoning, including Montana, Iowa and Minnesota, which have considered the same issue under similar statutes.

The Hawaii case stems from the treatment of workers compensation claims filed by Jeffrey J. Hough, who injured his back in 1985 while working for a construction company.

He suffered a recurrence while working for another company in 1987 and a filed the second claim. Both employers denied responsibility for the injury.

However, both employers were insured by Pacific Insurance Co. Ltd., a unit of ITT Hartford Group Inc. Pacific first made payments to Mr. Hough under protest and then terminated them, according to the court papers.

Mr. Hough's doctor wrote to the insurer, saying that stress related to the denial of benefits was diminishing his ability to recover.

A psychiatrist also examined Mr. Hough and found him to be depressed and suicidal, in addition to gaining 25 pounds.

Hawaii's Department of Labor and Industrial Relations' Disability Compensation Division found the stop of bene-

See Hawaii on page 16

No curtain calls expected for theater suit

By EDWIN UNSWORTH

LONDON—Theatrical producers and their insurers are not raising their hackles over whether a New York court will decide that Rum Tum Tugger acted too much the alley cat when he made amorous advances to an audience member during a Broadway stage performance of the hit musical "Cats."

In London and New York, members of the insurance and theatrical communities said they believe that even if the plaintiff in a recently filed lawsuit wins her case—and they acknowledge that any award is likely to be paid by insurers—she is unlikely to win a big damage award. More importantly, they do not believe the action heralds any trend toward audience litigiousness or emerging insurable risks to the theater community.

Evelyn Amato is seeking \$12 million in compensatory and punitive damages from Rum

Tum's alter ego, actor David Hibbard, and a number of other parties: the Shubert Organization, a co-producer and owner of the theater; "Cats" Director Trevor Nunn; Co-Producer Cameron Mackintosh; the composer Sir Andrew Lloyd Webber; and his theatrical company, the Really Useful Group.

The incident leading to her action happened in January 1996 when Ms. Amato attended a showing of "Cats," and Rum Tum Tugger, ignoring her resistance, twice pulled her up from her fourth row orchestra seat to get her to dance with him. This, followed by his leaping onto the arms of her seat once she had regained it and making lewd gestures, caused her distress, embarrassment and a disrupted love life with her fiancé, according to the suit. Ms. Amato's attorney filed late last month in the New York Supreme Court in Manhattan.

The suit by Ms. Amato seeks damages for

See Theater on next page



PHOTO: MARTHA SWOPE

The lawsuit against Broadway show 'Cats' is not expected to prompt other, similar actions.

Banks interested in agency partnerships

By RODD ZOLKOS

ATLANTA—With the doors now open to the insurance market, many banks are expected to take advantage of the income-producing opportunities that insurance can provide.

But there are a number of key considerations bankers must resolve on the way to selling insurance, many of which will surely have implications for bank risk managers.

Although their entry into this market has long been opposed by independent insurance agents, banks now see signs of accep-

tance and potential partnerships with agents.

"The world of insurance vs. banking isn't so much 'vs.' now," said Douglas C. Winkley, vp with INTRUST Bank N.A. in Wichita, Kan., at the American Bankers Assn.'s annual Security, Audit and Risk Management Conference held last month in Atlanta.

In the wake of recent court rulings, "The only barriers left are your own inventive minds, your



AMERICAN BANKERS ASSOCIATION

banks' resources and your willingness to take risks," said Ed Armstrong, a managing director with Aon Specialty Group's Risk Management Services unit in Washington.

"It really doesn't matter if you're in income-producing activity in your bank. You're probably going to be involved," Mr. Armstrong told bank risk managers during a conference session on insurance income opportunities for banks.

Banks' first opportunities in

the insurance market will probably be in the area of "transactional-related opportunities," such as offering auto insurance to car loan customers, Mr. Armstrong said.

To realize those opportunities, he expects to see new joint ventures between banks and insurance agents, along with new ways to compensate banks for selling insurance products.

Banks will target personal lines business at first, but eventually they could expand into commercial lines coverage for corporate clients.

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Taking stock of balance sheet risks

By RODD ZOLKOS

ATLANTA—Increased awareness that unforeseen events can lower shareholder value is prompting many risk managers to look for new ways to protect their companies' balance sheets.

Today, the first question a risk manager or other company official must ask in examining its exposures is, "What effect can this have on shareholder value?" said William N. Thornhill, a senior vp at X.L. Reinsurance Co. Ltd. in Hamilton, Bermuda.

"Five or six years ago, were we asking ourselves this question? I don't think so," Mr. Thornhill said during a panel on balance sheet protection at the American Bankers Assn.'s annual Security,

Audit and Risk Management Conference last month in Atlanta.

The "what if?" scenarios that risk managers must examine could involve a single event or combination of events that prevent the company from executing its business plan. Such occurrences could include economic events, regulations, inadequate insurance for catastrophic events, operational and business risks, and various uninsurable risks, he said.

In some cases, contingent liability coverage might be available in the traditional insurance markets, but the limits may be inadequate for a particular company's exposures, said Dominic J. Frederico, executive vp at

ACE Ltd. in Hamilton, Bermuda. On the other hand, he said, adequate capacity might be available in the market to cover some "uninsurable" exposures—such as pollution liabilities, product warranty or recall or asbestos liability—but at too high a premium to be cost-effective.

There are various other ways of covering those "uninsurable" risks, though, Mr. Frederico suggested.

One way is through "add-on" coverages, he said. Add-ons involve an endorsement and sublimit of additional coverage linked to a traditional risk-bearing policy that has a larger limit and is written over a multiyear period.

"It simply brings in the non-

traditional cover to a traditional policy but on a multiyear basis," Mr. Frederico said.

Typically, the insurer assumes a large amount of risk and the add-ons have a high price, he noted.

Another way of obtaining balance sheet protection is through a "contingent equity" approach. Under such a program, a potential equity position in the insured company—usually in the form of an option—replaces a large premium and is triggered only in the event of a loss.

For example, coverage is triggered if the customer suffers a large loss and a specified additional event, such as a downgrade of its bond rating, occurs. In exchange for coverage, the customer would provide equity options to the insurer with a 10-

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Theater

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assault and battery, invasion of privacy, violation of civil rights, negligence, intentional infliction of emotional distress and false imprisonment.

Her lawyer, Michael G. O'Neill, expects a 1½ to 2½-year wait before the case goes to court, if an out-of-court settlement is not reached. He has criticized the production company's letter of apology and an offer of free tickets to the show, likening it to "offering someone another ticket on the Titanic."

Mr. O'Neill said what makes this case different is not that a member of the "Cats" cast touched Ms. Amato when she did not want to be touched, but "the mean-spirited degradation" to which she was subjected.

One of New York's leading theatrical insurance brokers said the case is

unlikely to directly increase liability exposure of theaters and production companies or to open the curtain on new risk exposures.

Bob Boyar, New York-based senior vp in the arts and entertainments unit of Marsh & McLennan Cos. Inc., said, "I doubt that this is necessarily the onset of a trend."

In his almost 50 years' experience as a theatrical insurance broker, he has found that "theatrical producers are careful about how they treat their audiences." Furthermore, very few stage productions involve audience participation of the sort that led to Ms. Amato's embarrassment.

Mr. Boyar said Ms. Amato's suit is not the first filed by an audience member against producers. He recalled a case six or seven years ago when a member of the audience sued after being hit on the shoulder by a piece of wood from a chair that was designed to break up on impact on stage. The case was settled out of

court for no more than a few thousand dollars.

Kim Bullimore, underwriting manager for London-based SLE Worldwide Europe Ltd., a sports, leisure and entertainment insurance unit of Aon Group Inc., says it is unlikely that such a case would ever even have been brought in the United Kingdom. If it were, "the most she might have expected to get would be a couple of thousand pounds."

This view is shared by Robert Wood, a broker specializing in theatrical insurance with London-based Adam Brothers Contingency Ltd. He, too, said that "£2,000 (\$3,281) would be a limit" on what anyone could hope to win in such a case in England.

Both Mr. Bullimore and Mr. Wood thought it more likely that Ms. Amato's case, should it proceed, could set a worrisome trend in the United States. Such a trend would have adverse effects on foreign theater groups

putting on productions there.

However, brokers and insurers on both sides of the Atlantic agree that insurance with favorable limits is readily available to theatrical producers and theater owners, and on favorable terms in today's buyer's market.

If there is a lesson to be learned from this case, it is that theatrical producers must be aware that they cannot assume their liability exposures will automatically be covered under a theater owner's insurance policy. In most cases, they are not.

Typically, a theater owner would have property and liability insurance to cover such risks involving the building, loss of profit, business interruption, cancellation of the show, and employee and third-party liability for injuries on the premises unrelated to the show.

Mr. Boyar said contracts issued by theater owners when contracting with shows generally contain clauses

requiring the production company to take out its own liability insurance. It would be unusual for any production company to ignore this clause, he said, because they are well aware that they face exposure to any number of much more common types of liability claims, such as injury to cast, crew or audience members from fire caused by a member of the production team.

Mr. Wood said that, in some cases, the theater owner will arrange to have a production company added temporarily to its liability policy for the period it is using the theater.

In nearly all cases, it is the broker who is crucial in advising theatrical groups on their insurance needs. Few production companies are large enough to employ a risk manager, though responsibility for insurance is generally assigned to a designated person within the company. This person may work anywhere within the group from finance to accounting or production.

One of the crucial elements to remember when arranging theatrical insurance is that "theater owners have very stringent contractual agreements with production companies whereby they try to pass on as much liability as possible," said Emelia Accardi, managing director of Chubb & Son Inc., one of the largest entertainments insurers.

Ms. Accardi, whose company is a unit of Warren, N.J.-based Chubb Corp., said her underwriters usually ask to see these contracts and then have them examined by Chubb & Son's attorneys. "This allows us to assess the level of risk and to determine how to price our products," she said.

Chubb & Son also offers a loss control advisory service to help clients assess their safety and other exposures.

Ms. Accardi agreed that it is currently a buyer's market for theatrical insurance. "Plenty of cover is available, and limits present no problems," she said.

The Really Useful Group in London was unwilling to comment on the "Cats" suit or more generally on its insurance arrangements. But insurers said a company of its size almost certainly would have someone in-house designated to handle insurance matters.

Ms. Amato's suit has been passed on to the group's lawyers, according to a Really Useful Group spokesman in New York.

Mr. Bullimore of SLE says the Really Useful Group, because of its size and the fact that it always has a number of productions running at any one time, tends to buy its insurance under an annual policy. Smaller companies often insure each production separately.

In Britain's Royal National Theatre group, which operates three repertory theaters, insurance is the responsibility of Sharon Clark, assistant to the general manager.

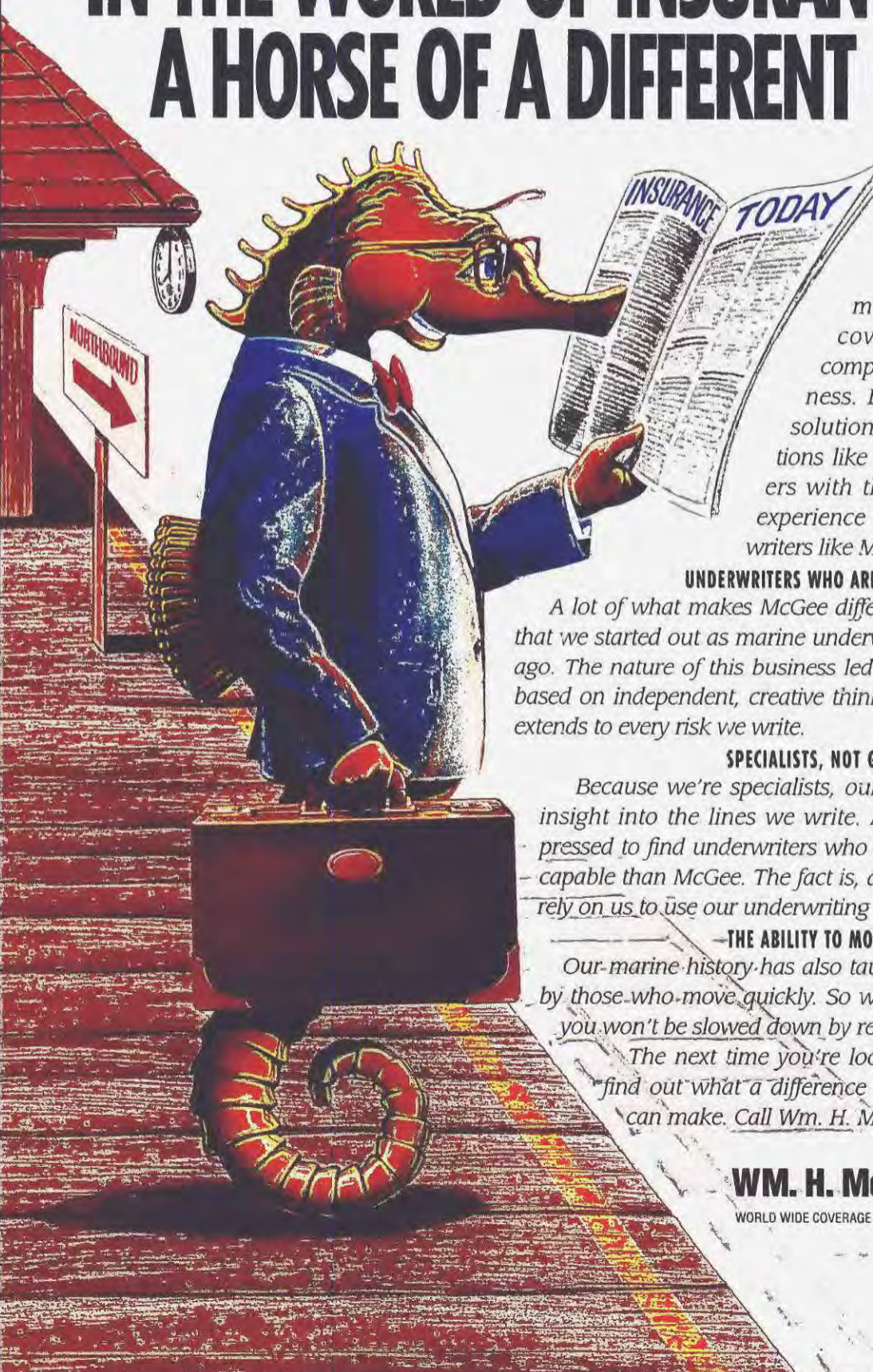
Working closely with a specialist broker who has handled the group's insurance for about 20 years, she has encompassed all of the group's coverage in one portfolio of policies renewed annually. Even foreign touring productions are covered in the package. She finds there is no shortage of insurance capacity and that rates are reasonable for all the coverage needed.

For Ms. Clark, the "Cats" lawsuit presents no worries, mainly because Britain is "not a litigious society," she said.

The worst audience-related claim the Royal National Theatre has faced was for a dry cleaning bill from someone who was within range of a custard pie thrown on stage.

The only area of emerging concern for Ms. Clark is terrorism coverage, a result mainly of IRA terrorist bombings in England. She said this is a threat the Royal National Theatre is "looking at closely."

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— HPR • PROPERTY SPECIAL RISK —

Wal-Mart to add 401(k) to benefits this year

By ROBERT KAZEL

Benefit Beat

BENTONVILLE, Ark.—Wal-Mart Stores Inc., one of the nation's largest employers, is planning to introduce a 401(k) plan this year that would become the biggest such program in existence.

As it rolls out, the plan is expected to have the most participants of any 401(k) plan. Wal-Mart has about 675,000 U.S. workers.

The retailer has signed a letter of intent to contract with Princeton, N.J.-based Merrill Lynch & Co. for a variety of 401(k)-related services, including asset management and plan administration services.

Wal-Mart has not previously offered a 401(k) plan, though it does offer a profit-sharing plan. About 85% of the profit-sharing plan's

funds are invested in company stock, according to the Standard & Poor's Corp.

Wal-Mart also offers a stock-purchase plan in which the company contributes 15 cents for every employee dollar invested in company stock, a Wal-Mart spokeswoman said.

Retirement savings programs now are available to all associates, from store clerks to top management, who work at least 1,000 hours per year. The company will retain the profit-sharing and stock-purchase plans when it offers its 401(k) plan.

Few details are available on

Wal-Mart's planned 401(k) program, including a start date. The plan probably will begin in mid-summer, said Rene M. Campis, first vp and director of Merrill Lynch Group Employee Services in Princeton.

It is not yet clear what the plan's specific investment options will be, though Mr. Campis said both Merrill Lynch and other funds would be available to employees.

In addition to acting as plan trustee, Merrill Lynch will provide administration and record keeping, customer education and employee communication services, a Merrill Lynch spokeswoman said.

Wal-Mart decided to introduce a 401(k) plan after associates expressed an interest in it in "feedback meetings" designed to weigh

grass-roots sentiment among workers, the Wal-Mart spokeswoman said.

The new plan also will be available to Americans working in Wal-Mart stores in Argentina, Canada, Puerto Rico, Brazil, China, Indonesia and Mexico, Mr. Campis said.

Health plan information

SAN FRANCISCO—Anyone who has ever tried to select a microwave oven or blender by consulting ratings in Consumer Reports magazine knows massive helpings of technical data can be digested more easily through simple charts and rating symbols.

Reasoning that health care is a consumer product like any other, the San Francisco-based Pacific

Business Group on Health similarly is offering employees of its member companies charts of information on managed care networks.

While this service is not new for the PBGH, the medium is: A wide assortment of updated information now is being posted over the World Wide Web.

The coalition last November opened its Internet Web site, named "California Consumer Health Scope," to the public.

The PBGH Web site, located at <http://www.healthscope.org>, aims to provide information on choosing a health plan based on preventive care report cards; customer satisfaction ratings; quit rates, which are the proportion of patients who have left an HMO; accreditation status; and other measures.

Since its inception, the Web service has been accessed about 6,500 times, with the majority of those "hits" occurring during plan sponsors' open enrollment period last fall.

About 250 users continue to visit the site weekly, said Anne Castles, a PBGH project manager.

The meat of the Web site consists of several report cards gleaned from consumer surveys. The chart detailing "Satisfaction with Physician Care," for instance, scores 18 health plans on seven satisfaction criteria: the doctor seen most frequently; specialists; coordination among all doctors providing treatment; skill in finding and treating problems; attention to what a patient has to say; explanation of medical procedures and tests; and length of time the doctor spent with the patient.

The site also offers charts that rate California HMOs on specific quality measurement criteria, including the availability of childhood immunizations, breast cancer screening, cervical cancer screening, prenatal care, cholesterol screening and diabetic retinal exams.

Other consumer information includes background on how to choose a health plan, what managed care is, HMOs vs. fee-for-service plans, and choosing a hospital.

The PBGH, which consists of 33 private and public purchasers representing 2.5 million lives, also is planning to add new data to the Web site on coronary artery bypass graft surgery outcomes for the entire state. It is working to build the database with the state's Office of Statewide Health Planning and Development.

Also, by next spring the PBGH plans to expand its online data to include medical group accreditation data.

The "health scope" does not, however, display cost differences among the various managed health plans in the state. "Pricing varies so much depending on your geographic location and who your employer is," Ms. Castles said.

The coalition understands employees in some member companies will be far more likely to use the online quality information than others.

Employees in banks are unlikely to have easy access to the Internet at work, for example, while those in high-tech companies, such as Calabasas, Calif.-based Lockheed Martin Corp. and Los Angeles-based Hughes Electronics Corp., have used the Web site extensively, Ms. Castles said.

To aid employees who don't use the Internet, the PBGH is offering printed pamphlets to employers containing the same managed care ratings and accreditation data, and a toll-free telephone number to get the same information. **BI**



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Opinions

Partner mandate still a bad idea

UNLESS IT RESISTS THE TEMPTATION to follow the lead of San Francisco regarding domestic partner mandates, New York threatens to take a bad idea and make it worse.

As we report on page 1, a member of the New York City Council has called for legislation that would require companies that want to do business with the city to offer domestic partner benefits equal to those offered to employees' spouses. San Francisco first approved such a mandate last year (*BI*, Nov. 11, 1996), and the idea hasn't improved with age.

We have no quarrel with employers offering domestic benefits. Employers should be free to offer—or withhold—such benefits as meet their needs and the needs of their employees. Employees are a diverse lot, and meeting their varied needs requires giving employers flexibility.

For a city government to dictate what benefits another employer must offer in order to do business with the city replaces that necessary flexibility with a straitjacket.

San Francisco's mandate was bad, but New York's measure, as currently proposed, would take the mandate another step in the wrong direction. That's because the San Francisco mandate applies only to domestic partners who have registered their partnerships with the city. The measure likely to hit the New York City Council in a couple months wouldn't even require that minimal commitment.

Before New York pushes ahead with its ill-considered scheme, the council members ought to take a close look at what's happening on the other side of the country as San Francisco grapples with the problems its domestic partner mandate already has caused, even though the mandate does not formally fall upon employers until June.

Archbishop William Levada has asked that Catholic Charities—with which San Francisco contracts for more than \$5 million in services—be exempt from the mandate. The archbishop said that requiring Catholic Charities to provide the domestic partner benefits would violate the church's teachings.



The city has adamantly refused to relent, and the archbishop has indicated that a lawsuit might be the next step.

Mandating domestic partner benefits does nothing to encourage employers to offer such coverage voluntarily. In fact, it could have the unfortunate effect of causing some employers, particularly small businesses already hard-pressed by benefits costs, to reconsider whether they should offer any benefits at all.

San Francisco has made its mistake and will have to live with the consequences of meddling in what should be a matter between employer and employees, not city government and those who would do business with it.

Rather than compound that mistake, the New York City Council ought to drop the proposed domestic partner mandate now and avoid the inevitable problems—legal and otherwise—such an unwise policy is certain to cause.

Put balance back in comp system

STATE LAWMAKERS need to abolish the practice of balance billing once and for all.

The practice—in which doctors can bill injured workers for medical charges in excess of what employers or insurers pay—represents a serious erosion of the doctrine of exclusive remedy. That doctrine is all that stands between employers and a flood of litigation over worker injuries.

Thankfully, nearly all states ban the practice of balance billing, which begs the question why some have not yet done so.

As we reported Feb. 3, Illinois is one of the few states that does not ban balance billing. Utah permits it as an incentive to use managed care providers for workers comp care. And it is emerging as a problem in the Pacific Northwest in cases where workers cross state lines to seek medical care.

Our biggest concern is that balance billing leaves employees holding the bag for unpaid medical bills—and puts their personal credit at risk. That, in turn, greatly increases the likelihood of lawsuits alleging bad faith handling of workers' claims by employers and their insurers.

Another issue is that allowing doctors an avenue to pursue additional payment erodes the effectiveness of efforts to hold down workers comp medical costs. How can workers comp insurers and employers negotiate lower costs or implement managed care programs when

providers can go after employees for the difference?

Doctors in Illinois already charge more for workers comp care on average than providers in many other states.

Illinois' average workers comp medical charges are 89% greater than the state's Medicare fee schedule, according to an analysis by the Workers Compensation Research Institute. Nationwide, the median workers comp fee schedule is 55% greater than Illinois' Medicare fee schedule, the WCRI reports.

Doctors contend a ban on balance billing would let workers comp payers impose a fee schedule that may not reflect the total cost of providing care. We think the WCRI data shows there is plenty of fat in how much providers are charging for workers comp care. It's audacious that a loophole exists allowing doctors to go after employees for even more.

Greed has also been a key reason why the various stakeholders have been unsuccessful in getting a ban passed in Illinois. Employers and insurers in the past pushed for an end to balanced billing as part of broader measures to introduce managed care or limits on workers' choice of providers. Such efforts were opposed by labor.

We think employers, insurers and labor should focus their efforts only on banning balance billing if they are to have any hope of success. For any future efforts at workers comp managed care to succeed, this is a necessary first step.

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CAPTIVE INSURANCE COMPANIES ASSOCIATION, INC.

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Superfund

Continued from page 2 under most circumstances (BI, Jan. 27).

Sen. Nickles called S. 8 “a very good bill” and added “I hope we can move it forward.”

Passing a balanced budget amendment is the Senate's first order of business, he explained.

Once that is accomplished, the Senate will have a window of time to deal with Superfund and other issues before becoming enmeshed in the appropriations and budget reconciliation process, Sen. Nickles said.

Rep. Archer declined to comment on the Senate bill, saying he hadn't read it yet.

He made clear, however, that he is adamant that the taxes that finance Superfund should not be reauthorized until the program

has been completely reformed. The government's authority to collect those taxes, which fall heaviest on the oil and chemical industries, has expired.

As chairman of the Ways and Means Committee, Rep. Archer has considerable control over the government's purse strings.

Superfund's imposition of retroactive liability is 'fundamentally un-American,' says Rep. Bud Shuster.

He told his luncheon audience at the Council conference that he has already informed the chairmen of other committees with a say in Superfund reform that he will not loosen those purse strings without good reason.

“I have told them, ‘I do not intend to give you a stream of revenue unless you have truly reformed this program in an effective and equitable way,’” Rep. Archer said.

He added that he would like to see “complete” repeal of retroactive liability as part of reform but said he would approach any reform proposals with an open mind.

Rep. Shuster, a longtime advocate of retroactive liability repeal, called Superfund's imposition of retroactive liability “fundamentally un-American.”

“I would like to eliminate retroactive liability,” he said.

Rep. Shuster noted that he had been told a complete repeal was not financially possible. “But I will die hard on this issue,” he promised.

“If we can not eliminate retroactive liability, we should be moving as far in that direction as possible,” according to Rep. Shuster.

Retroactive repeal was not the only type of liability reform advocated by Rep. Shuster.

Reform legislation will have to address joint and several liability to place responsibility for clean-ups on primary offenders rather than small contributors, Rep. Shuster said.

Efforts to reform Superfund last year failed because they got caught up in presidential politics, he said.

“We're in a better position” now to achieve reforms, said Rep. Shuster.

Although calls for Superfund reform formed the dominant risk management theme at the conference, lawmakers raised two other issues of interest to risk managers during their addresses.

When asked what changes would be needed in product liability reform legislation vetoed last year by President Clinton to win the president's signature this year, Sen. Nickles replied, “I hope not much.”

He said he would be willing to make small changes in the measure to avoid a veto but added, “We're not going to gut it to get the president's signature.”

On another risk management-related issue, Rep. Archer called for reform of medical malpractice laws to make health insurance more widely available.

Health care will be “the most daunting” issue facing the next generation, said Rep. Archer. Addressing health care questions will have to start with “tough malpractice reform” to save money without undermining quality, he said.

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American Re Corporation	Acquisition by Munich Reinsurance Company	3,207
AXA S.A.	Merger with Union des Assurances de Paris (UAP)	9,300*
Connecticut Mutual Life Insurance Company	Merger with Massachusetts Mutual Life Insurance Company	Undisclosed
Ford Life Insurance Company, a subsidiary of Ford Motor Company	Acquisition by SunAmerica Inc.	173
General Electric Capital Corporation	Acquisition of First Colony Corporation	2,170
Gothaer Versicherungen	Exchange of shares with Eureko B.V.	Undisclosed
Home Beneficial Corporation	Acquisition by American General Corporation	665*
Kemper Corporation	Acquisition by Zurich Insurance Group and other investors	1,994
Mercantile & General Reinsurance Co., a subsidiary of Prudential Corporation plc	Divestiture to Swiss Reinsurance Company	2,650
National Re Corporation	Acquisition by General Re Corporation	940
Northbrook Property and Casualty Insurance Company, a subsidiary of Allstate Insurance Company	Divestiture to The St. Paul Companies, Inc.	180
Provident Companies, Inc.	Acquisition of The Paul Revere Corporation, a subsidiary of Textron Inc.	1,170
Providian Corporation (Insurance operations)	Divestiture to AEGON N.V.	2,620*
The Prudential Insurance Company of America (Canadian branch operations)	Divestiture to London Life Insurance Company	74
Safety National Casualty Corporation	Divestiture to Delphi Financial Group, Inc.	199
SunAmerica Inc.	Acquisition of John Alden Financial Corporation (Annuity operations)	240*
U.S. Healthcare, Inc.	Acquisition by Aetna Life and Casualty Company	8,888

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Change offers investment opportunities: Exec

By GAVIN SOUTER

NEW YORK—The changing face of the insurance industry brings opportunities to savvy investors despite the generally poor return on equity that insurers record, an executive says.

As insurers bypass agents, reinsurers bypass insurers, risk managers self-insure and banks enter the insurance business, good investment opportunities will arise, said Jeffrey W. Greenberg, chairman and chief executive officer of Marsh & McLennan Risk Capital Corp.

"When things are changing, there's opportunities to win as well as to lose," Mr. Greenberg said at a joint APIW/Chartered Property Casualty Underwriters Society meeting last month in New York.

MMRC, a unit of New York-based broker Marsh & McLennan Cos. Inc., was established to take advantage of the changes and invest in the insurance industry, he said. But the company tries to look at potential investments from a different perspective compared with other private equity funds, Mr. Greenberg said.

"We approach investments in the insurance industry from an operating viewpoint," he said.

Other investment funds look first at the equity and debt of a company and review how the company could be structured to benefit an investor, Mr. Greenberg said.

The first think MMRC looks at is "who are these people and do they know what they are talking about?" he said.

Then MMRC will ask, "can we believe what they are saying and does what they are saying add up?" Mr. Greenberg said.

Only when the insurer has passed the "smell test" will MMRC look at specific financial structures, he said.

By looking at a business from an operating point of view, MMRC also is in a better position to profit from a long-term investment in a company, Mr. Greenberg said.

While MMRC usually plans to hold investments for about five to seven years before cashing them in, future market conditions may make it impractical to sell investments in insurers for 10 years or more, he said.

So before making investments, MMRC managers ask themselves if they would be prepared to hold the investment for a prolonged period, Mr. Greenberg said.

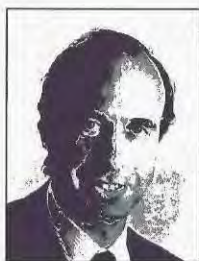
"That is a very important issue because building a business takes time. Franchises take a long time to build; reputations take a long time to build; and both can be lost very quickly," he said.

By asking these questions and avoiding overcrowded investment

sectors, investors still can find worthwhile buys in the competitive insurance investment market, Mr. Greenberg said.

may have niches and business ideas worth investing in, he said.

"The insurance business is an arcane and difficult business, and it



'A couple of years ago, people thought that Lloyd's was some kind of communicable disease,' says Jeffrey Greenberg.

In the past year, other investors have avoided insurance companies with low amounts of capital, often seen as too small to compete with large insurers, he said.

But some of the smaller insurers

has its own barriers to entry," he said.

Other good investment opportunities that arose in the past year include the Aetna/Travelers merger, Mr. Greenberg said.

By bringing a more focused management to bear on the operations of Aetna, the business could perform better than most people thought it could, so MMRC was an early investor, he said.

Seeing an investment opportunity early is crucial to success, and one entity that may once have been a good investment but may no longer be is Lloyd's of London, Mr. Greenberg said.

"A couple of years ago, people thought that Lloyd's was some kind of communicable disease," he said. But, by discriminating among individual Lloyd's entities, shrewd investments were possible, Mr. Greenberg said.

Now, the numerous investors continuing to plunge money into Lloyd's may have missed the opportunity to make good returns due to the fall in

insurance rates, he said.

Answering questions from the floor, Mr. Greenberg said one financial transaction that may prove beneficial for an insurer but will likely damage the insurance industry is CIGNA Corp.'s restructuring.

A Pennsylvania appellate court is reviewing CIGNA's reorganization into an active operation and a separately capitalized runoff facility for its long-tail liabilities (BI, Dec. 16, 1996).

Policyholders that bought policies from an insurer with a large amount of capital will end up filing claims with an insurer that has much less capital, Mr. Greenberg said.

"It doesn't help our credibility as an industry with the people we are serving," he said.

CIGNA has said it has \$1.35 billion more in the runoff facility to cover long-tail liability claims than it would have had if it had not reorganized. **BI**

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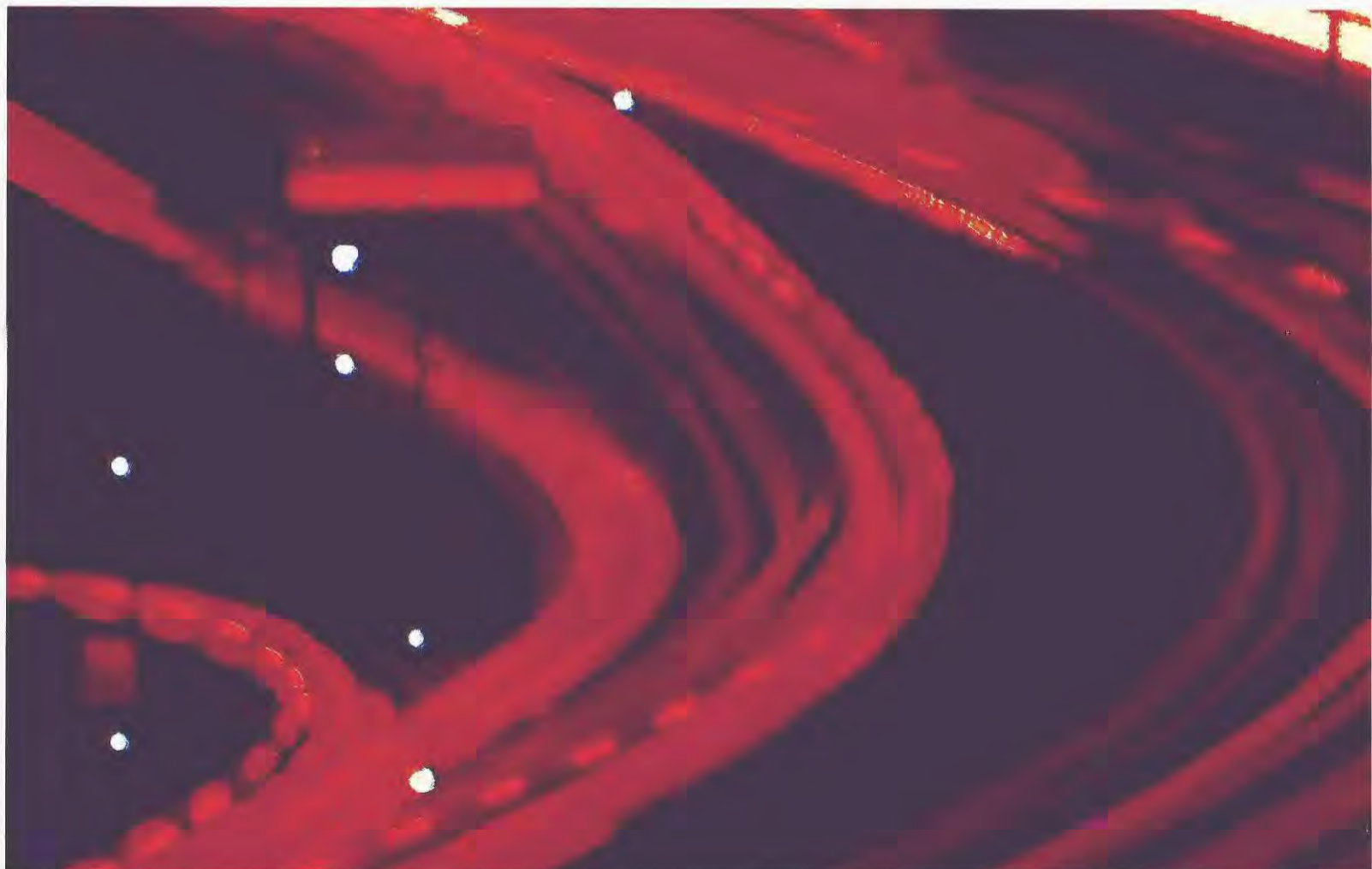
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US West

Continued from page 2
sources for US West in Englewood, Colo.

The \$8 million that US West has agreed to pay to settle the suit, though, will not actually go to the plan. Under the terms of the proposed settlement, which still must receive final approval by a U.S. District Court in Denver, US West will directly pay the next \$8 million in pension plan administrative expenses. Once the \$8 million mark is reached, the company will again tap plan assets to cover administrative expenses.

US West did not change its basic plan documents but has slightly changed the wording of a document describing the fiduciary responsibility of its employee benefits committee. Earlier, the document said expenses of the committee would be paid by the company. It has been reworded to say

that expenses of the benefits committee *only* would be paid by the company. US West also will pay fees for plaintiffs' counsel, which haven't been determined yet. Currently, the US West plan has about \$10.4 billion in assets and is overfunded. The plan has about 109,000 participants.

Benefit experts say paying pension plan administrative expenses from pension plan assets is common and is sanctioned by ERISA.

"ERISA clearly permits payments of administrative expenses from retirement savings plans," said James Brickman, a principal with The Kwasha Lipton Group in Fort Lee, N.J.

Under ERISA, such payments are sanctioned so long as they are for the exclusive benefit of participants, said William Fornia, a principal in the Denver office of Buck Consultants Inc., adding that operating a plan is for the exclusive benefit of participants. **BI**

Partners

Continued from page 1

Mr. Duane—describing himself as "cautiously optimistic" that the ordinance will pass—said he does not anticipate much opposition from council members or the public, but does expect initial resistance from businesses.

But, "People will see that it's good business to provide domestic partner benefits," he said.

The ordinance will have nationwide ramifications by forcing companies that contract with New York City to offer domestic partner benefits to all their employees, Mr. Duane said.

"I think it will have more of a backlash," said Paul Sullivan, senior consultant with Aon Consulting in Newburyport, Mass. "Now you'll be hitting a lot of employers with a mandate from the city. I think employers

will take a real exception to it."

"A mandate really does not go well with employers even if they concern issues that employers feel are important," he said.

Mr. Sullivan does not see other cities adopting similar ordinances. "Those cities that are considering it will go ahead, but it won't convince other cities to do it."

Still, observers are not surprised that New York is considering this type of legislation.

"Next to San Francisco, New York would be the next place to see this happen because of the liberal nature of the city, and New York has a large population that could benefit from it," said Laurel Pickering, managing director of the New York Business Group on Health.

She said studies by companies offering the benefit indicate the costs are low. "The actual population that uses it is very small," she said.

Meanwhile, one week after San

Francisco Mayor Willie Brown rejected Archbishop William Levada's request to exempt Catholic Charities from the bill, the archbishop further pressed his case. In a statement delivered at a press conference, the archbishop said the bill forces Catholic Charities, a non-profit corporation owned by the church, to violate church beliefs. He has suggested the matter might lead to a lawsuit.

"Even with today's changes in the workplace, to seek to equate domestic partnership with the institution of marriage

and family runs contrary to Catholic teaching—indeed to the beliefs of most religious and cultural traditions—

and as recent polls have shown, to the basic convictions of the great majority of Americans," he said. "I believe the ordinance imposes an unconstitutional condition on the recognized right of a religiously affiliated organization such as Catholic Charities to contract with the government for the secular services it offers to clients, while managing its internal operations in a manner consistent with its religious principles."

The archbishop also countered supporters of the bill's assertions that denying benefits to domestic partners is discrimination. "I reject the notion that it discriminates against homosexual, or unmarried heterosexual, domestic partners if they do not receive the same benefits society has provided to married employees to help maintain their families."

San Francisco contracts for more than \$5 million a year with Catholic Charities to provide services to groups including the poor and AIDS patients. The archbishop said that no organization can perform Catholic Charities' services at the same low price, and therefore it would hurt the city to cancel the contract.

In response, Mayor Brown reiterated his position that Catholic Charities cannot be exempt from the ordinance, his spokeswoman said. Nevertheless, he scheduled a meeting this week with the archbishop and members of San Francisco's Board of Supervisors to address their differences. One possible compromise is to require compliance with the ordinance but make its language acceptable to the archbishop.

"Religious organizations are no different from any other entity. They cannot discriminate," said Tom Ammiano, a member of San Francisco's Board of Supervisors, responding to the archbishop's statement.

He said despite the search for a compromise, "the mayor and the Board are firm that there are no exemptions," he said.

Mr. Ammiano also disputed the archbishop's statement that Catholic Charities can't be replaced, saying other agencies can perform the work and provide the benefits at the same price.

United Airlines also is balking at providing domestic partner benefits as a condition of the city's approval of the airline's lease at San Francisco International Airport. The city offered United a two-year lease without forcing compliance with the new ordinance. But after two years, United's lease would be renewed only if it provided domestic partner benefits. United wants a 25-year lease exempt from the ordinance. A Board of Supervisors hearing that had been scheduled for last week to discuss the airline's next step was postponed at United's request. **BI**



Archbishop William Levada

PHOTO: EVELYN ZAPPIA

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Banks

Continued from page 3

"The method of compensation for the seller of insurance is going to change as the banks become more dominant," Mr. Armstrong said. "If you become dominant certainly you're going to demand new ways of receiving revenue."

He predicted the development of profit-sharing arrangements between banks and insurance companies. "If you do that you become less susceptible to insurance companies squeezing down on your commissions," he said.

Mr. Armstrong said his belief that banks will become a dominant player in the insurance marketplace is based on certain competitive advantages they enjoy, such as effective distribution systems, state-of-the-art information technology, access to an existing customer base

and public confidence.

"Banks have some real substantial advantages over other insurance providers in the market," he said.

Those advantages put banks in a

'The largest single determinant of insurance purchasing in the future is going to be price....' Ed Armstrong says.

solid position to compete on a price basis, said Mr. Armstrong, adding that "the largest single determinant of insurance purchasing in the future is going to be price, because all the other distinctions are blurry."

There are several ways banks can get into the insurance business, Mr. Armstrong said, including:

- Start from scratch and assemble a new insurance operation.

This approach can be difficult because the bank's knowledge of the insurance business is limited, he said.

- Acquire an agency.

This is the route that most banks entering insurance are selecting, Mr. Armstrong said. Acquiring the right agency can provide the bank a strong source of expertise, he noted.

But a bank acquiring an agency has to be careful to provide incentives for the agency's principals to keep it a profitable concern rather than viewing the acquisition as an opportunity to cash out and retire, he added.

"The problem with buying an agency for most community banks is that it takes a lot of upfront capital," Mr. Armstrong said. "And if they overpay, as so many of them do, it takes a long time to make up that capital."

- Form a joint venture with an established agent/broker or carrier.

Joint ventures offer some clear advantages to other approaches, Mr. Armstrong said. They are the least expensive way to get into the business, they provide an immediate source of insurance expertise, and they are usually flexible, he said.

Joint venture disadvantages, meanwhile, include the need to find the right partner and the fact that the bank must share its insurance business profits with someone, he said.

And joint ventures can present several sticky questions, not the least of which is who owns the right to the renewals. "It depends on who has the leverage, but I really can't imagine banks giving up 100% of the customer," Mr. Armstrong said.

He is suggesting to clients entering joint ventures that they keep shared ownership of renewals with

some sort of buyout provisions.

There also are various "cultural" issues that must be addressed in a joint venture between a bank and an agency, according to Mr. Armstrong.

For example, he said, bank officials may be concerned that insurance agents may chase away bank customers by calling them at home at dinnertime to sell them homeowners insurance.

Confidentiality and publicity can be another concern. Banks historically have been much more conservative about releasing information than agents, so the issue has been a sore spot in many bank-agent joint ventures, Mr. Armstrong said.

Those cultural issues can be addressed in joint venture contracts that set out, for example, limits on agents contacting bank customers or provisions that any publication of information must be approved by the bank first, he advised. **B1**

Protect

Continued from page 3

year exercise period. However, the policyholder could retire the options before they are exercised, by exchanging them for the options' cash value.

For the insurer in such an arrangement, "there is a tremendous amount of financial risk," Mr. Frederico said. "Obviously, the company you want to do this with, you'd better be confident they're going to be there for the long haul."

A third approach is a "second-event cover," a risk financing method that provides multiple limits over a multiyear term, giving the customer protection from catastrophic losses.

In such an approach, the customer's premium would fund the first loss, while a second might be funded by a combination of the premium and investment income on that premium, with the insurer providing excess coverage. The insurer would cover any subsequent losses, within the limits of the policy.

"Typically, the client will fund for one of these events," Mr. Frederico said. "The second event is basically the event that brings the house down."

Such programs generally have a three- to five-year term and three to

five large, per occurrence limits.

"From our experience, this is the most popular cover that has been used to address these large, complicated risks," Mr. Frederico said.

"Dual trigger" coverages provide another way to protect balance sheets. Dual trigger plans provide inexpensive coverage that can only be tapped if two distinct events specified in the policy occur at the same time.

Linking the events—such as an increase in sugar prices to a catastrophic property loss at a soft drink manufacturer's plant—gives the underwriter a better framework for evaluating the overall risk than it might have in looking at the "uninsurable" risk alone.

From a buyer's perspective, "as long as the triggers are related, we think this makes sense," Mr. Frederico said. He cautioned risk managers, however, that the two triggers in such a program should be clearly related. He doesn't recommend combinations "such as property cover that pays the claim only if the unemployment rate goes above 10%."

"Derivative enhanced" programs can provide large insurance limits for exposures that lend themselves to being hedged in the capital markets, Mr. Frederico said, such as sharp increases in oil and natural gas prices. Key elements of such programs are very large limits, low pre-

miums and multiyear protection.

ACE is working with a major airline to develop an oil price cap, Mr. Frederico said. It would allow the airline to get multiyear limits on the price of fuel while avoiding accounting problems that might derive from spot price changes on oil futures

Various institutions make derivative products that provide a hedge over a long period, says Thomas Taylor.

contracts, which are considered assets.

In general, Mr. Frederico said, the approaches he outlined offer the advantages of spreading the cost of resolving a problem over a multiyear term and providing tax deductibility on the premium or risk financing.

They also remove a liability from the policyholder's financial statements and often provide a profit commission in the event of favorable claims experiences.

The financial markets offer various methods of hedging risks, said Thomas Taylor, president of CNA Financial Insurance Group in New York, a division of Chicago-based

CNA Financial Corp.

While some uninsurable risks, such as commodities prices, are perfect candidates for hedging, some insurable risks—directors and officers liability, for example—do lend themselves to hedging rather well, Mr. Taylor said.

D&O claims are highly correlated to stock market changes, he noted, and stock option markets are broad and liquid and may provide a hedging solution if the customer company's stock is publicly traded.

Various institutions make derivative products that provide a hedge over a longer period than available in the traditional option markets, said Mr. Taylor. This is a market CNA is examining and is the reason behind the company's recent purchase of a majority stake in Hedge Financial Products Inc., formerly Centre Financial Products Ltd., he said.

Securitizing risk also holds promise, Mr. Taylor said, adding he believes these various capital market approaches will draw banks and insurers closer together in the years ahead to provide customers with better and cheaper coverage.

While programs can be crafted to protect a company's balance sheet, they often take a year or more to develop and require support from corporate management, the speakers noted.

Telecommuters take a risk manager's work home

Protect against espionage: Speaker

By RODD ZOLKOS

ATLANTA—As companies begin to allow employees to work from home, risk managers need to be aware that telecommuters present many of the same risks and liability issues as office-based employees.

A comprehensive telecommuting policy is critical to minimizing exposures and defending against many of the claims that do arise, according to speakers discussing the risks of telecommuting at the American Bankers Assn.'s annual Security, Audit & Risk Management Conference last month in Atlanta.

With more than 9 million American workers telecommuting today, "there is now a mainstream work relationship" between telecommuters and employers, said Andrew M. Reidy, a partner with the McKenna & Cuneo L.L.P. law firm in Washington.

"It's very important to keep in mind that your employees have the

very same rights as if they worked in the main office," Mr. Reidy said.

At the same time, the company has many of the same concerns when employees are working from home as when they do their jobs at the office.

"The same security that you have at your office you have to think about for your telecommuters at home," said John S. Ingram, technical director of loss control services at CIGNA Property & Casualty in Philadelphia.

Mr. Ingram noted that corporate espionage can take place over phones, fax machines or computers, and a competitor seeking confidential information about a business can easily find it in discarded faxes and other business materials in a telecommuter's trash.

"It's amazing if people really want information how they can get it from you," Mr. Ingram said. "And it's a lot easier to get it from a home site than from an office site."

Home offices should have locking



home can't get access to those materials.

Voice mail security is another important consideration, and personal identification numbers or passwords must be kept secure, Mr. Ingram said.

"When you start building your telecommuting policy, it's really important that you look at PIN numbers," said Mr. Ingram, adding that companies should have policies for changing those identification numbers regularly.

Faxes to or from telecommuters should be encrypted if they contain sensitive information, and employers should consider whether they want to provide telecommuters document shredders to destroy faxes and other printed materials be-

fore they dispose of or recycle them.

Computer and e-mail security also must be reviewed, he said. This should include: the physical security of telecommuters' computers; ways to secure the user's ID; and the issue of what happens to old computers and, more specifically, company information on their hard drives when the company decides to replace them.

To help employees maintain their own personal security, Mr. Ingram suggested telecommuters receive business-related mail at a post office box rather than their home address. "Never, never have your telecommuters have mail come to their home address," he said. "Once I have your home address I know everything about you."

It's important to audit security at the telecommuter's workplace regularly, said Mr. Ingram, suggesting the employer make a visit to the site twice a year to examine safety issues, security concerns and possible liability exposures.

The subject of site inspections and other employer visits should be addressed in the company's

telecommuting policy, said Mr. Reidy of McKenna & Cuneo.

Meanwhile, the employer also should consider the issue of visits to the home by third parties and may want to limit such visits to delivery drop-off and pickup to reduce the risk of third-party liability exposures, Mr. Reidy said.

The company's telecommuting policy also should include specific guidelines for reporting any accidents, such as a delivery person slipping on the telecommuter's front steps, he added.

The potential third-party liabilities an employer faces in connection with its telecommuters are "the same liabilities you always face, everything from bodily injury to property damage and everything in between," Mr. Reidy said.

In terms of employment liability issues, again the potential liabilities are the same with telecommuters as for the workforce at the office, he said, including such concerns as discrimination, sexual harassment and Americans with Disabilities Act exposures.

See Home on next page

Hawaii

Continued from page 3

fits was unlawful and that Pacific, as the insurer for both employers, should have paid the claims despite the employers' dispute over who was responsible, according to the court papers. The court said it was clear liability would attach to one of Pacific's insured employers.

Mr. Hough then sued Pacific in circuit court over the insurer's claims handling, alleging intentional infliction of emotional distress and breach of fiduciary duty. The trial court granted Pacific's motion for summary judgment, agreeing that the exclusive remedy for an injured worker protects workers comp insurers, not just employers.

Hawaii's high court disagreed, ruling Mr. Hough may sue for breach of contract and bad faith. However, the Supreme Court agreed with a lower court on the grounds of breach of fiduciary duty.

"No fiduciary relationship exists

between the employee and the insurer in such a situation," the Hawaii Supreme Court said.

The court also found that Mr. Hough's alleged emotional distress occurred during Hough's attempt as a claimant to receive compensation from the insurer, not from functions in the scope of his employment as a construction worker.

Therefore, this injury was a tort not subject to the exclusive remedy doctrine. The Supreme Court remanded the case to the lower court, and a trial is scheduled for next year.

Pacific did not improperly handle Mr. Hough's claims, said Calvin E. Young, a partner in the Honolulu firm of Ayabe, Chong, Nishimoto, Sia & Nakamura, which is representing Pacific.

But given the Supreme Court's decision, there are already a few similar cases that will be heard in lower courts, Mr. Young said. Those cases are actually "companion suits" filed before the Supreme Court decided *Hough*. So far, Mr. Young said he has not seen new any new complaints

filed with similar allegations.

"But usually these things take a little time to develop," he said. "Usually you don't have a case sitting in your lap where you suspect alleged unrea-

Even if a suit is not filed, the court's decision gives plaintiff's attorney's a bargaining chip, Mr. Komeya added.

Ultimately, judgments in such bad-faith cases do not fall under a work-

'Whether it's going to result in more claims being filed against insurers, I don't know. But the fact that you can certainly establishes the possibility,' says Jeff Komeya.

sonable (claims) handling took place."

"Whether it's going to result in more claims being filed against insurers, I don't know," said Jeff Komeya, a Honolulu plaintiff's attorney with Cronin, Fried, Kekina, Sekiya & Fairbanks. "But the fact that you can certainly establishes the possibility. So from the business insurance perspective, I would be worried because a cause of action does exist now."

ers comp policy, but instead would likely hit an insurance company's own general liability policy, noted Carolyn Pearl, general manager for the Honolulu office of the National Council on Compensation Insurance.

Ms. Pearl said she is uncertain at this point whether insurers would then pass those expenses on to employers as workers comp costs.

The issue should be of some concern to insured employers because it could result in increased costs, said H. Robert Hoy, manager of security, safety and risk management for Wailea Resort Co. Ltd. in Wailea, Hawaii.

But so far it is too early to determine the impact of the ruling, he added.

Wailea Resort's broker, David

Morikawa, vp at Noguchi & Associates in Honolulu, said many employers think the Supreme Court's decision is merely a wake-up call for insurers to pay claims when warranted.

In a soft workers comp market, the risk of being hit by bad faith claims may not be enough to prompt insurers to raise rates, said Russell Harris, director of risk management for Hawaiian Electric Co. Inc. in Honolulu, which self-insures its comp exposures.

The *Hough* ruling was handed down in November, amid a favorable workers compensation market for Hawaiian employers. Statutory workers comp reforms, a downturn in construction activity, improved employer experience and overall softening of market conditions are all credited for lowering workers comp rates in Hawaii (*BI*, May 22, 1995).

"The (workers comp) claims experience in Hawaii has been showing improvements," the NCCI's Ms. Pearl said.

"We filed and received approval for over 20% in loss-cost decreases (effective Nov. 1, 1996), and things are getting better," she said.

But the decision in *Hough* could be a step backward, the NAI warns.

Jeffrey J. Hough and Terry Medeiros Hough vs. Pacific Insurance Co. Ltd., a Hawaii corporation, Hawaii Supreme Court, No. 16019.

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Once again, a comprehensive telecommuting policy is absolutely necessary, "because it becomes one of your main defenses against some of these potential liabilities," Mr. Reidy said.

If, for example, all employees aren't eligible to telecommute, the distinctions must be spelled out in the company's policy, he advised.

The policy also should address how telecommuters report any improper or potentially harassing e-mail they receive, and how they should handle confidential information.

Various insurance policies may provide employers with coverage for telecommuting-related losses, including comprehensive general liability, property insurance, errors and omissions, financial institution bonds, computer systems fraud insurance, workers compensation and employment practices liability coverage, Mr. Reidy said.

Employers' property coverage should include an off-premises endorsement, "contemplating all the places your people may be working from," he said.

Both speakers emphasized the role

telecommuters themselves can play in trying to reduce a company's liability exposures.

"The best source for preventing liabilities is the employees themselves," Mr. Reidy said, adding employers should have a mechanism for getting employees' input on how to prevent liabilities from occurring.

"The biggest solution is communications," added Mr. Ingram, who said regular teleconferencing and quarterly face-to-face meetings can keep

'The best source for preventing liabilities is the employees themselves,' says John Ingram of CIGNA.

telecommuters feeling involved and part of the group at the office.

He said employers also can benefit by setting up telecommuting "labs" in their offices where employees considering working at home can obtain telecommuting training and experience what it will be like and some of the issues involved before actually moving out of the office. **BI**

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INTERNATIONAL

Risk financing alternatives slow to catch on

Risk managers find traditional methods sufficient for current needs

By SARAH GODDARD

LONDON—New alternative risk financing methods are capturing risk managers' interest but not their business in any substantial way, a broker says.

A combination of highly competitive rates in the current soft insurance market and risk managers' preference for captives rather than capital market options has stalled the much-trumpeted demand for non-traditional sources of risk financing.

Morton Lane, president of Sedgwick Lane Financial L.L.C. in Chicago, a unit of Sedgwick Group P.L.C.'s reinsurance broker, lay the blame at the feet of the buyers.

"Many people are cynical," he

said. In addition, some alternatives, such as insurance and reinsurance securitization, are not fully understood, he said.

Nevertheless, interest in the alternative markets heated up during 1996, with an increasing number of deals proposed. Not so hot was the level of success. For example, three major insurance-capital markets transactions proposed last year—including ones by ACE Ltd., Cat Ltd. and United Services Automobile Assn.—failed to come to fruition, Mr. Lane said.

"It was a low point indeed for the revolutionaries," he said during a conference in London last month on "Capital Markets Risk Financing in the Insurance Industry."

In addition, the reinsurance indus-

try trumped the capital markets late last year when Berkshire Hathaway Inc. stepped in to write a \$1.5 billion layer of reinsurance for the California Earthquake Authority that initially was to have been financed through a bond issue (*BI*, Nov. 25, 1996).

"Some say it was a deliberate policy by the reinsurance industry," observed Mr. Lane, "that it does not want to see capital market incursions into reinsurance."

Despite such setbacks for the capital markets, by the end of 1996 three deals had been completed:

- American International Group Inc. completed a deal in May, raising an estimated \$25 million through a portfolio of property catastrophe-linked bonds. The bonds will react to catastrophic losses in the United States, Japan, Australasia, the Caribbean and western Europe, providing a hedge for AIG's cat exposures in those areas.

- St. Paul Reinsurance Co. closed a \$68.5 million securitized reinsurance deal in December, using a mixture of bonds and preference shares to provide reinsurance capacity for up to ten years from a single purpose reinsurance company, George Town Re.

- Hannover Reinsurance A.G. in December raised \$100 million through the use of a portfolio-linked swap with a small group of unidentified North American institutional investors (*BI*, Dec. 9, 1996).

In early 1994, Hannover Re completed a similar \$85 million transaction, making the organization the "first successful double-dipper in the capital markets," according to Mr. Lane.

But, in general, experience last year risk financing from the capital markets was patchy, he said.

"It was a year of frantic activity and as yet unproven results," commented Mr. Lane.

See *Finance* on page 19

Single E.U. currency, multiple risks?

By STACY SHAPIRO

LONDON—Employers and insurers should start to assess what the risks might be if and when a single currency is implemented in the European Union, a report says.

There are less than 500 working days to go until the expected start Jan. 1, 1999, in Europe of the Economic and Monetary Union, which could give rise to the single currency, known as the "euro," on Jan. 1, 2002.

"Effective risk management means that businesses must identify the wide and diverse changes that need to be made to accommodate the euro," warned the Assn. of British Insurers late last month in its Quarterly Statistics and Research Review. "Many of these changes will have to be made within the three year transition period when the euro and national currencies are in operation simultaneously."

The ABI admits it is difficult to plan ahead for such an event, given there are still uncertainties over whether a move to a single currency will happen in the United Kingdom. However, the ABI has estimated the switchover could cost the British insurance industry as much as £1 billion (\$1.62 billion), and "delays in planning can only increase this cost."

Policyholders most likely will bear some of the costs in the form of increased premiums, said a spokeswoman for the ABI.

However, the Assn. of Insurance & Risk Managers cannot comment on the effect the single currency will have on risk management issues in business because it "doesn't have a view" as yet, said an AIRMIC spokeswoman.

A single currency probably has advantages to a risk manager who wants to buy Pan-European insurance programs in one currency, said Hugh Loader, president of

the Federation of European Risk Management Associations, the European risk managers association.

If your company buys insurance policies locally within each country, however, a single currency won't make much difference, he

said.

But Mr. Loader can't see that there are any more risk exposures to businesses in Europe as a result of the currency switch.

Risk managers involved in the treasury function of their busi-

See *Currency* on page 19

Lower rates may signal risky competition: ILU

By SARAH GODDARD

LONDON—The continuing downward pressure on rates may be good news for buyers but could mean bleak prospects for London insurers, warns the Institute of London Underwriters.

Last year was the seventh year in a row that claims paid by ILU member companies exceeded premiums, with premium volume totaling £1.57 billion (\$2.55 billion) compared with £2.09 billion (\$3.39 billion) in claims, the ILU reports.

The year was characterized by "pressure on rates, an increase in the number of vessels lost and airline accidents up, with a consequent increase in passenger fatalities," said ILU Chairman Nigel Jenkins at the institute's annual meeting last month.

Those factors alone may not be a problem if they are handled by strong management, he said. But Mr. Jenkins said he was con-

cerned that underwriters have instead yielded "to foolish competition."

"With the losses of recent years still fresh in our minds, it is hard to understand how we can be confronted with the scale of rate reductions we have seen in the hull and energy markets," he said.

In its annual report, the ILU warns that additional rate reductions in marine hull coverage will result in a return to unprofitability for underwriters.

"It is difficult to be optimistic about the immediate future," said the ILU report, though it noted that deductibles on marine hull business are holding up.

The energy insurance sector has felt "vicious downward pressure on rates," possibly more than any other class of insurance, because of intense competition in both London and international insurance markets, according to the ILU. Massive overcapacity, cou-

See *ILU* on page 19

Tanker losses sufficiently insured

LONDON—The International Tanker Owners Pollution Federation says the liability exposures of the Russian tanker Nakhodka, which broke up in Japanese waters on Jan. 2, should be amply covered by the \$195 million available from an insurance fund.

Most of the clean-up work has been completed, and the cost so far has been roughly estimated at \$50 million, according to Joe Nichols, technical manager of the London-based ITOPF, which was appointed to coordinate and oversee pollution clean-up for the spill.

The remaining element of outstanding costs relates to the "damage component" of the spill (*BI*, Jan. 27), which consists mainly of the impact on local Japanese fisheries and the potential effects on tourism in the area.

These are not likely to bring the total insured bill up to the \$200 million level, said Mr. Nichols.

He was responding after the Petroleum Assn. of Japan warned that claims resulting from the break-up in bad weather of the 1970-built Nakhodka could exceed the limit available through insurance and international compensation funds.

The first \$2.2 million of pollution and injury costs arising out of the incident will be met by the U.K. P&I Club, which insure Prisco Traffic Ltd., the owners of the Nakhodka. The next approximately \$192 million in costs will be borne by the International Oil Pollution Compensation Funds, an alliance of government pollution funds.

—By Edwin Unsworth



Image Bank

Global Briefs

Willis Corroon Japan Ltd.

has become the first registered international insurance broker in Japan after last year's revision to the Japanese Insurance Industry Law, which allowed brokers to start operating in the country. . . Standard & Poor's in London has affirmed its AAA claims-paying ability rating for German reinsurer Bayerische Ruckversicherung A.G., based on its strong market position, steady operating performance, superior capitalization and relationship with parent Swiss Re Group. However, S&P said Bavarian Re will face increased price competition in Germany after the deregulation of the domestic insurance market. . . Roger Taylor, executive deputy chairman of Royal & Sun Alliance Insurance Group P.L.C., has been named chairman of the Assn. of British Insurers, starting July 1. His appointment is subject to approval by ABI members at the association's annual general meeting. Sandy Leitch, chief executive of British American Financial Services Ltd., and Albert Mills, group director of U.K. general insurance and direct operations at Norwich Union, will become deputy chairmen of the ABI at the same time. . . Chicago-based Aon Corp.'s takeover of London broker Bain Hogg Group P.L.C. has been given clearance by the U.K. Department of Trade and Industry, following the decision by the Director General of Fair Trading not to refer the deal to the Monopolies and Mergers Commission. . . Bermuda-based Mutual Risk Management Ltd. and insurance manager Wilde & Co. Group have entered into a joint venture to set up a new Guernsey branch of Mutual Indemnity (Bermuda) Ltd. and a new captive management company, Mutual Risk Management (Guernsey) Ltd. Guernsey regulators passed legislation Feb. 1 permitting rent-a-captives in the domicile. . . Royal & Sun Alliance Insurance Group P.L.C. plans to expand its presence in Spain by buying Bank Argentaria's portfolio of business from the bank's insurance subsidiary, Hercules Hispano. RSA estimates premium volume from the business at 18 billion pesetas (\$128.6 million) in 1996 and will pay no more than £20 million (\$32.4 million). The deal is awaiting regulatory approval. . . Ivo Furrer has been promoted to senior vp of Winterthur Swiss Insurance Co. in London. . . London broker FirstCity Insurance Brokers Ltd. has acquired a new specialist reinsurance broking team from Minet Ltd. Minet's parent, The St. Paul Cos. Inc. is currently negotiating its sale to New York broker Marsh & McLennan Inc. The team of four, headed by Bob Jones, has been developing new insurance products for Lloyd's of London corporate capital providers.

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- Have minimum HMO/EPO membership of 25,000 or combined HMO/EPO and POS membership of 50,000 in New Mexico.
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A list of all pre-qualified criteria can be obtained by calling:

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RFPs will be sent to MCOs only. The deadline for proposal submission is 12:00 noon, March 21, 1997, Pacific Time. Commission or service fees of any kind will not be payable by the University.

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Sub-total29,775
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BPA Publisher's Statement

INTERNATIONAL

Finance

Continued from page 17

"Nearly all the major U.S. investment banks have participated in 1996," he said. "All those major investment banks suffered a failure during the year."

Smaller specialist companies may have more success in the field, he predicted.

Already, though, 1997 is squaring up to be a busy year for capital markets transactions.

Three new deals have been proposed, plus the anticipated proceeds of a proposed catastrophe bond to be issued by Winterthur Swiss Insurance Co. has already been raised to 399 million Swiss francs (\$279.9 million) from 300 million Swiss francs (\$210.5 million).

Of the three that didn't complete their deals last year, USAA is currently refiguring its bond issue and both ACE Ltd. and Cat Ltd. are

continuing to investigate possible capital market transactions.

Meanwhile, officials of the Princeton, N.J.-based Catastrophe Risk Exchange are talking with representatives of the Bermuda Stock Exchange on a proposal to set up a Bermuda operation for insurers to trade tranches of catastrophe risks.

CATEX is "the logical link between capital markets and the insurance industry," said Frank Fortunato, vp of CATEX. What's more, "the (insurance) industry seems to be lining up willingly to capital markets," he added.

CATEX operates as a computerized trading floor where primary insurers, reinsurers, intermediaries and self-insureds can trade tranches of insurance risks, such as a book of property business exchanged for a book of auto liability risk.

"The concept was originally limited to exchanging 'spikes' of portfolios between U.S. primary com-

panies," explained Mr. Fortunato, starting with exchanging property catastrophe risks, but it has been extended to trading annuities, workers compensation and environmental liability business.

So far, the exchange has had four risks posted, none of which

Reinsurance Co. and Employers Reinsurance Corp. are all members, as are some large corporations, including electric utility Enron Corp.

"Once (CATEX) is trading and the sale of insurance begins to develop, there is an opportunity for

Through providing this information, CATEX may be able to help prepare companies for entry into the capital markets arena, said Frank Sweeney, also a CATEX vp. "The core of the market is pricing data," he explained. "There is tremendous interest in pricing risk." And that interest has noticeably shifted over the past couple of years, inspired by the rush to manage exposures down in the tail of Hurricane Andrew.

This has led to a much greater interest in taking on the risk, but the assuming companies want to know what constitutes a good price. "A flow of real-time information can influence the prices," said Mr. Sweeney.

Ultimately, time will be the test of the capital markets' incursion into risk-taking, whether through mechanisms such as securitization or exchanges. "It is a fragile revolution," said Sedgwick Lane's Mr. Morton, "and no one is quite sure where it is taking place." **BI**

'Nearly all the major U.S. investment banks have participated in 1996 (in capital markets risk financing). All those major investment banks suffered a failure during the year,' says Morton Lane.

has yet been traded. Nevertheless, CATEX has "more than 23 subscribers," said Mr. Fortunato, including some of the big names in insurance and reinsurance. CIGNA Corp., Travelers/Aetna Property Casualty Corp., Swiss

real-time indexes on a minute-by-minute basis," explained Mr. Fortunato. This could have real appeal for the capital markets, which in the past have complained that insurance pricing has been unknown.

Currency

Continued from page 17

businesses may lose a risk because they won't have to hedge against the various currencies in Europe anymore, "but they equally lose an opportunity" to make money when hedging, Mr. Loader said. "But for more conventional risk managers, the discussion topic (of the euro) has fallen flat (because there) doesn't seem to be an exposure there."

The idea for monetary union and a single currency in Europe first was raised in the Maastricht Treaty on monetary, trade and political union adopted by EU nations in 1992. Since then, EU nations have been struggling to meet economic

out the country over a common currency. The Bank of England over the past six months also has asked various parties how the euro will impact businesses depending on whether the United Kingdom is in or out.

Ultimately, it is a government decision whether the United Kingdom enters the EMU. The whole issue is proving a political hot potato in the run-up to the general election, which must be held by the beginning of May, and nobody is clear how and when the decision will be taken. Of all the EU nations, only the United Kingdom and Denmark are not committed to joining the EMU at some point.

Within the United Kingdom, there are calls for a referendum on

have been very active in considering the impact of a single currency. However, "research conducted by the ABI suggests that many U.K. insurance companies are only now starting to realize the full implications of the euro for their business," the ABI said in the statistics and research review. "Very few companies appear to have researched the practical implications of a single currency on their business activities."

The key reason for this deferral in interest seems to be the "uncertainty surrounding the project. Companies are reluctant to commit significant resources to researching and planning until they know which countries will be in," said the ABI. "There is a trade-off between taking action now, which may be superfluous if the U.K. opts out, and the likelihood that costs will be higher if, as a result of the delay, less time is available for planning."

The ABI estimates it will cost the British insurance industry about £1 billion to convert British pounds to euros. This estimate is based on information from a small group of British insurers and estimates from other countries. The German insurance industry, for example, claims the cost of conversion for German insurers will be about 10% of non-personnel costs spread over a three-year period.

According to the ABI, the costs to British insurers would include:

- Converting computer systems to accommodate the euro. Worries have already been expressed by insurers that database systems could not cope should the euro be designated by a three-letter symbol, such as EUR. If the euro is designated by a symbol, new keyboards or software applications would have to be purchased. Also, if systems have to hold both converted and uncon-

verted data, storage capacity could be strained.

- Making sure there is continuity among insurance contracts when currencies change. "Given that the U.K. conducts a large part of its business with the U.S. and other overseas countries, it is also important to ensure that the introduction of the euro does not invalidate third country contracts," said the ABI.

- Reprinting costs, particularly as the printing industry will be heavily stretched to meet demand from other industries.

- Anticipating the possible collapse of the euro, which is a "real possibility" during the transition phase.

While British insurers only now are starting to consider the real risks involved in a single currency, some companies, particularly in Germany and the Netherlands, are much further along in their state of

readiness, said the ABI.

For example, an unnamed German insurance company has drawn up a full list of planning activities with a detailed estimate of the costs of joining the EMU. The company has conducted a full investigation into the information technology issues involved, including a full inventory of computer programs and data banks. This preparation has resulted in a five-year implementation plan with the estimated costs being spread over that time.

"It is difficult to plan for an event which is at least two years ahead, and where the effects on U.K. companies are uncertain," the ABI concluded. "However, if the U.K. were to go into EMU, a great deal of planning and implementation of change will be necessary (and some will be required even if the U.K. is out). The timescale for this is short." **BI**

'Very few companies appear to have researched the practical implications of a single currency on their business activities,' the Assn. of British Insurers says.

criteria established in the Maastricht Treaty that need to be met for the countries to join the EMU and establish a single currency. The currency will be called the euro.

Countries must meet the economic criteria this year in order to join the EMU. The euro then would be introduced over a three-year transition period starting on Jan. 1, 1999. The final date to introduce euro notes and coins into circulation would be Jan. 1, 2002.

According to the Maastricht Treaty, the United Kingdom can opt out of joining the EMU, and debates have been going on through-

the issue, but it may be decided by the government without public input. However, if the government decides to go ahead, like any other European country it will have to meet the "convergence criteria," covering factors such as long-term interest rates and sustainable inflation rates, before it can enter the EMU.

If it doesn't get in at the first opportunity, 1999, it still has the possibility of entering later. The participating member states for the initial phase will be chosen in spring 1998.

Financial markets in London

ed in late 1996.

"It was obvious that insufficient notice had been taken of the warning given (by the ILU in 1995) that determined action must be taken in 1996—otherwise rating levels could be undermined by such over-optimism," the ILU report said.

The ILU cited several categories of losses affecting the institute's underwriters in 1996:

- The number of fatalities from airline accidents worldwide last year was 1,437, up 375% compared with the 383 in the previous year, making it the second-worst year on record, according to the ILU.
- Lives lost at sea nearly tripled to 1,190 worldwide last year from

316 in 1995, though this figure was skewed by the Bukoba ferry disaster, in which a passenger ferry capsized on Lake Victoria in Tanzania and about 700 people drowned.

- Merchant ship losses reached 105, more than 20% higher than the 1995 total of 95.

Merchant ship tonnage lost was down 5.7% to 653,775 gross tons in 1996, compared with 693,433 gross tons the previous year.

- The number of aviation hull total losses were up 25% to 25 in 1996, from 20 in 1995. The estimated overall cost of hull losses for Western-built jets climbed 14% to \$477 million from \$418 million in 1995. **BI**

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ILU

Continued from page 17

pled with extremely low levels of claims, has translated into broad rate reductions for energy policyholders.

Despite seeing an influx of new capacity, marine cargo business produced a "reasonable result" for insurers last year, though the ILU expects it, too, will be under pressure to cut rates.

Aviation insurers were not exempt from the downward trend in rates. 1996 was an adverse year for aviation underwriters, said the ILU report, and rate declines accelerat-

INTERNATIONAL

Aon strengthens operations in Germany by combining units

HAMBURG, Germany—Aon Group Inc. has merged two of its German operations to strengthen business with midsize companies and attract more top industrial clients.

The merger of Hamburg-based Hudig-Langeveldt GmbH and Wesselhoeft Ahlers & Schues creates the third-largest broker in Germany. The combined Hamburg-based operation, which will be called Aon Deutschland GmbH, will have a staff of about 450 and gross revenues of more than 85 million DM (\$51.7 million).

Wolf-Jurgen Thurnagel, chief executive of Aon Deutschland Holding, the parent of the combined German brokerage operation, says Aon's corporate identity is a key factor for expansion in the German market.

In September 1996, Aon acquired Wesselhoeft, Ahlers & Schues for an undisclosed sum. Hudig-Langeveldt, which Aon acquired in 1991, has bolstered its position in Germany through the acquisition of 10 midsize brokers since 1972, when it entered the German market from the Netherlands.

The merger will strengthen the two German brokers' core business with midsize companies.

Mr. Thurnagel said he expects that the combined operations will contin-

ue to be the broker of choice for midsize companies doing business in Germany.

In addition, Aon plans to use the combined operation for niche business.

'Aon is a single, closely knit global player,' which provides it with a competitive edge, says Wolf-Jurgen Thurnagel.

The two Hamburg-based brokers are specialists in credit insurance.

The most important new strategic goal, however, is top industrial clients, Mr. Thurnagel said.

"Germany's top 500 are a major focus," he said.

"Aon is a single, closely knit global player. We have the advantage over loose configurations like the UNISON network (which includes top German broker Jauch & Huebener) because no one knows how long it will last," Mr. Thurnagel said.

For the time being, Aon does not plan any additional acquisitions in Germany, Mr. Thurnagel said.

With the broker's recent purchase of Alexander & Alexander Services Inc., Aon now holds 20% of Dusseldorf-based Jaspers Industrie Assekuranz.

Although Germany's market conditions have squeezed profit margins, Mr. Thurnagel expects the combined German operation's profits to increase about 10% in 1997 from last year.

Peter Wesselhoeft, chairman of Wesselhoeft Ahlers & Schues, will head Aon Deutschland GmbH.

—By Don Lewis Kirk

Law firm facing suit over ex-worker's illness

LONDON—A lawyer is suing her former employer, London law firm Freshfields, for loss of her career as a lawyer, personal injury, psychological distress and, separately, sexual discrimination.

Kate Cawthorn, 25, is claiming £633,436 (\$1 million) for her injuries and loss of future earnings after contracting dysentery while on a business trip in Ghana.

In a separate Industrial Tribunal action, she has lodged sexual discrimination proceedings against the law firm, claiming the firm would have acted differently had she been male, said her lawyer, Gillian Howard, who is not affiliated with a firm.

Ms. Cawthorn contracted shigella dysentery after eating fresh fish while working in Ghana in January 1994. She claims Freshfields failed to ensure she had the proper inoculations and failed to advise her on her diet in an area where shigella dysentery is endemic, said Ms. Howard, a leading litigator on employment law.

Ms. Cawthorn claims the firm failed to send her home for four weeks despite severe stomach pains and diarrhea.

Ms. Cawthorn returned home only

after learning her manager on the trip had been told he could return home after also contracting diarrhea.

Since returning home, she contracted irritable bowel syndrome and has been on medication ever since. Due to her illness, she has been unable to complete the required two year traineeship that would have completed her qualifications to enter the legal profession in the United Kingdom.

"The drug she has been taking could have long-term effects and even leave her sterile," according to Ms. Howard.

Freshfields claims the firm had no idea how ill Ms. Cawthorn was at the time.

Ms. Howard, meanwhile, accuses the firm of continuing sexual discrimination and negligence in its lack of support and "indifference to a member of staff's health and safety."

Companies have a statutory duty to ensure their employees' safety at work and take reasonable precautions against any foreseeable risk, Ms. Howard said, claiming that in this instance "they took no steps whatsoever and didn't care."

—By Carolyn Aldred

For the Record

Owens Corning to appeal asbestos ruling

TOLEDO, Ohio—Owens Corning will ask a Florida trial court to reduce the \$32.8 million in damages a Florida jury awarded to an electrician who developed cancer from asbestos exposure.

Last month's ruling against the Toledo-based manufacturer consists of \$1.8 million in compensatory damages and \$31 million in punitive damages.

A spokesman for Owens Corning said the company will seek to reduce the award, which he described as "a wildly unjustified verdict," and also appeal the case. He also pointed out that the amount of punitive damages exceeds three times the compensatory award, the limit under Florida law.

Owens-Corning has \$1.4 billion in reserves to pay for its asbestos-related claims, the spokesman said.

In other asbestos-related activity, the company has filed a second suit asserting thousands of asbestos suits were filed against the company based on fraudulent medical testing.

The suit, filed in the U.S. District Court for the Southern District of Mississippi, claims a medical lab generated false pulmonary tests designed to make people appear to suffer from asbestos-related disease. Last year, the company filed a similar suit against three testing labs in Louisiana (BI June 24, 1996). That suit is still pending.

Louisiana considers hurricane cat fund

BATON ROUGE, La.—Louisiana insurance regulators are considering the creation of a fund that would limit the payout by insurers if a catastrophic hurricane struck the state.

"We are in the discussion stage," said Rich Piazza, an actuary with the Louisiana Department of Insurance.

Takeover

Continued from page 1
Insurance Partners and half offered to Superior National's existing warrant and shareholders.

Insurance Partners would also buy any shares not taken by the existing shareholders.

Zurich Centre is one of three major investors in Insurance Partners, which in turn is already a large shareholder in Superior National.

All non-insurance liabilities would remain in the shell of the old Golden Eagle, which would eventually be liquidated, said Karl Rubinstein, a lawyer with Rubinstein & Perry in Los Angeles who is acting for the Insurance Department as conservator.

After last Tuesday's announcement, though, the California department began receiving calls from other companies interested in Golden Eagle.

Fremont Compensation Insurance Group is working jointly with American Re-Insurance Co. to develop a competing bid, confirmed James E. Little, Fremont's president and CEO.

Details of that offer are still being worked out, but the bid will similarly cover the takeover of Golden Eagle's book and management of the ongoing operations of San Diego Casualty, Mr. Little said.

California regulators were also contacted last week by Liberty Mutual Insurance Co. and Zenith National Insurance Corp., accord-

No formal proposals have been drafted that would outline the structure of a catastrophe fund.

"We're trying to figure out what the best program would be," Mr. Piazza said, and discussions among regulators, insurers, intermediaries and others have focused on a range of alternatives.

A fund could be state-run, similar to Florida's catastrophe reinsurance fund for hurricane risks, which is supported by an annual premium assessment on insurers (BI, Nov. 8, 1993), or to the California Earthquake Authority, in which insurers and reinsurers participate in various layers of an approximately \$7.5 billion pool (BI, Dec. 23, 1993), Mr. Piazza speculated.

The discussions are partly a response to moves by State Farm Group and Allstate Insurance Group to restrict their homeowners writings in the state. State Farm holds about 35% of the homeowners market, while Allstate writes about 17% of the total.

Kaiser consolidates California operations

OAKLAND, Calif.—Kaiser Foundation Health Plan and Hospitals plans to consolidate its northern and southern California operations into a single California division, said a spokesman.

The consolidation process, which already has begun, is expected to be completed in about another 12 to 18 months, said the spokesman, who noted the new division will have close to 5 million members.

"The consolidation will continue our successful efforts to keep our costs low so that the negligible rate increases over the past couple of years will likely continue," he said.

Kaiser Foundation's president and chief operating officer, Richard Barnaby, will serve as interim division president for the next 12 to 18 months as a permanent division president is recruited.

ing to Mr. Rubinstein.

A Liberty Mutual spokesman declined to comment.

Zenith Chairman Stanley Zax said he has asked the department for the same information given to Zurich Centre Group and for notification of future court dates.

"We ought to be entitled to the same information that everybody else has to decide, A., what's going on, and B., if we have an interest," he said.

Zenith has not decided whether to enter a bid for Golden Eagle's business.

While the Zurich Centre Group's bid came in first, the process of court approval required for the rehabilitation will allow competitors to enter the bidding, Mr. Rubinstein said.

Meanwhile, Golden Eagle Chairman and owner John C. Mabee has attacked the takeover in a San Diego radio interview, and his lawyers say he will go to court to try to regain control of the company.

Mr. Mabee controlled both Golden Eagle and its main reinsurer, Mesa Reinsurance Co. Ltd. of the Turks & Caicos Islands, which was also named in the conservation action.

"This case in a nutshell is a \$1 billion-plus fine because the insurance commissioner was not satisfied with some aspects of the company's operations," said William Cahill, a lawyer for Golden Eagle with Cahill, Christian & Kunkle in Chicago. "The penalty does not match the charge."

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Budget

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also says captives that generate more than 50% of their net written premiums from large shareholders no longer would be considered insurance companies for tax purposes.

That would mean captives could not take tax deductions for reserves established to pay for future losses. As a result, many captives' taxable income would increase, leaving less money to pay for reserves. That, in turn, could threaten some captives' solvency and affect all of a captive's shareholders, not just large ones, captive experts say.

"If I was a regulator, I would be very concerned," said Jon Harkavy, vp and general counsel of USA Risk Services Inc., a captive administrator in Arlington, Va., and president of The Coalition of Alternative Risk Funding Mechanisms, an industry group.

The Clinton administration, in its brief description of the twin captive proposals, did not explain why it believes tax rules affecting captives should be changed.

But captive experts say the Internal Revenue Service's longstanding belief that captives are no more than tax dodges are behind the proposals.

"I believe this is the result of IRS animus against captives. The IRS, to the extent it can, will try to create as

many problems to discourage captives as it can," Mr. Harkavy said.

"This is an extension of the IRS' longstanding perception that self-insurance reserves are qualitatively different than reserves established by a commercial insurance company," said Tom Jones, a partner with the law firm of McDermott, Will & Emery in Chicago.

The captive industry, though, is gearing up to fight the proposals. Mr. Harkavy says CARFM soon will meet to develop a strategy to lobby against the proposals.

"If I could think of one issue worthy of the alternative insurance market to coalesce around to protect its existence, this would be it," he said.

"This should be the beginning of a significant lobbying effort on the part of insureds and group-owned captives to maintain the competitive position of alternative risk financing vehicles," according to Robert Dumont, a partner with Baker & McKenzie in New York.

While it is too soon to predict how successful the captive industry will be in resisting the proposals, Mr. Jones notes that tough lobbying last year led Congress to water down legislation that would have imposed new taxes on group offshore captives owned by tax-exempt organizations.

Under the original proposal, tax-exempt shareholders of virtually all offshore captives would have been hit

with taxes on captive earnings. That proposal, though, in the wake of a vigorous lobbying campaign by hospitals, later was pared back to exclude tax-exempt hospitals and universities (BI, Aug. 26, 1996).

"What passed was much more lenient than what was proposed," Mr. Jones said.

But last year's success should not mean captive owners can afford to let their guard down, Mr. Jones and others say.

"I'm always scared to death that something like this could become law. That is because companies with captives have not always been particularly effective in protecting their turf," Mr. Harkavy said. **BI**

Budget proposal calls for changes to Medicare risk HMOs

By JERRY GEISEL

WASHINGTON—Enactment of the Clinton administration's proposed budget for 1998 could make health maintenance organizations in some parts of the country more attractive for retired workers, while HMOs elsewhere may reduce benefits and increase premiums.

Over the last two to three years, moving retired workers to so-called Medicare risk HMOs has been one of the easiest and most popular ways employers have chosen to cut retiree health care liabilities.

Under this federal program, HMOs—in exchange for providing the same benefits Medicare would offer—receive 95% of the cost Medicare believes it would incur to provide health care benefits to retired workers. The reimbursement is

based on Medicare's cost of providing benefits in hundreds of counties throughout the country.

These payment rates currently range from \$767.35 a month in Richmond County, N.Y., to \$220.97 in Arthur County, Neb. Where payment rates are high, HMOs have been able to offer a whole range of ancillary benefits not covered by Medicare—like prescription drugs and vision care—and still make money on covering retirees. That makes it attractive for retired workers to move out of employers' health care plans, which supplement Medicare, and into Medicare risk HMOs.

When retired workers move out of corporate health plans and into Medicare risk HMOs, employers often can save \$800 to \$1,000 per retiree in health care costs, said Will Applegate, a consultant with The

Kwasha Lipton Group in Fort Lee, N.J. The savings can be so great that some employers, to encourage migration of retired workers from their plans to Medicare risk HMOs, will pay the HMO to provide extra benefits, like unlimited or very high prescription drug coverage for their retirees.

But in other areas of the country where the federal payments to Medicare risk HMOs are set at very low levels, HMOs have been reluctant to enter the Medicare market because they believe they can't make any money on it. That has closed off Medicare risk HMOs as a health care option for retired workers.

The Clinton administration's budget would address what many perceive as an inequitable risk HMO payment formula. In short, payment rates Medicare makes to HMOs

would be based on national and local Medicare costs—not just local costs.

That would mean that payments Medicare makes to HMOs would increase in low-cost areas of the country, while payments to HMOs in high-cost areas would decline. The result of the change in the formula would be that HMOs whose payments are cut might have to increase premiums or cut benefits to maintain profit levels. In parts of the country where federal payments would increase, HMOs might enter the Medicare risk market, while others might add benefits.

But another change would hurt all HMOs in the Medicare risk market.

The administration is proposing reducing the payment rate to 90% from 95%. That change would not be implemented until the year 2000.

That kind of cut could result in

HMOs cutting back on benefits they offer retirees, said Eileen Settineri, a health care consultant with Buck Consultants Inc. in Secaucus, N.J.

"An across the board decrease in the payment rate would not be good news for HMOs and their constituencies, which includes employers and retirees," said Kenneth Berkowitz, a consultant with Towers Perrin in Fort Lauderdale, Fla.

Aside from HMO changes, the administration also is recycling a 1995 proposal that would provide a six-month subsidy to states that agree to pay COBRA health care premiums for low-income workers who lose their jobs.

While the administration has banded about this proposal for about 1½ years, it still has not provided any details, such as income-eligibility levels.

Takeover

Continued from previous page

Mr. Cahill rejected regulators' assertions that Golden Eagle was threatened by \$66 million in unsecured loans to Mr. Mabee through Mesa Re and by alleged manipulation of financial data by the insurer's management.

"To suggest that somehow these loans were some sort of slush fund is ridiculous," Mr. Cahill said. "John Mabee put a ton of money into Golden Eagle as the company got successful, and that money is still there."

Golden Eagle is California's third-largest workers comp insurer, writing about \$400 million in workers comp premiums and \$300 million in other property/casualty lines in 1996. The insurer reported policyholder surplus of \$232.1 million at year-end 1995, though an Insurance Department exam cut surplus to \$81.6 million after deducting higher-than-reported losses and expenses.

The insurer was acquired in 1983 by Mr. Mabee, an entrepreneur who built a fortune in the supermarket business and is the owner of Golden Eagle Farm, a large Ramona, Calif., racehorse breeder.

Golden Eagle's seizure is the latest round in a long-running feud between Mr. Mabee and the Insurance Department, which ordered Golden Eagle last year to boost its reserves by \$138.5 million.

The insurer lost court challenges to the department's authority to demand the reserve increase. At one point, Mr. Mabee offered a \$100,000 reward to anyone who could prove that Insurance Commissioner Chuck Quackenbush was biased in favor of Golden Eagle competitors that contributed to his election campaign (BI, Oct.

28, 1996).

By last month, Golden Eagle management had finally offered a plan to comply with the department's reserving demand. It was apparently taken by surprise, though, when regulators instead went to San Diego County Superior Court on Jan. 31 seeking the conservation order that ousted Mr. Mabee and several other top Golden Eagle officers.

One of those officers, former President Grant Luna, has been missing for more than two weeks, lawyers confirm. The San Diego Union-Tribune reported last week that Mr. Luna's black BMW was dropped off at a company parking lot south of San Diego with a Spanish-language instructional tape in the car.

In a filing that totals several hundred pages, the California department charges that millions of dollars of loans taken by Mr. Mabee and alleged manipulation of financial data by Golden Eagle management made the insurer a threat to policyholders.

The filing focuses in part on Mesa Re—owned by Mr. Mabee and his wife—which provided quota share and excess of loss reinsurance to Golden Eagle. The insurer reported \$194.3 million recoverable from Mesa Re at the end of 1995 and had withheld \$191.6 million to secure the recoverables.

In an affidavit, the department's Mr. Rubinstein says he sought a current financial statement for Mesa Re and that Mr. Mabee provided a one-page handwritten statement, saying it was the best he could do. The statement showed about \$80 million in assets, including "\$55 million to \$60 million" in loans to Mr. Mabee.

Mr. Rubinstein later obtained copies of dozens of promissory notes evidencing loans from Mesa Re to Mr. Mabee totalling \$66.3 million from 1989 to year-end

1996. The individual loan amounts ranged from just over \$100,000 to \$6 million and carried interest rates ranging from roughly 4% to 8% annually, documents show.

None of the loans was secured by collateral, and none has been repaid, according to the department's filing. In addition, the loan funds never actually passed through Mesa Re, with Mr. Mabee receiving the money by Golden Eagle checks, the filing says.

Mesa Re is merely an alter ego of Mr. Mabee, and the loans are "merely vehicles by which he has taken money out of Mesa Re and (Golden Eagle)," Mr. Rubinstein charged. Reserve strengthening by Golden Eagle, he added, would also require similar action by Mesa, which "does not appear to have the ability to do so unless Mr. Mabee repays his 'loans.'"

While not mentioned in the court filing, Golden Eagle documents obtained by regulators show another related party transaction involving Mr. Mabee: In a September 1993 memo regarding preparation of Mesa Re's financial statements, Golden Eagle Chief Financial Officer Ted E. Wilkins noted Mesa was writing off as a bad debt expense \$130,000 paid to "Big Bear Profit Sharing Plan."

Mr. Mabee is the owner of Big Bear Supermarket No. 3, a California corporation.

Mr. Mabee's lawyers said they were not familiar with the transaction; Mr. Wilkins could not be reached.

The Insurance Department filing also objects to a provision of the Mesa Re treaty that allows for cancellation in the event of insolvency of either the reinsurer or Golden Eagle and which may "undercut" the treaty's standard insolvency clause.

Mr. Cahill, Golden Eagle's lawyer, dismissed the Mesa-related charges, noting that Golden

Eagle has ceded business to Mesa Re for years without objection from California regulators.

"Where has the department been? That treaty has been on file for 13 years," he said.

The loans to Mr. Mabee, he added, were all from "excess funds" not needed to cover claims and that "this is not Golden Eagle's money, it's Mesa's money."

Mr. Cahill contended that Mr. Mabee has contributed \$107 million to Golden Eagle over the years, including at least some of the proceeds of his loans from Mesa.

"John Mabee never took money out of Golden Eagle. He just put money in," Mr. Cahill said.

Meanwhile, the Insurance Department filing also charges that Golden Eagle management has manipulated its financial data, concealing reserving information on its computer system from regulators and moving large liability losses from the late 1980s and early 1990s to more recent years.

Included in the filing is an affidavit of Kevin Curry, a former Golden Eagle claims adjuster who left the insurer last year.

Mr. Curry sued Golden Eagle in San Diego on Jan. 30, charging the insurer fraudulently induced him to leave his previous job. Mr. Curry alleges he was harassed by senior Golden Eagle officials after he complained to Mr. Mabee that several large losses had been shifted from years in which they had actually occurred. The suit seeks class action status on behalf of other Golden Eagle employees hired since 1992, said Andrew Dunk III, Mr. Curry's San Diego lawyer.

In the affidavit, Mr. Curry says he stumbled on the problem when an irate policyholder called to complain that a 1993 loss had shown up on a 1995 Golden Eagle loss run, damaging the policy-

holder's efforts to get new insurance.

Mr. Curry later reviewed his cases and found that between 15 and 20 large losses totaling \$10 million to \$15 million had been moved to later years.

The effect of the changes was to improve the appearance of Golden Eagle's reserving levels before 1995 at a time the Insurance Department was examining the earlier years, according to Mr. Dunk, Mr. Curry's lawyer.

The Insurance Department's Mr. Rubinstein also charges in his filing that Golden Eagle management took steps to conceal claim information from regulators. For example, the insurer's CFO, Mr. Wilkins, instructed a company computer technician to install a program that would mask changes in claim data made by Mr. Wilkins and other workers.

"These circumstances tend to corroborate allegations that outright fraud is being committed by company management," Mr. Rubinstein charges.

Golden Eagle's lawyer, Mr. Cahill, confirmed there were "obvious errors" in the insurer's computer records, but said they were unintentional and resulted from an Insurance Department request that Golden Eagle revise its claim data to separate out a particular class of claims.

"For Mr. Curry to speculate that he knows the motive for it is preposterous," Mr. Cahill said.

On Jan. 30, the day before the conservation filing, Raul Aguilar, a San Francisco lawyer for Golden Eagle, wrote to the Insurance Department suggesting that Mr. Curry himself may have tampered with the computer records.

Mr. Curry's lawyer dismisses that charge.

The conservation case is being moved from San Diego to San Francisco Superior Court. **BI**

Building

Continued from page 1

with homeowners associations during the past few years have led some insurers to stop underwriting contractors liability coverage (BI, Nov. 11, 1996).

"Even subcontractors saw hefty increases in insurance premiums or, worse, they couldn't get policies because they were involved in condo construction," said Juan Acosta, legislative advocate for the California Building Industry Assn. in Sacramento.

This is because the California Supreme Court in 1995 let stand an appellate court decision granting broad pollution coverage to Montrose Chemical Corp. under a "continuous trigger theory" (BI, July 10, 1995).

As a result of the landmark ruling, a policyholder facing pollution-related claims can tap all of its CGL policies from the time pollution begins until the liability is known.

While the *Montrose* case involved CGL coverage in the environmental context, it since has been applied to building defects, said Duane E. Shinnick, a partner at Epstein & Grinnell in San Diego. Mr. Shinnick is a plaintiffs lawyer who often represents homeowners in building-defect cases.

In 1995, the California Supreme Court remanded a 1994 building-defect coverage case, *Zurich Insurance Co. vs. Transamerica Insurance Co.*, which had been awaiting appeal, after it upheld *Montrose*. Numerous other courts have been following the *Montrose* precedent. The 1994 case still is pending.

Applying the continuous trigger theory to building defect cases "wasn't a surprise to us," Mr. Shinnick said. Like pollution damage, many building defects are not discovered until many years after they begin, he explained. Furthermore, "they can cause continuous and progressive damage," he added.

But the *Montrose* decision "unduly expands liability," asserts Angela Warren, counsel to the American Insurance Assn. in Sacramento, which

has joined the builders' lobbying effort.

"On a progressive basis, this damage may cause more damage, and then subsequent insurers become liable," concurred Mr. Acosta.

"*Montrose* says the insurer may be on the hook even if the policy was sold 10 years after the product is made," he explained, "because the occurrence is continuing."

The AIA hopes to return to the "loss in progress" trigger that had been applied in construction defect cases prior to the *Montrose* decision, Ms. Warren said.

"We hope to address *Montrose* legislatively, but only in the construction defect context," she said.

The coalition is seeking broader support from the insurance industry, including the California Agents & Brokers Legislative Council.

Meanwhile, CGL coverage is becoming increasingly scarce for homebuilders in California. And, because few builders can afford to assume the risk of being sued over construction defects without insurance, construction of affordable single-family housing is down as much as 90% in some parts of the state, Mr. Acosta said.

For example, the Southern California Assn. of Governments recently contacted the California Building Industry Assn. to find out why no builders will bid on contracts for affordable high-density housing.

"Nobody can get liability coverage to build condos," Mr. Acosta said.

In response to the litigation threat, Barratt American has started using private inspectors as construction "risk managers." These independent architects, structural engineers and other construction experts act as consultants to document the building process. The documentation then can be used as evidence in defending a construction defect lawsuit stemming from the project.

"We're trying to have defect-free products and at the same time be able to prove later in litigation that they're defect-free," Mr. Pattinson explained.

Barratt American's risk management approach is similar to that employed by the National Home

Builders Council in Great Britain, he explained.

Besides instituting a private inspection program, the British program provides home warranties to buyers and establishes criteria for measuring quality in construction, he said.

"One of the problems we suffer is the inconsistency of quality interpretation," he said. "Without standards, all we have is one person's opinion vs. another person's opinion."

In addition, following building codes often isn't sufficient protection from liability. "You can build to code and still finish up with a problem," he added.

This is because it is difficult to reconcile architectural and engineering plans, the Universal Building Code, manufacturers' specifications and local building regulations, Mr. Pattinson explained.

Many construction experts think adopting the British solution may be preferable to simply limiting builders' liability because it addresses the source of the problem: shoddy construction.

"We're trying to limit liability for builders, but also trying to define the problem," said Steve Litonin, a lobbyist for the Plumbing, Heating & Cooling Contractors Assn. in Sacramento.

This will require talking to homeowners to find out what prompted them to sue and whether they were satisfied with the resolution, he added.

"We're looking at this as a four-year project" that will "raise the consciousness of home-buying consumers and institute a dispute resolution system or warranties," Mr. Litonin said.

And the time to find a solution is now, he said, because "it's spreading to other states."

Indeed, some construction experts fear the recent building boom in the desert Southwest may prove fertile ground for more construction defect litigation.

"I've heard all of the Southern California plaintiffs attorneys are taking the bar exam in Nevada, and there's going to be an attack on Las Vegas homebuilders next," quipped Barratt American's Mr. Pattinson. ■

Bonds

Continued from page 3

The financial guarantee insurance industry, which had a 24.7% combined ratio in first-half 1996, continues to enjoy relatively low losses. Even the recent financial troubles of the city of Miami, which has insured bonds, has caused little concern.

That was an "isolated incident and as a single credit is not going to have a material impact on any of the larger bond insurers," said Brady N. Tournillon, an analyst with Fitch Investors Service L.P. in New York.

In fact, "it validates the value of the insurance," said David A. Buzen, executive vp and chief financial officer of Capital Re Corp., a financial guarantee reinsurer.

"I think on balance they will continue to perform well," Anne Ross, vp and manager of research at Roosevelt & Cross in New York, said of the financial guarantee insurers.

The financial guarantee insurance market has shown some stable growth rates and that is expected to continue, added Sabra Brinkmann, vp at Hartford, Conn.-based Conning & Co.

The core growth rate in the industry is perceived to be 6% to 8%.

"The wild card will be the level of refunding activity," said Ms. Brinkmann. There were a total of \$57.1 billion in refundings last year, a 19.5% increase over \$47.8 billion in 1995.

Refundings occur when a bond is retired by issuing new securities, generally at a lower interest rate. They benefit muni bond insurers because

when an insured bond is refunded, the unearned premium associated with it is earned immediately rather than over the remaining life of the bond.

However, there is some concern that insured bonds have become too much of a commodity item.

"Anything that comes through the spigot seems to get insured," said Ms. Ross. Insured bonds have "just become a commodity."

Mr. Tournillon agreed. "It makes it harder to compete on anything other than price, so in that respect it's not good," he said, though he added that with volume up last year, "it did alleviate some of the pricing pressure."

But, David H. Elliott, chairman and CEO of Armonk, N.Y.-based MBIA Inc., disagreed that the insurance has become a commodity. "I think it's still very important" in terms of the company that is providing the guarantee, its trading value, reputation, track record, historic performance and capital position, he said.

At the same time, he believes the insured portion of the muni bond market could grow even higher. "There's no artificial or arbitrary feeling on how high penetration could grow," with the only limit the credit quality of the issues to be insured, he said.

Capital Re's Mr. Buzen agreed. Given the infrastructure needs and the continuing focus on credit quality, the trend toward insurance is unlikely to diminish, he said. In the long term, a 50% penetration rate is a "good number," but in any given year, it could be significantly above that, he said.

But not all observers see more growth.

"I think the insured portion of the market is not going to increase a lot more than it has," said Vernon M. Endo, managing director-bond insurance at Financial Guaranty Insurance Co. in New York.

Some of the players in the market have made significant strategic changes.

There has been a shift in competitive activity within the market because of a decision by FGIC to move away from insuring health care and utility issues and to focus on a more conservative strategy of insuring general obligation, water and sewer and transportation bonds.

"It became apparent to us we needed to proceed with some caution in approaching certain sectors because premium levels were such there was not enough room for error... the risk-reward matrix got a little bit out of whack, if you will," said Mr. Endo.

FGIC's strategy means that "the pricing on GOs is a lot more competitive and on utility and health care a lot more attractive, but overall you've got the same four player slugging it out and trying to figure out how to make money," said Ms. Brinkmann.

The 1995 merger between San Francisco-based Capital Guaranty Corp. with a unit of New York-based Financial Security Assurance Holdings Ltd. (BI, Aug. 28, 1995), created a more effective fourth competitor against the "big three," which are FGIC, MBIA, and New York-based AMBAC Indemnity Corp. However, the combination did not have a signif-

See Bonds on next page

Updates

Liberty Re is relaunched

Continued from page 2

In April 1995, the insurer hired James M. Payne, former vice chairman of Sedgwick Group P.L.C., to be CEO of Liberty Re (BI, May 29, 1995). Graham Potter, who was then managing director of Copenhagen Reinsurance Co. (U.K.) Ltd., joined several months later as chief operating officer. However, Mr. Potter then resigned a few months later, and rumors circulated in the London market that Liberty Re may have problems obtaining a license from the British Department of Trade and Industry because of Mr. Payne's alleged prior involvement with the H.S. Weavers line slip, a major source of U.S. casualty coverage that collapsed in 1990 (BI, Nov. 20, 1995).

Mr. Payne retired from Liberty Re at the end of 1995, and plans to launch the reinsurer were suspended, Mr. Engstrom said.

Plan termination halted

WASHINGTON—A complex 11th-hour agreement will avert a Pension Benefit Guaranty Corp. takeover and termination of three Anchor Glass Container Corp. pension plans, which have \$190 million in unfunded liabilities.

The PBGC threatened to terminate the plans after Anchor Glass's Mexican parent, Vitro S.A., said it was selling off assets of Tampa, Fla.-based Anchor Glass, which is in bankruptcy (BI, Jan. 13).

In December, Consumers Packaging of Toronto agreed to purchase most of Anchor Glass assets and create a new subsidiary called New Anchor. As part of the agreement with the PBGC, New Anchor will pay \$18 million to the plans covering previously missed contributions. New Anchor also will continue to make regularly required contributions to the plans.

In addition, Owens-Brockway, a subsidiary of Owens-Illinois Corp., which is acquiring a small portion of Anchor Glass, will be responsible for about \$15 million of unfunded liabilities.

As part of the agreement, Vitro has guaranteed payments of \$70 million over 10 years in the event that the PBGC must terminate any of the plans and New Anchor fails to meet its obligations.

Alcoa cleanup coverage denied

SEATTLE—The third-party liability insurers of Aluminum Co. of America and its Northwest Alloys Inc. unit do not have to pay most of the millions of dollars the companies face for pollution cleanup costs, a judge has ruled.

The pollution exclusions in Alcoa's third-party liability insurance policies barred coverage for 30 of 32 contaminated sites, Washington Superior Court Judge Kathleen Learned ruled, granting summary judgment to the insurers.

The coverage, led by Commercial Union Insurance Co., only granted coverage for sudden and accidental pollution. Sudden "contains a temporal element that requires that the discharge be abrupt and lasting only a short time," Judge Learned said. To be considered accidental, a discharge must be unexpected and unintended.

The next step in the litigation regarding the third-party liability insurers is unclear, said Thomas Reiter, a partner at Kirkpatrick & Lockhart in Pittsburgh who represents the aluminum company.

Alcoa blames the pollution on various problems, many of which were site-specific, that the company says were sudden and accidental, but the judge rejected those arguments.

Despite the ruling on the third-party liability policies, Alcoa still is seeking coverage under its first-party property policies, Mr. Reiter said.

Briefly noted

The Occupational Safety and Health Administration cannot force 80,000 employers to answer a survey on occupational injuries and illness sustained in 1995 because it did not issue a regulation mandating participation, U.S. District Court Judge Thomas P. Jackson ruled earlier this week in Washington. The American Trucking Assns. sued OSHA over the survey nearly a year ago, holding that the agency did not follow proper rule-making procedures. . . . Six African-American hourly employees at **Texaco Inc.** who are not a part of the company's proposed \$176 million race-discrimination settlement are asking to intervene, alleging they are unfairly excluded from the settlement because it covers only salaried employees. . . . Wisconsin became the 21st state to **sue the tobacco industry** Feb. 5 when Wisconsin Attorney General James Doyle filed suit in Dane County Circuit Court in Madison, alleging the industry has engaged in a conspiracy to mislead, deceive and confuse Wisconsin residents about the health effects of tobacco and the addictiveness of nicotine. Among other things, the suit seeks reimbursement for state spending on tobacco-related health care costs. . . . The planned \$86.7 million acquisition of Boston-based **John Hancock Mutual Life Insurance Co.**'s group health and related businesses to Woodland Hills, Calif.-based **WellPoint Health Networks Inc.**, which had been scheduled for Jan. 31, has been postponed in light of an preliminary injunction by a federal judge in Detroit in favor of Troy, Mich.-based **SelectCare Inc.** SelectCare, which manages a network of doctors and hospitals, had filed suit Jan. 28 claiming consummation of the transaction would violate certain provisions of agreements between Hancock and SelectCare. Wellpoint and Hancock said while they have extended their agreement until March 1 to evaluate the order's impact, there "can be no assurance" the deal will be completed. . . . **Abdoul Sesay**, the former risk manager for the Los Angeles subway construction project, has been sentenced to 14 months in federal prison for tax evasion and accepting kickbacks from insurance consultants. He pleaded guilty to the felonies in July 1995. . . . **Sphere Drake Holdings Ltd.** has transferred its protection and indemnity business to the London unit of **HIH Winterthur Insurance Group** in Sydney, Australia. The P&I unit had a 1996 net premium income of about \$20 million.

Bonds

Continued from previous page
 ican impact on the market's overall competitiveness, observers say.

"I don't have a sense it was a major impact on the market," said Richard P. Smith, senior vp at Standard & Poor's Insurance Rating Services in New York.

FSA had originally focused on the corporate sector before expanding into the muni bond market in 1990. Its merger with Capital Guaranty, which has always focused on insuring municipal bonds, gave it a stronger presence in that market.

"It's a very important element in our strategic plan to have a significant seat at the table in the municipal market," said Roger K. Taylor, FSA's chief operating officer.

Another company going in a new direction is the Washington-based College Construction Loan Insurance Assn., better known as Connie Lee.

The insurer, which has been owned in part by the federal government and has been restricted to insuring obligations of education and health care-related issues, can now expand its scope and privatize under provisions of legislation that

President Clinton signed last September.

This means the company is going to try to find a new niche "and I have to wonder where they're going to find that business," said Richard A. Ciccarone, senior vp at Van Kampen American Capital in Oakbrook Terrace, Ill.

"Connie Lee would have a difficult time competing as a full-service bond insurer going head to head with the other larger primaries," said Fitch's Mr. Tournillon.

A Connie Lee official could not be reached for comment on the insurer's current plans.

The fifth monoline insurer, New York-based Capital Markets Assurance Corp., focuses on non-municipal structured finance and writes only a small proportion of its business in the municipal market.

The market overall remains competitive.

"It did seem like there continued to be pressure on premium rates in the municipal bond area," said Ralph Aurora, senior vp-financial guarantee group at rating agency Duff & Phelps in New York. "It's something that raises concern," he said.

"My sense is that rates are stable, not declining, but not going up at all," said S&P's Mr. Smith. "Some people would argue they're about as low as they should go, that the insurer really can't afford to lower them any longer without

jeopardizing their ability to generate capital in the long run."

"The competition is the same as it has been in the past couple of years," said MBIA's Mr. Elliott, adding the insurer has still managed to increase its rates as well as rates of return.

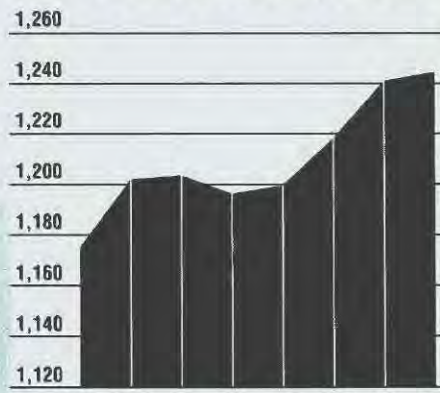
"I don't think you're going to see big changes in premium pricings" in 1997, said Nicholas Ferreri, vp with rating agency Moody's Investors Service Inc. in New York. He added, "If anything, I think the competition in the muni bond market is reflective of why you're seeing bond insurers moving into asset-backed and international" business.

There has been a growing focus in alternative areas as muni bond insurers look for additional growth opportunities to offset the relatively slow growth in the competitive muni bond sector.

Building a diversified book of business lessens financial guarantee insurers' and reinsurers' vulnerability to fluctuations in municipal bond issuance, said Mr. Taylor of FSA, which is active in diversification.

This means insurers will not be put in a position where they "have to go crazy" if there is a major downturn in new municipal bond volume; they can simply change their focus, he said. "The industry is a stronger industry by virtue of this growth and diversification." **BI**

BI Insurance Index



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

PCS catastrophe options

As of Feb. 7		Call spread	Price bid/ask	Call spread	Price bid/ask
Eastern September 1997				California Annual 1997	
40/60	2.2/3.9			40/60	—/3.9
60/80	2.4/3.5			80/100	1.3/1.8
80/100	2.1/2.5				
National Annual 1997				Western Annual 1997	
80/100	5.5/8			40/60	2.2/3.9
120/140	3/4.7			80/100	1.4/2
June Midwestern 1997					
10/20	1.1/1.4				
Total volume: 212 Total open interest: 10,781					
For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.					
Source: Chicago Board of Trade					

Third financial guarantee reinsurer to enter market

HAMILTON, Bermuda—Plans are being made for a new Bermuda-domiciled financial guarantee reinsurer to begin operations early this year.

RAM Reinsurance Co., a subsidiary of RAM Holdings Ltd., would join the two other monoline financial guarantee reinsurers, New York-based Enhance Reinsurance Co., a unit of Enhance Financial Services Group Inc., and New York-based Capital Reinsurance Co., a Capital Re Corp. unit.

It would be welcome in the industry for the additional capacity it would provide, say financial guarantee insurers and others.

According to market reports, the new reinsurer, which is expected to open for business sometime during the first quarter, will focus principally on facultative reinsurance for structured financial transactions, though it will do some municipal bond reinsurance as well.

The driving force behind the reinsurer is Robert A. Meyer, formerly president of financial guarantee insurer Bond Investors Guaranty Insurance Co., which

was acquired by MBIA Inc. (BI, Oct. 16, 1989).

Mr. Meyer, who observers say has been attempting to organize the company for the past five years, now is in the final stages of raising about \$85 million in capital with the help of investment banking firm Smith Barney Inc. in New York.

One of the investors is said to be the PMI Group, which operates San Francisco-based PMI Mortgage Insurance Co. and is expected to invest \$20 million to \$25 million in the venture. A PMI spokesman could not be reached for comment.

A spokeswoman for Smith Barney said neither Mr. Meyer nor Smith Barney would comment.

There are no immediate plans to bring the reinsurer public, though that may be done at a future date. The reinsurer is expected to get an AAA rating from Standard & Poor's Corp., but there are no immediate plans to seek a rating from Moody's Investors Service Inc.

Meanwhile, in November, Capital Re said it also was forming a Bermuda-

domiciled reinsurance company, Capital Global Underwriters Ltd., in a joint venture with GCR Holdings Ltd., which operates catastrophe reinsurer Global Capital Reinsurance Ltd. CGUL will primarily specialize in financial reinsurance, including financial guarantee, mortgage guarantee and finite risk reinsurance.

The availability of an additional reinsurer will enable primary insurers to further spread risk and increase their capacity to insure large single risks.

Arthur Dubroff, Enhance's executive vp and chief financial officer, noted that Enhance Re and Capital Re now each have about a 30% market share, with the remaining financial guarantee reinsurance business written by a number of European companies, including a unit of French insurer AXA-UAP.

"Our expectation is that if RAM Re does succeed in its venture and actually closes the transaction, that it will have a relatively modest impact on the amount of financial guarantee reinsurance we write," said Mr. Dubroff.

—By Judy Greenwald

British Issues

Feb. 7	Price	P/E	Div.	Yield	52 week
Companies	pence		pence	%	high—low
Comm Union	731	12.2	29.0	5.0	735—550
Genl Accident	837	8.9	31.7	4.8	837—612
Gdn Royal Exch	284	4.6	9.3	4.1	289—218
Independent	659	11.7	12.0	2.3	659—373
Royal & Sun	490	9.0	19.0	5.1	490—349
Brokers					
Bradstock	78	10.6	5.7	11.5	81—54
Fenchurch	63	N/A	5.5	10.1	150—46
CE Health	104	11.9	4.5	5.7	115—74
JIB Group	153	N/A	9.8	6.4	158—97
Lloyd Thompson	206	N/A	10.0	6.1	207—163
Lowndes Lmbt	106	13.5	8.4	9.1	153—102
Nelson Hurst	143	9.8	8.1	6.9	206—143
Sedgwick Grp	128	12.6	9.8	6.8	152—114
Steel Bri Jones	32	7.5	3.8	14.6	48—28
Willis Corroon	141	20.9	6.6	5.7	169—117
Source: Nordby International Inc.					

BI Industry Stock Report FEB. 3, 1997, THROUGH FEB. 7, 1997

BROKERS				INSURERS/REINSURERS				HEALTH MAINTENANCE ORGANIZATIONS												
Company	Price	Weekly % change	Year to date % change	Company	Price	Weekly % change	Year to date % change	Company	Price	Weekly % change	Year to date % change									
Acordia Inc.	NYS	28.88	3.59	-0.43	EMC Insurance Group Inc.	NDO	12.13	1.04	1.04	14.50	10.13	33	RLI Corp.	NYS	35.88	2.50	7.49	35.88	22.38	158
Alexander & Alexander	NYS	17.38	-0.71	0.00	Everest Reinsurance	NYS	28.00	1.82	-2.61	29.50	20.13	476	St. Paul Companies	NYS	67.25	7.60	14.71	67.25	50.13	1117
E.W. Blanch Holdings Inc.	NYS	22.75	1.11	13.04	Executive Risk Inc.	NYS	37.88	-0.33	2.36	42.38	27.00	33	SAFECO Corp.	NDO	38.25	0.66	-3.01	42.25	30.88	1052
Gallagher Arthur J. & Co.	NYS	30.63	1.66	-1.21	EXEL Ltd.	NYS	42.25	-0.29	11.55	42.63	31.75	375	Saibels Bruce Group	NDO	2.13	-5.56	3.03	4.25	1.88	177
Hilb, Rogal & Hamilton	NYS	13.50	0.00	1.89	Fremont General Corp.	NYS	30.00	0.00	-3.23	31.63	21.50	369	Selective Ins. Group	NDO	41.25	0.61	8.55	43.25	31.00	135
Kaye Group Inc.	NDO	5.13	-2.38	-2.38	Frontier Insurance Group	NYS	39.25	-0.63	2.61	41.13	30.13	110	Sphere Drake Holdings	NYS	9.88	1.28	11.27	12.13	8.13	78
Marsh & McLennan	NYS	113.50	5.34	9.13	Gainsco Inc.	NYS	9.63	5.48	0.00	11.75	8.75	169	TIG Holdings	NYS	34.50	-0.36	1.85	35.38	27.00	2721
Poe & Brown	NDO	26.50	0.95	0.00	GCR Holding Ltd.	NDO	23.13	-1.07	3.93	27.25	21.50	358	Titan Holdings, Inc.	NYS	16.63	0.00	0.78	17.88	12.50	16
BROKERS	AVERAGE		1.19	2.51	General RE Corp.	NYS	164.38	1.78	4.20	170.25	138.75	1411	Tokio Marine & Fire	NDO	42.88	-6.28	-8.04	69.00	42.00	58
					Gryphon Holdings	NDO	14.75	0.85	4.42	20.25	12.00	306	Torchmark Corp.	NYS	53.00	2.42	4.95	53.38	40.25	925
					Guaranty National Corp.	NYS	16.75	0.00	0.00	18.00	13.38	100	Transatlantic Holdings	NYS	78.88	0.16	-2.02	81.25	62.38	81
					Harleysville Group	NDO	50.25	3.86	-0.82	31.25	24.50	265	Travelers Aetna Property	NYS	37.75	3.42	6.71	39.00	23.13	524
					IPC Holdings Ltd.	NDO	24.13	0.78	7.82	25.13	19.00	149	Travelers Corp.	NYS	52.50	0.24	15.70	55.13	28.38	8666
					ITT Hartford Group	NYS	75.25	2.56	11.48	77.00	44.50	2278	Trenwick Group Inc.	NDO	50.25	0.50	9.65	54.25	46.00	82
					LaSalle Re Ltd.	NDO	28.00	3.46	-4.27	29.50	19.75	411	Unico American Corp.	NDO	10.63	0.00	-2.30	11.00	6.50	62
					Lincoln National	NYS	56.63	3.73	5.95	57.00	40.75	757	Unionamerica Holdings	NYS	17.50	6.06	-1.41	20.75	14.75	21
					Markel Corp.	NDO	103.50	5.61	15.00	105.50	75.00	63	United Fire & Casualty	NDO	31.75	2.42	-3.93	40.00	28.50	19
					MBIA Insurance Group	NYS	96.63	-0.52	-5.56	104.63	70.13	886	Unitrin	NDO	52.00	-1.19	-5.73	56.38	44.25	1238
					Meadowbrook Insur. Group	NYS	22.13	-1.67	5.36	34.13	15.25	42	UNUM Corp.	NYS	77.25	2.15	5.92	77.25	55.38	942
					Mid Ocean Ltd.	NYS	49.63	-2.22	-5.48	55.38	35.50	741	US Facilities Corp.	NYS	19.75	-1.25	3.64	20.38	14.88	60
					MMI Cos. Inc.	NYS	30.00	-0.83	-6.98	33.38	23.88	174	USF&G Corp.	NYS	22.75	7.06	3.98	22.75	14.25	3329
					Mutual Risk Mgmt. Ltd.	NYS	35.50	-1.39	-4.05	37.25	26.88	65	USLIFF Corp.	NYS	41.13	0.00	23.68	42.13	26.88	903
					NAC Re Corp.	NYS	33.13	5.17	12.55	40.63	28.50	272	Washington National	NYS	28.38	-0.44	3.18	30.75	25.13	205
					Navigators Group	NDO	19.50	3.31	6.85	20.25	15.75	27	Zenith National Ins.	NYS	27.25	1.87	-0.46	28.88	23.00	55
					Nobel Insurance Ltd.	NDO	12.75	2.00	1.49	12.88	10.88	94	Zurich Reinsurance Centr.	NYS	38.13	0.86	22.00	38.75	28.38	246
					NYMag Inc.	NYS	13.63	1.36	3.47	22.00	17.00	6	INSURERS/REINSURERS	AVERAGE			0.89	4.26		
					Ohio Casualty Corp.	NDO	33.25	5.37	10.56	40.88	30.00	555								
					Old Republic Int'l	NYS	28.88	0.00	0.47	27.75	20.13	620	HEALTH MAINTENANCE ORGANIZATIONS							
					Orion Capital Corp.	NYS	63.63	0.99	4.09	63.63	42.63	103	FHP International	NDO	35.69	-1.55	-3.87	37.75	21.75	489
					Partner Re Ltd.	NYS	35.00	-1.41	2.94	36.25	25.63	375	Healthsource Inc.	NYS	12.88	-2.83	-1.90	40.88	9.75	978
					Penn-America Group Inc.	NDO	17.63	-8.44	9.30	19.50	11.50	39	Humana Inc.	NYS	18.13	-4.61	-4.61	28.88	15.00	3044
					Philadelphia Cons. Holding	NDO	27.88	3.24	19.89	28.00	16.75	75	Oxford Health Plans	NDO	51.38	-5.52	-12.27	62.25	27.89	7272
					PXRE Corp.	NYS	26.75	0.94	8.08	28.00	22.25	40	Pacificare Health Sys.	NDO	74.75	-0.99	-8.00	98.75	59.63	209
					Reliance Group Holdings	NYS	9.50	4.11	4.11	9.75	6.50	404	Safeguard Health Ent.	NDO	16.88	2.27	-3.57	22.50	11.50	25
					Reliastar Financial Corp.	NYS	56.50	1.80	-2.16	58.38	40.00	1016	Sierra Health Services	NYS	26.75	-2.28	6.63	36.00	22.38	328
					RenaissanceRe Holdings Ltd.	NYS	38.00	1.33	15.15	40.25	26.75	176	United Healthcare Corp.	NYS	46.75	-4.10	3.			


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*We taught shipping clerk Joe Mattingly
the safest ways to lift packages.
[Especially one that's quite a handful.]*

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