FEBRUARY 11, 1991

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Update

BIC beneficiaries may lose most FCIC insurance coverage

WASHINGTON—The Bush administration proposal to overhaul banking regulation suggests eliminating "pass-through" Federal Deposit Insurance Corp. coverage for bank investment contracts.

Pass-through coverage gives each beneficiary up to $100,000 of deposit insurance. Because one BIC can cover many beneficiaries, the federally insured contracts have a competitive edge over the guaranteed investment con-

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New pension rules fall short

Proposal won't ease non-discrimination testing for many firms

By JERRY GEISEL

WASHINGTON—Proposed Internal Revenue Service rules, intended to help employers with different pension plans covering various corporate units pass IRS non-discrimination tests, may prove unworkable for many employers, benefit experts say.

Consultants point out, though, that these proposed "separate line of business" rules will not present benefit managers with near the level of trouble caused by the now-repealed Section 89 non-discrimination rules for health care plans. For example, the rules would not apply to employers that offer only one pension plan.

However, the proposed IRS rules are vital to major employers, like conglomerates with many subsidiaries, that offer different plans with varying benefit levels to different corporate units.

The proposed rules define requirements that a corporate unit must meet if the corporation wants to only consider employees of that unit when running pension non-discrimination tests. This is known as testing on a separate lines of business basis.

Without such rules, an employer would have to run various IRS non-discrimination tests on a unit's plan by considering all of a company's workers, including those not even covered by the plan being tested.

For example, under one IRS non-discrimination test—known as the ratio percentage test—the percentage of non-highly compensated employees companywide covered by an individual pension plan must equal at least 70% of the percentage of highly compensated employees companywide who are covered by the plan.

However, if the company is able to run this non-discrimination test on a separate lines of business basis, it would only have to compare an individual unit's lower-paid and highly paid workers who are covered by a plan.

The company would not have to consider employees not employed by the unit when running the test.

Consultants agree that it likely would be much easier for many pension plans offered by individual corporate units to pass non-discrimination tests on a separate lines of business basis than on a companywide basis.

"The intent of the regulations is sound. The rules recognize that there are sound business reasons for offering different plans to various corporate units," said John Woyke, a principal in the Valhalla, N.Y., office of benefit consultant TPF&C, a unit of Towers, Perrin, Forster & Crosby Inc.

But the requirements contained in 165 pages of complex regula-

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USAir underinsured jetliner in L.A. crash

By STACY SHAPIRO

LONDON—USAir Group Inc. is underinsured for the loss of its Boeing 737 jetliner that crashed into a commuter plane at Los Angeles International airport earlier this month, killing 34 people, brokers and underwriters say.

However, USAir's liability insurance limits of $850 million are more than adequate to pay death and injury claims that will arise from the disaster, observers say. The owner of the commuter airliner, SkyWest Airlines, has liability insurance limits of $250 million.

Aviation brokers and underwriters say that USAir reduced the value of its fleet—including the 737 that crashed in Los Angeles—when it renewed its aviation coverage to compensate for a huge increase in its aviation insurance premiums.

The renewal went into effect on Feb. 1, the day of the crash.

USAir risk management officials referred reporters to the airline's public relations staff, who did not return calls.

Although a liability reserve had not been established by insurers early last week, London sources estimate the reserve will total at least $50 million.

However, the airlines' insurers may not have to pay. If it is determined that a Federal Aviation Administration air traffic controller was responsible for the disaster, the U.S. government then could pay part or all of the hull and liability losses, said a leading defense attorney.

According to tapes released by federal authorities last week, an air traffic controller evidently was not aware that she had cleared the USAir and SkyWest aircraft to use the

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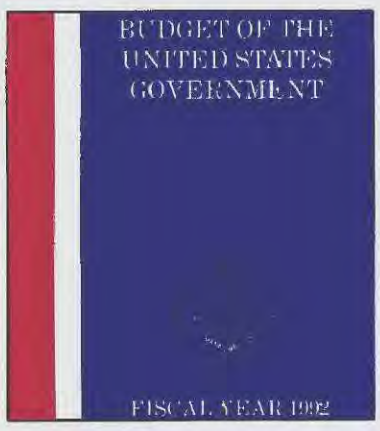
AP/Wide World Photo

Thirty-four people died when the USAir Boeing 737 crashed into a commuter airliner.

Bush budget proposes malpractice reform



By JERRY GEISEL

WASHINGTON—The Bush administration for the first time is proposing sweeping reforms of medical malpractice liability laws to control health care costs.

In the proposed budget it sent to Congress last week, the administration said it is preparing comprehensive medical malpractice tort reform proposals, including elimination of joint and several liability for non-economic damages, for adoption by the states.

If states fail to adopt the package by 1995, hospitals in those states could lose—in 1995 alone—about $800 million in federal Medicare funds.

"We have the administration jumping on the medical malpractice tort reform bandwagon. This is a very encouraging development," said Martin Connor, president of the American Tort Reform Assn., a business-supported lobbying and research group in Washington, D.C.

Meanwhile, the proposed $1.45 trillion budget for fiscal 1992 also would shift more health care costs to employers from the Medicare program.

In addition, the budget proposes requiring employers—also for the first time—to indicate on W-2 wage statements whether employees have health insurance. A clearinghouse within the Department of Health and Human Services would then try to ensure that employers—not Medicare—are the primary payers of certain health care bills.

Other budget provisions would substantially increase Medicare Part B premiums for well-to-do retirees and boost Social Security payroll taxes for certain public employers and their employees.

Finally, the budget notes that the administration later will introduce legislation to further reduce the vulnerability of the Pension Benefit Guaranty Corp. to big claims from the termination of underfunded pension plans.

These proposals are contained in the 2,029-page, seven-pound budget document the administration unveiled last week.

Tort reforms are needed to help control soaring health care costs, the administration said.

Medical malpractice insurance premiums, which the administration says rose to $4.2 billion in

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NEWSPAPER

Update

Proposal threatens BIC cover

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tracts offered by insurers.

The Bush proposal would restrict FDIC coverage for BICs to $100,000 for an entire contract, observers say.

The administration also proposes allowing banks to sell insurance by forming affiliations with financial services firms.

"Well-capitalized" banks could form financial services holding companies with insurers and securities or mutual fund firms. And, financial services and commercial companies could affiliate with banks, in a structure that would replace bank holding companies.

In these new holding companies, however, only banks would be covered by federal deposit insurance. Affiliates would be separately capitalized to protect the bank should the affiliate fail.

The proposal also suggests allowing banks to sell insurance only if their home states allow it. Sixteen states now allow such sales.

WPPSS utility loses cover

TUCSON, Ariz.—A utility involved in the $2.25 billion Washington Public Power Supply System bond default must return the $5 million it recovered under the three-year directors and officers liability policy in force in 1981 because it obtained the coverage fraudulently, a federal court jury decided.

The jury verdict represents the first finding of insurance fraud in connection with the 1983 bond default, the largest municipal default ever, said attorney Dale Fredericks of Sedgwick, Detert, Moran & Arnold in San Francisco. He represented Illinois Employers Insurance of Wausau, a Nationwide Mutual Insurance Co. unit that paid the $5 million with a reservation of rights to Public Utility District No. 1 of Cowlitz County in Longview, Wash.

The utility was one of 88 utilities that participated in WPPSS Projects 4 and 5. Those two nuclear power plants were ultimately terminated, leading to the default.

The Cowlitz County utility put the D&O policy proceeds toward the $34 million it paid in settlements with WPPSS bondholders, Mr. Fredericks said.

But, in its Jan. 17 verdict, the jury found that:

- Utility officials were aware of the probability of a claim against them or the utility when the three-year D&O policy was bound.
- Utility officials had knowledge of an act, error or omission that might give rise to a claim.
- When it applied for coverage, the utility made a misrepresentation "with the intent to deceive."

U.S. District Court Judge Robert C. Belloni still must rule on Illinois Employers' request for $1.4 million of prejudgment interest and attorneys' fees, Mr. Fredericks said.

The utility has not decided whether to appeal, said Don Donaldson, a lawyer with Walstead, Mertschin, Husemon, Donaldson & Barlow in Longview.

In another pending suit, Illinois Employers is seeking to recover another $5 million it paid on a D&O policy to Public Utility District of Grant County in Ephrata, Wash., another participating WPPSS utility, Mr. Fredericks said.

Most WPPSS litigation was moved to Tucson because all Washington judges would have been customers of the involved utilities, he explained.

New W-2 reporting proposal

WASHINGTON—Legislation introduced in the Senate last week would add new health care coverage reporting requirements for employers.

S. 365, introduced by Sen. William Roth Jr., R-Del., would add two lines to employees' annual W-2 statements. In the first line, employers would indicate whether they offer group health insurance. On the second they would indicate whether the employee had family or individual coverage.

Federal officials and federal contractors then would analyze the information to ensure that Medicare was not improperly paying bills of employees—such as workers 65 and older—that employer plans were supposed to cover.

Without such a systematic collection and analysis of health insurance data, waste and abuse in the so-called Medicare Secondary Payer program will continue, Sen. Roth said.

A similar W-2 information requirement is included in the Bush administration budget proposal (see story, page 1).

Court orders windup of Focus

HAMILTON, Bermuda—Focus Insurance Co. Ltd. has been ordered into compulsory, court-supervised windup.

The order was handed down by Bermuda Supreme Court Chief Justice Sir James Astwood Feb. 5 in answer to a windup petition filed in November by creditor Mutual Fire, Marine & Inland Insurance Co. of Philadelphia, which is seeking $4.4 million in unpaid claims from Focus. The court order was made under Section 161 of the Bermuda Companies Act, which governs the winding up of companies that, among other things, are unable to pay their debts.

David Lines and Peter Mitchell will continue as provisional liquidators of Focus, formerly Trenwick Reinsurance Co. Ltd., until a creditors' meeting is held to vote on their permanent appointment. Messrs. Lines and Mitchell were named provisional liquidators of the troubled company in December, after the court ousted shareholder-appointed liquidator Julian Ashby (*BI*, Jan. 28; Dec. 31, 1990).

Mutual Fire attorney Ian Kawaley said at the hearing that he has also been asked to appear on behalf of four other Focus creditors: Allstate Insurance Co., European General Reinsurance Co., Transit Casualty Insurance Co. and Chartwell Reinsurance Co.

Mr. Kawaley said that no creditors have voiced opposition to the windup order. Focus lawyer John Riihiluoma confirmed there would be no shareholder opposition to the windup order.

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Court sides with Carbide in guaranty fund dispute

By DOUGLAS McLEOD

HARTFORD, Conn.—Union Carbide Corp. is a step closer to recovering $32.5 million from the Connecticut Insurance Guaranty Assn. to pay claims arising from the 1984 poison gas disaster in Bhopal, India.

The Connecticut Supreme Court last Tuesday affirmed a lower court ruling that CIGA's $300,000 cap on covered claims applies separately to each of the roughly 550,000 claims by Bhopal victims.

The court rejected CIGA's argument that its liability should be capped at $1.8 million, or $300,000 for each of six policies written for Union Carbide by three insolvent excess liability insurers.

With the ruling, Union Carbide has cleared one obstacle in its attempt to recover the full $32.5 million of policy limits written by Transit Casualty Co., ordered liquidated in 1985; Midland Insurance Co. of New York, ordered liquidated in 1986; and Integrity Insurance Co. of Paramus, N.J., ordered liquidated in 1987.

The five-judge state Supreme Court panel also rejected CIGA's contention that its obligations should be offset by the amounts Union Carbide collected from its solvent insurers.

However, the court:

- Vacated the lower court's ruling that Union Carbide is entitled to recover more than $6 million in defense costs from CIGA, calling the ruling premature.
- Concurred with the lower court that the litigation has not produced enough information to decide how to apply CIGA's $100 deductible on claims.

The Supreme Court remanded the case to the trial court for further proceedings on the deductible question and other issues.

"The decision affirms the company's position on key legal issues in the case," a Union Carbide spokesman observed.

CIGA does not intend to appeal the ruling further, said CIGA attorney Joseph C. Tanski of Hutchins & Wheeler in Boston.

The litigation stems from the disastrous Dec. 3, 1984, leak of poison gas from a Union Carbide India Ltd. plant in Bhopal. The leak killed about 2,300 people and

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Risk management utopia

Federal rules part of broker's 'perfect world'

By MICHAEL BRADFORD

ATLANTA—In a "perfect insurance world" large insurers and reinsurers would be federally chartered and so strongly capitalized that guaranty funds would be unnecessary, says the president of a major brokerage.

Claims handling based on trust, rather than litigation, and the availability of global underwriting services from all insurers would form the other foundations of insurance utopia, according to the brokerage executive.

In any event, the industry this year should expect consolidation as non-U.S. underwriters eye expansion here, as well as federal regulatory intervention, according to a panel at the annual Risk Management Educational Conference sponsored by the Atlanta chapter of the Risk & Insurance Management Society Inc. Jan. 30-Feb. 1.

A law authorizing federal charters for insurers and reinsurers that write large risks would not "solve the problems of personal lines business or small businesses," but large accounts would have the "freedom to insure with federally chartered insurance companies that could only write with a federal charter and not hold a state charter as well," said David D. Holbrook, president of Marsh & McLennan Inc. of New York.

"These companies would be regulated for solvency only," he suggested. "They would be free from rate and form (regulation), and they would be free from assessments for residual markets and for guaranty funds."

In fact, no federal guaranty fund would be needed, Mr. Holbrook said, because capital requirements for insurers would be stringent enough.

Other benefits of such a system would be to "encourage alien, unauthorized and unregulated underwriters to seek federal charters and to protect policyholders from the exposure to risks with unli-

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Guaranty fund limit upheld

By DOUGLAS McLEOD

CINCINNATI—In a blow to risk managers, a federal appeals court says a Michigan guaranty fund provision that denies coverage to policyholders with substantial net worth is constitutional.

The 6th U.S. Circuit Court of Appeals last week reversed a lower court ruling that found the guaranty fund's net worth provision was not rationally formulated and therefore violated the constitution's equal protection clause.

"We are disappointed," said Paul Brown, director of governmental affairs for the Risk & Insurance Management Society Inc. in New York, which filed a friend-of-the-court brief in the litigation.

Mr. Brown argued that it is unfair for large policyholders to be excluded from guaranty fund protection, since guaranty fund assessments are added to the premiums they pay. He described the situation as "taxation without indemnification."

"If you are going to deny coverage under the funds, you'd better stop assessing the premiums," Mr. Brown said.

Guaranty fund officials, however, were overjoyed by the ruling.

"Yahoo!" said Dale Stephenson, president of the National Conference of Insurance Guaranty Funds in Indianapolis.

Mr. Stephenson called the Michigan case the single most serious challenge to the net worth limitations developed by several state guaranty funds and adopted by the National Assn. of Insurance Commissioners in its guaranty fund model law.

Some state legislatures have put action on net worth limitations on hold pending the outcome of the Michigan case, he said, while other states that already have the limitations were "holding their breath" while awaiting the ruling.

The 6th Circuit ruling came in a lawsuit brought by Borman's Inc., a Detroit-based unit of The Great Atlantic & Pacific Tea Co., against

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Inside

Departments

Vol.25; No 6—*Business Insurance* (ISSN 0007-6864) is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207-3185; 800-678-9595 or 313-446-1611.

Benefit execs winning respect from top brass

By SARA J. HARTY

As their responsibilities become more complex, corporate employee benefit departments are gaining increased respect and recognition from top management, according to a recent survey of benefit managers and other benefit professionals.

Sixty percent of 639 respondents said top management perceptions of the benefits department had improved in the last two years, the International Foundation of Employee Benefit Plans found. Thirty-five percent said the perception had remained the same, while only 2% said management had a worse perception of the benefits department. Two percent did not benefit.

Top managers, who had long seen the benefits department as "an administrative necessity buried deep within the human resources department," now consider it a "dynamic function" within the overall organization, said Craig J. Davidson, research associate with Brookfield, Wis.-based IFEBP, and author of the survey.

Improving perceptions may be due in part, the survey suggests, to the increased responsibilities of benefit departments.

Sixty-eight percent of the respondents reported that their benefit department's responsibilities had increased in the past two years. Yet only 31% had added staff members in the same time period.

Eighteen percent said they anticipate additional staff members will be hired in the next year, while another 7% said they didn't know if more staffers would be hired.

As an example of increased responsibilities, the benefits staff at GAF Corp., a Wayne, N.J., company that produces building materials and chemicals, has gone from being "administrators of plans to designers of plans," said Carl Verdone, the manager of corporate benefits.

Yet GAF has hired no new staffers and has no plans to do so, said Mr. Verdone. He anticipates the work load will continue to increase.

Responsibilities have expanded in benefits departments "almost across the board," said Henry von Wodtke, a benefit consultant with Buck Consultants Inc. in New York. He attributed this to employer efforts to cut back on manpower and increasingly complex rules governing benefit plans.

Mr. von Wodtke suggested that as benefit departments' duties continues to become more complex, top management will begin to ap-

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Traders at the Chicago Board of Trade may someday bid on health and auto insurance futures.

Insurance futures

CBOT finalizes details while awaiting OK

By JUDY GREENWALD

CHICAGO—The Chicago Board of Trade is forging ahead with plans to introduce insurance futures contracts, though many observers continue to question insurers' interest in trading them.

In addition, regulators' and rating agencies' attitudes towards the contracts remain unclear.

The CBOT currently is preparing a response to questions about the proposed health and auto insurance contracts posed by the Commodity Futures Trading Commission, the federal agency that must approve them (*BI*, July 2, 1990). The contracts also must receive the CBOT's own final approval.

There is no set timetable as to when the CFTC is likely to reach a decision, said Gregory Samorajski, the CBOT's senior operations manager-financial institutions, who is in charge of the contracts' development. While the CFTC has a year to act on an application, it also can "stop the clock," which it has done in this case, to obtain more information.

The CBOT—which has hired Tillinghast, a unit of Towers, Perrin, Forster & Crosby Inc., as a consultant to make recommendations on how to structure the contracts—plans to focus the contracts on small group health insurance and personal auto physical damage insurance, at least initially, Mr. Samorajski said.

Both the health insurance and auto insurance contracts will be based on the underwriting performance of a select group of policies. The initial price of the contracts will be based on insurers' predictions of expected claims activity and will subsequently rise and fall if the amount of claims filed under the policies is less than or greater than expected (see related story).

CBOT spokesmen foresee health and auto insurers investing in the contracts as a way to hedge their underwriting performance.

In addition, employers that self-insure their

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Here's how contracts would work

By JUDY GREENWALD

CHICAGO—The Chicago Board of Trade's proposed insurance futures contracts initially will be based on the experience of small group indemnity health policies and on personal auto physical damage policies written in one region of the country, probably the Midwest, say CBOT spokesmen.

The CBOT, which has released additional details on its plans for the contracts as they develop, is now seeking federal approval of the contracts (see related story). The exchange itself also must give final approval.

James Hayes, president of James A. Hayes & Associates in Schaumburg, Ill., a consultant helping to develop the health insurance futures contract, said the contracts are expected to be based on an index composed of small group policies written by both commercial insurers and Blue Cross & Blue Shield Assn. plans.

Small group policies tend to be more standardized than larger group policies, making them more adaptable to an index, said Mr. Hayes. "That's one of the major reasons we picked the small group market."

Some insurers have indicated interest in supplying policy data on which an index could be based, he said. None has given formal approval.

"We expect some companies to drop in or drop out," said Mr. Hayes, who did not identify the interested companies.

Data from participating insurers would be collected by a clearinghouse. A monthly index would then be developed based on the projected "pure" loss ratio of paid claims di-

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Non-admitted insurance barred

California rule on auto cover hit

By LOUISE KERTESZ

SAN FRANCISCO—An emergency state regulation effectively barring surplus lines brokers from placing auto coverage with non-admitted insurers is creating havoc for commercial auto risks, buyer and broker representatives say.

At a lively hearing here last week, business representatives, brokers and insurers argued that the regulation has forced buyers to terminate long-term relationships with non-admitted auto insurers and to pay substantially higher premiums.

Brokers contended that the California Insurance Department presumes all non-admitted insurers are unreliable. Many commercial auto risks—especially truck and ambulance fleets—have used non-admitted companies for years because the admitted market lacks sufficient capacity, they added.

Admitted insurers countered that rules should be strengthened to bar non-admitted insurers from illegally siphoning off their business.

The emergency regulation bars placing either commercial or personal passenger auto coverage with surplus lines insurers unless the risks have been declined by the California Automobile Assigned Risk Plan. A CAARP official has said that the assigned risk plan, as a market of last resort, would not likely reject an auto risk.

The regulation—issued Nov. 15 and known as Section 2173, "Pre-Conditions to Placement with Non-admitted Insurers"—is designed to protect consumers from financially unstable non-admitted

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EAPs respond to workers' war worries

By LOUISE KERTESZ

For the first time since World War II—and to a much broader extent—employers nationwide are beefing up employee assistance programs to help workers deal with war-related stress.

Both employers with in-house employee assistance programs and those that contract with EAP vendors are trying to help workers deal with stress caused by the war in the Persian Gulf by, among other things:

- Offering seminars on how to cope with feelings about loved ones or friends participating in Operation Desert Storm, producing goods used in the war effort, general feelings of uneasiness and even memories of the Vietnam War by veterans of that conflict.

WAR in the GULF

- Establishing support groups.
- Implementing debriefing sessions for employees who have been reassigned from their jobs in Saudi Arabia to positions in the United States because of terrorism fears.
- Allowing workers and their families from one to a dozen visits to professional EAP counselors annually at no cost to the employee. If extended counseling is needed, the EAP refers the employee to outside providers, the cost of which would be covered by the employee's mental health benefits, if their plans provide such coverage.
- Establishing phone counseling hot lines.
- Providing literature on dealing with stress.

However, few employers that do not already offer workers EAPs are establishing the programs now, observers said.

Today's employee assistance programs, administered by professional counselors, are more broad-based and sensitive to workers' feelings than the programs of the 1940s, according to EAP executives and employers.

And though they by no means ignore worker productivity, today's programs are not dominated by it, EAP professionals say.

During World War II, employers offered programs "designed to keep alcohol abuse in American industry from interfering with job performance at a time of unprecedented demand for productivity," noted Richard Bickerton, information specialist in the Arlington, Va., headquarters of the Employee Assistance Professionals Assn.

But, the "occupational health" programs employers offered during World War II were designed to "keep people productive" and were not concerned with "exploring their mental health" like today's EAPs, said Marilyn Kingston, a vp of The Holman Group, a Canoga Park, Calif.-based EAP provider.

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Ruling expected soon in Gulf pension dispute

By JUDY GREENWALD

HOUSTON—A federal judge in Houston is expected to rule next month on whether Chevron Corp. must pay 40,000 former Gulf Oil Corp. employees the $600 million of surplus assets in Gulf pension plans when the merged companies combined plans in 1986.

Although any decision likely will be appealed, a ruling in the case will clarify several gray areas of the Employee Retirement Income Security Act of 1974, said plaintiffs' attorney H. Lee Godfrey, an attorney with Susman & Godfrey in Houston.

Chevron already has agreed to a partial settlement of the suit, under which it will pay $24 million to 3,000 former Gulf workers for benefits they lost when Chevron divested Gulf units after the merger. U.S. District Court Judge Sim Lake in Houston formally approved the partial settlement last month.

A trial on the lawsuit—which followed three years of discovery—began last year and stems from Chevron's handling of Gulf contributory and non-contributory pension plans and other benefit plans following the $13.2 billion merger of the two oil companies in 1984.

Mr. Godfrey said Chevron continued to manage the Gulf plans separately from Chevron's own plans until June 1986. At that time, the Gulf pension plans had $600 million in surplus assets, including $130 million of contributory plan assets that represented funds contributed by both the company and Gulf workers.

A major issue in the case is the former Gulf workers' claim that Chevron terminated so many Gulf workers following the merger that there technically was a partial termination of the pension plans under ERISA.

Under ERISA, a partial termination occurs when a group of employees previously covered by a plan are excluded either because of severance from the employer or because of a plan amendment.

The employees contend that Chevron terminated many Gulf pension plan participants before they became vested to avoid paying pension benefits. The Gulf plan participants did not fully vest until after 10 full years of service, Mr. Godfrey said.

The workers are asking the court to rule:

- That between January 1984 and June 30, 1986, there was one or more partial terminations of the pension plans because of a decline in the numbers of Gulf participants.
- That if there was a partial termination of the plan, under the language of the Gulf pension plans there should be a pro rata distribution of the $600 million in surplus assets to the workers.

Barring that, the workers seek the distribution of the $130 million in surplus assets from the contributory plans, Mr. Godfrey said.

"If there is such a provision, it would be a very, very unusual provision,' observed Dennis Coleman, a partner with benefit consultant Kwasha Lipton in Fort Lee, N.J.

The $24 million settlement that Judge Lake formally approved last month stems from charges contained in the lawsuit that former Gulf employees lost benefits when Chevron divested itself of several Gulf units after the merger, according to Mr. Godfrey.

Chevron did not in all cases permit employees to take the benefits for which they were eligible under the Gulf benefit plans at the times of the divestitures, including early retirement benefits, retiree medical benefits and life insurance benefits, he said.

The $24 million settlement at least partially compensates the former Gulf employees for the loss of these benefits. The settlement also entitles the former Gulf workers to rejoin the Chevron benefit plans subject to plan participation requirements.

And, all employees terminated between January 1984 and June 1986, without having been vested in the Gulf pension plan—including those who were employed by divested units who were later terminated without vesting—will be vested for the periods they worked for the company, Mr. Godfrey said.

The agreement also provides that the workers dismiss their claim that there was a partial termination of Gulf plans between January 1982 and December 1983.

"We've said all along that we've followed both the letter and the spirit of the law in adjusting the pension plans, and we'll stick to that," a Chevron spokesman said.

Chevron Chairman Ken Derr said in a statement when the partial settlement was originally announced in November that Chevron is "pleased with this settlement because it brings an end to major issues in the lawsuit that could have gone on for several years and cost millions more in attorney fees and expenses."

"I want to stress that Chevron acted with integrity in administering the Gulf pension plan and other benefit plans in what is a complex and uncertain area of law," Mr. Derr said.

According to Mr. Godfrey, Judge Lake has not signed the settlement agreement yet, but he is expected to do so when he announces his decision in the Chevron case next month. ■

Governor seeks board's ouster

AUSTIN, Texas—Charging the State Board of Insurance with "gross fiscal mismanagement," Gov. Ann Richards is asking two of its three members to resign.

In her State of the State address last week, Gov. Richards called for James Saxton, the chairman, and Richard Reynolds to resign by Feb. 15. Both have indicated they will not leave.

If they do not resign, the governor suggested, board operations could be placed under control of a three-member State Conservatorship Board.

Gov. Richards accused the board of "gross fiscal mismanagement" and said no early warning system has been put in place following the collapse of National County Mutual Fire Insurance Co. in 1989. That collapse fueled a barrage of criticism that eventually led to the resignation of all board members at that time.

Mr. Saxton said an early warning system is in place, though not fully computerized. The system "is equal or comparable to that of any other state and will be far superior when it is completed," he said. "A complete turnover at the top would retard our progress."

Mr. Saxton's term expires in January 1995. Mr. Reynolds' term runs through January 1993.

Gov. Richards recently appointed Claire Korioth, a lawyer with Korioth & Korioth in Austin, as the third board member. She replaced Jo Ann Howard, whose term expired. ■

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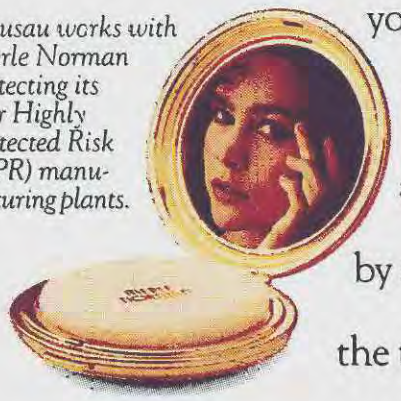

Wausau works with Merle Norman protecting its four Highly Protected Risk (HPR) manufacturing plants.

"We have found that Wausau lives up to its reputation," Mr. Lohbrunner adds. "It is a sound company and a reliable partner for us." Wausau's reputation is supported by an A+ (Superior) A.M. Best rating. One of the things Merle Norman finds so attractive.

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IBM adding to pension benefits to cut jobs

By MICHAEL SCHACHNER

Benefit beat

International Business Machines Corp. is attempting to trim its workforce by encouraging employees through sweetened pension benefits to retire early.

Among other things, Purchase, N.Y.-based IBM has dropped a penalty figured into its pension benefit calculations for workers who retire before age 60.

The computer manufacturer also is calculating pension benefits based on the average of employees' final five years of salary instead of 10 years of salary.

In addition, IBM is implementing a special retirement benefit for all employees that provides a lump-sum payment or an annuity in addition to pension benefits.

All of the moves are part of IBM's long-term plan to reduce its U.S. workforce of about 205,000, said an IBM spokesman, who would not comment on how much the company wants to cut its workforce.

While IBM likely will pay more in pension benefits as a result of the changes, those increased benefits will be more than offset by a reduction in payroll, said the spokesman.

One element of the three-step plan, which the self-insured company announced last month, is the elimination of so-called age reduction factors in its pension calculation formula that discouraged employees from retiring before age 60. Previously, employees needed 30 years of service and had to be 60 years old to qualify for full pension benefits.

IBM reduced the pension benefits of early retirees with 30 years of service by about 2% for each year of difference between the retiree's age and 60.

Under the revamped pension calculation formula, employees will need only 30 years of service to qualify for full pension benefits; there is no minimum retirement age requirement.

IBM has not determined how many employees can now retire without penalty. But the spokesman said that he expects hundreds of employees under 60 to retire this year.

In addition, IBM has modified its pension benefit formula to figure in a retiree's average salary over the final five years of service with the company, down from 10 years. Annual benefits then are calculated by multiplying the average salary by 1.35% and the number of years of service.

Under the previous formula, the average of a retiree's final 10 years of salary was multiplied by 1.5% and years of service to calculate annual pension benefits.

Although the multiplier has been reduced, pension benefits for most retirees will increase, the IBM spokesman said.

But, if a retiree's pension benefit would be lower under the new formula, the benefit will be calculated using the old formula.

IBM also has created what it calls a "personal retirement provision plan," which is designed to provide additional retirement income beyond pension benefits.

Under this plan, IBM is making an initial allocation to employees' plan accounts equal to 5% of current salary. However, the minimum contribution is $1,000 and the maximum is $7,500, according to the spokesman.

IBM will contribute 1% of salary in 1992 to employees' accounts, 2% of salary in 1993 and 3% per year after 1993. The accounts will earn approximately 8.5% in interest annually, the spokesman said.

The 5% initial allocation is being paid by IBM's overfunded defined benefit plan, but subsequent allocations will be made from IBM's total compensation program.

Money accumulated in personal retirement provision accounts can be taken by a retiree in the form of a lump sum or a monthly annuity.

"With the increased pension benefits and the PRP plan, someone coming to IBM at an early age who also joins the optional 401(k) savings plan could take with them upon retirement as much as 85% of their outgoing salary," the spokesman said.

Pension plan survey

Most Fortune 500 industrial companies' pension plan assets exceed all vested employee benefit obligations during 1989, Hewitt Associates found in a recent survey.

The survey found that 94%—or 368—of 392 respondents' plans were overfunded.

Additionally, 91%—or 357—of the survey respondents reported they had enough assets to pay for all accrued benefits—both vested and non-vested—while 75%—or 294—said they had sufficient assets to cover all projected benefit obligations.

The study examined companies that in 1990 prepared financial statements in accordance with Financial Accounting Standards Board Statement No. 87. The standard requires companies to disclose to what level pension obligations are funded as well as the assumptions used to project future benefit levels and plan costs.

On average, all survey respondents maintained assets to cover 153% of vested obligations, Hewitt reports. The survey found that the plans had assets to cover 142% of accrued benefits and 115% of projected benefits on average.

To calculate future pension benefit obligations, pension plans on average assumed that employee salaries would increase 5.8% annually. To determine an expected return on plan assets, employers used a long-term interest rate of 9.21% on average. And, once future benefit obligations were estimated, the discount rate used to determine the present value of liabilities was 8.62% on average.

The survey also reports that 6%—or 23—of the respondents have taken steps to protect pension plan assets in the event of a takeover by another company. These respondents said that the use of excess pension plan assets has been restricted to increasing retiree benefits.

The survey also asked survey respondents how they are responding to FASB's final accounting standard, FASB 106, issued in December, that requires employers to recognize retiree health care liabilities on their financial statements by 1993 (*BI,* Dec. 17, 1990).

Only 4%—or 16 employers—said they already are recognizing these liabilities on their financial statements. And, 2%—or eight firms—said they are funding retiree health care benefits in advance.

The survey, "Pension Plan Disclosure Under FASB Statement No. 87," is available for $25 from Diane Schuett at Hewitt Associates, 100 Half Day Road, Lincolnshire, Ill. 60069; 708-295-5000. ■

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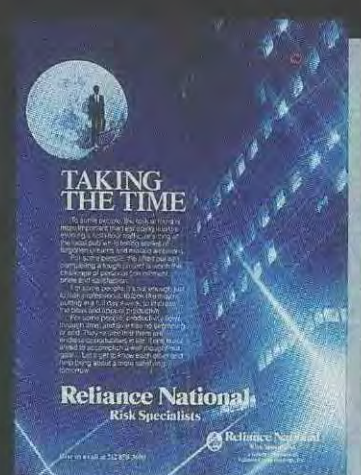

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Opinions

Preserve captive victory

RISK MANAGERS have won new, important battles in their fight to deduct premiums paid to wholly owned captive insurers. However, the war still is not over.

As we reported last week, the U.S. Tax Court ruled last month in three different cases that corporations that pay premiums to wholly owned captives are entitled to deduct those premiums from their federal income taxes if the captives write "relatively large" amounts of third-party business (*BI*, Feb. 4). We hope that the most recent Tax Court rulings—combined with the landmark 1989 decision by the 6th U.S. Circuit Court of Appeals in a case involving Humana Inc.—will persuade the Internal Revenue Service to at long last shelve its "economic family" theory.

That theory, officially espoused by the IRS since 1977, states that since a corporation and a wholly owned captive insurer are part of one "economic family" and the corporation ultimately bears the captive's profits or losses, the transaction between captive and parent does not constitute insurance.

Four decisions—three by the Tax Court and one by the 6th Circuit—now firmly reject this theory.

Under the four decisions, captive owners have several bases on which to deduct premiums paid to captives.

The 6th Circuit ruling prohibits a parent company from deducting premiums it pays directly to a wholly owned insurance subsidiary, but it allows subsidiaries of the parent to deduct premiums paid to the captive (*BI*, Aug. 7, 1989). Thus, companies can restructure their risk financing programs to deduct most of the premiums paid to captives.

The latest Tax Court rulings allow parent companies to deduct premiums paid to their captives, as long as a significant portion of the captive's premium volume is composed of third-party business and the captive meets other requirements. While it is clear that a captive that derives 30% of its premiums from third parties will meet this test, it is unclear just how much unrelated business a captive must write for premiums to be deductible.

While the 6th Circuit and the Tax Court decisions will allow a wide variety of companies to deduct premiums paid to captives, the rulings are not a panacea for risk managers with captives. For example, parents cannot deduct premiums to wholly owned captives that write no unrelated business.

And, there is a good chance that the IRS will challenge the Tax Court's January rulings.

The only way to ensure that legitimate alternative risk financing vehicles—including captives that do not write unrelated business, as well as properly maintained self-funded loss reserves—receive the favorable tax treatment they deserve is to lobby Congress to enact a law spelling out that such premiums and contributions are deductible, just as are premiums paid to commercial insurers.

While it will be difficult for risk managers to persuade legislators to pass a law that reduces federal revenues amid the current budget crisis, it may be the only way to persuade the IRS to give up the fight.

Letters

Don't dismiss use of captive for D&O liability

To the editor: Francis Englert's letter to the editor, "D&O Captive May Not be Able to Insure All Risks," in the Jan. 28 issue of *Business Insurance* sets forth a series of arguments against use of a captive to insure directors and officers liability. While D&O liability risk financing requires analysis of unique economic and legal issues, the concept is worthy of consideration as part of the effort to enhance protection against personal liability exposures.

Mr. Englert correctly notes that questions exist about whether a captive can cover claims for which corporate indemnification is not permitted. It should be pointed out that corporate indemnification is available for most claims against directors and officers. Furthermore, a risk financing program can complement traditional insurance by filling some of the gaps in coverage due to insurance policy exclusions, deductibles and other provisions.

A significant number of organizations are using captives, trusts and many other devices to finance D&O liability risks, including at least 10 of the "1990 Wyatt Directors and Officers Liability Survey" participants (*BI*, Jan. 14). Legislation specifically authorizing one or more of these arrangements is on the books in some states. A few courts have addressed the validity of such plans.

D&O liability risk financing is a complex topic. I agree with Mr. Englert that the options should be reviewed by independent counsel.

Kenneth S. Wollner
Consultant
The Wyatt Co.
Chicago

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Mail-order prescription plan no panacea

To the editor: The assumption behind the Feb. 4 editorial, "Take Action on Health Costs," that advocates the use of mail-order prescription drug programs is that purchasing prescriptions through the mail is less expensive. This is probably true when the prescription leaves the pharmacy but probably is not true by the time the employer pays the bill. There are a number of reasons for this:

- Compared with a major medical indemnity prescription drug program (alongside of which many mail order pharmacy benefits reside), the "shoebox effect" is lost in the mail. The shoebox effect represents the fraction of major medical indemnity plan prescriptions that are filled but for which a claim for reimbursement is not made by the beneficiary.
- The employer, anticipating great savings through a mail-order pharmacy program, typically requires a copayment that is substantially lower than the actuarial equivalent of the deductible and copayment that applies to retail prescriptions filled through the major medical indemnity plan.
- It is almost impossible to determine if, indeed, there were any savings because major medical drug programs provide no claims detail whatsoever on which to evaluate savings.

As an alternative along the lines of the editorial's intent, I suggest the establishment of point-of-service-based prescription drug administrative systems tied to complex benefit designs like separate and upfront drug deductibles; increased financial incentives for beneficiaries to comply with benefit design issues like use of generic drugs and use of preferred provider organization pharmacies; and serious drug utilization review (unlike what most vendors perform today).

Elan Rubinstein
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ADVERTISING: New York: 212-210-0228; Chicago: 312-649-5276; Los Angeles: 213-651-3710
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Published weekly at 740 Rush St., Chicago, Ill. 60611-2590, Telex 6871241, Fax 312/280-3174, Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017-5806, Telex 640207, Fax 212/210-0704, CRAIN COM NYK; 1 Northpark, East Suite 114, 8950 N. Central Expressway, Dallas, Texas, 75231-6415, Fax 214/696-1936; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax 202/638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 213/655-8157; 20-22 Bedford Row, London WC1R 4EB, England, Fax 71/430-2176. $2.00 a copy. $80 a year in U.S. Canada and all other foreign add $38 for surface mail. Europe and Middle East only add $105 for air delivery. First-class mail to U. S., add $95; to Canada add $105. Bermuda only, $180 per year expedited delivery. SHEILA GORMLEY, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 800-678-9595 or 313-446-1611, Fax 313/446-1650. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: ART MERTZ, The Crain Syndicate, 740 Rush St., Chicago, Ill. 60611-2590, 312-649-5303. For reprints or reprint permission contact: Reprint Department, Business Insurance, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-210-0229, Fax 212/210-0704.

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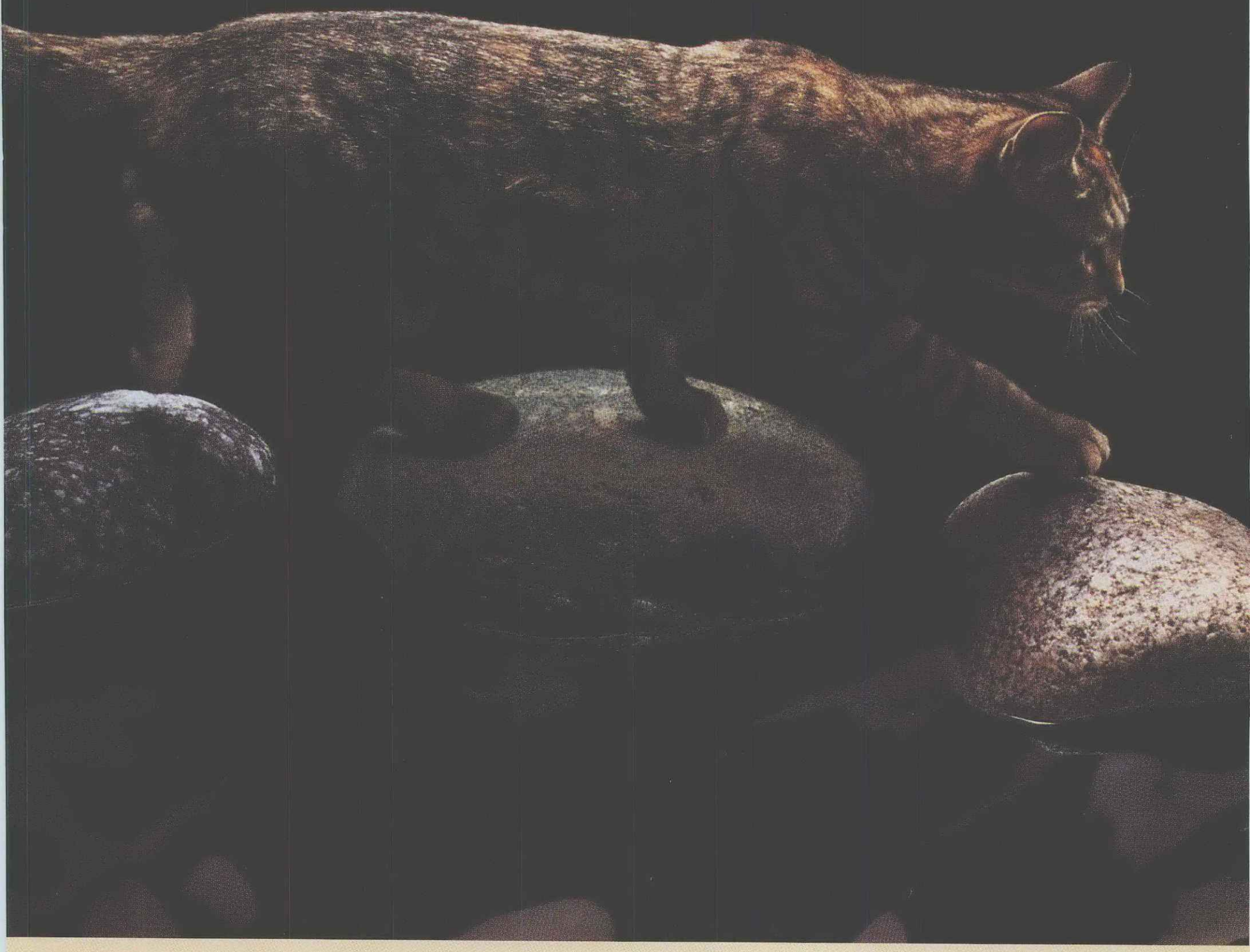

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Markets

RBH plans to acquire art specialist

Rollins Burdick Hunter Co., the retail brokerage subsidiary of Chicago-based Aon Corp., plans to acquire Washington, D.C.-based Huntington T. Block Insurance, which specializes in brokerage of fine arts coverage.

The acquisition is pending approval by both companies but should be completed by the end of the first quarter of 1991, said John McCaffrey, senior vp at Aon and vice chairman at RBH.

Terms of the purchase were not disclosed.

"We're not only a full-service broker; we also are very aggressive in specialized niches," Mr. McCaffrey said in explaining the RBH acquisition.

"Huntington is dominant in the fine arts area" and its national reputation will generate additional clients for RBH, as well as expand its existing client base, Mr. McCaffrey said.

"It's a great fit for us. Our other offices can tap into (Huntington's) resources, and that will help us penetrate the market even further," he said.

Huntington specializes in fine arts coverages for museums, art dealers and galleries, as well as for large private, corporate or municipal art collections.

Huntington also specializes in venue insurance used by art galleries that sponsor traveling exhibitions.

The agency services the major art museums in Boston, Philadelphia and Chicago, Mr. McCaffrey noted.

In addition, the company was the broker for the Van Straaten Gallery and three other galleries destroyed in a 1989 fire that demolished as much as $50 million of artwork housed in a historic Chicago building complex (*BI*, April 24, 1989).

Mr. McCaffrey pointed out that in addition to Huntington's specialization in fine arts, the broker can place directors and officers liability coverages for non-profit organizations and offers consulting services.

The company will retain its management, as well as nearly 130 employees, and will function as a stand-alone unit of Aon and division of RBH in Washington, according to Mr. McCaffrey.

New consultant

Three former insurance and government executives have formed a new consulting firm, Bailey, Morris & Newhall in Washington, D.C.

The new company specializes in health care, pharmaceuticals, insurance and financial services regulation.

Bailey, Morris & Newhall will offer clients consulting services on regulatory or legislative policy development and will provide government affairs representation for insurers, health care and pharmaceutical companies and employers.

The principal partners are William W. Bailey, J. Wilson Morris and David Newhall III. Most recently, Mr. Bailey was executive vp-federal government affairs for Mutual of Omaha Cos. in Washington, D.C.

Mr. Morris was a senior aide to the Speaker of the House of Representatives from 1987-1989 and has worked as an independent consultant since then.

Mr. Newhall was most recently deputy assistant secretary of defense for health affairs and acting assistant secretary for health at the U.S. Department of Defense.

For more information, contact Wilson Morris, Bailey, Morris & Newhall, 3333 K St. N.W., Suite 105, Washington, D.C. 20007; 202-298-6600. ■

At issue

What should be Congress' top employee benefit priority this year?

Timothy E. Johnson
Associate
Technical Risks Inc.,
Houston

Congress should allow businesses to offer catastrophic medical coverage without mandated benefits. This would allow many uninsured companies to offer coverage to their employees. Benefits mandated by jurisdictions have increased the cost of fully insured plans to the extent that many small employers can no longer afford to offer benefits.

Richard D. Weiner
Manager, Benefits and Compensation
The Southern Connecticut Gas Co.,
Bridgeport, Conn.

From the standpoint of social policy, health care cost containment ought to be at the top of the list. It's a very complex problem that continues to worsen. The solutions ultimately will require cooperation and sacrifice from all facets of the industry: purchasers, users, providers and insurers.

Kathy Herold
Benefits Manager
Daubert Industries Inc.,
Westchester, Ill.

The U.S. health care system is an uncontrolled monster that is strangling American businesses, yet leaves so many unprotected. The answer does not lie in forcing more of the burden upon employers or employees, but through a carefully designed national health policy that is affordable, yet maintains a high standard of health care.

Mary B. Bondarenko
Director-Employee Benefits
Consumers Power Co.,
Jackson, Mich.

The health care crisis merits top consideration this year. An effective legislative response must address all of the following: government cost shifting to private purchasers, the uninsured, and the need to encourage or mandate managed care and utilization reforms to contain costs.

Compiled by Sara Harty

Insurance futures

Continued from page 3

health care programs could trade health insurance futures contracts as a hedge against adverse claims development.

Others businesses that are linked to the health and auto insurance industries—like hospitals and automobile parts manufacturers—also may invest in the contracts to hedge against fluctuations in their markets.

And, individual investors, based on their perception of factors like health care inflation and rising auto prices, could be attracted to the contracts.

Insurers trading the contracts would report any gains—or losses—stemming from the contracts as investment income. While CBOT officials last year said the contracts could be used like reinsurance (*BI*, May 21, 1990), insurance regulators have since said that the contracts will be treated as investments rather than as reinsurance.

Some observers say that since the contracts will not function in the same way as reinsurance, insurers are more likely to stick with the reinsurance market rather than trade futures to hedge their risk.

And, one consultant says he does not think that employers that self-fund their health care plans would be interested in trading the contracts.

Even as details of the contracts emerge, many group health insurers, securities analysts and others refuse to comment on them, explaining that the information available about them still is too sketchy.

For instance, a spokeswoman for Principal Mutual Life Insurance Co. of Des Moines, Iowa, said the insurer has been trying to obtain information about the CBOT proposal. "We're looking at it," she said. "We just haven't reached any conclusions."

Similarly, a spokesman for the Massachusetts Mutual Life Insurance Co. of Springfield, Mass., said the insurer does not have enough knowledge about the CBOT's plans to comment on them. "We'd like to have more information on it."

However, a Travelers Corp. spokesman said the company is interested in the concept of insurance futures.

"From a Travelers perspective, we think it's a very interesting idea, and we're in the process of learning more about it," he said.

"Our understanding is it can be useful for managing liability risk, and we think these contracts could produce a more direct inflation hedge for liabilities," he said.

At this point, Travelers is interested in gauging the demand for the contracts. "Obviously, we're very interested in finding out what the pricing of it is going to be."

Jonathan Lewis, assistant vp of Skandia Investment Management Inc., an investment advisory unit of Skandia American Group of New York, said: "I think it's an innovation whose time will ultimately come. It's just a question of getting the regulatory approval.

"It seems that a lot of people's concerns are that a lot of details haven't been worked out," Mr. Lewis added. The question of how to implement the contracts on a day-to-day basis is "what seems to be the river that needs to be crossed between concept and reality."

Mr. Lewis said he believes it is appropriate for insurers to join other segments of the financial services industry, like banks and securities firms, that already trade futures contracts. "Futures, really, when issued properly, are a risk management tool," he said.

"There are a number of situations in which I think it would be clearly beneficial" for insurers to trade futures contracts, agreed Richard E. Sherman, a principal and actuary with Coopers & Lybrand in San Francisco.

However, Mr. Sherman predicted that insurance futures contracts "won't start off with a bang," because insurance company managements tend to change slowly. "I think people are going to put their toes in the water a little slowly at first."

Others indicated attitudes toward the proposed insurance futures contracts that ranged from mild interest to total disinterest.

"From Aetna's standpoint, we are not anticipating extensive use of that vehicle," said a spokesman for Aetna Life & Casualty Co. of Hartford, Conn.

Tom Scott, chief financial officer of Washington National Insurance Co. of Evanston, Ill., said: "We're at the very early stages of thinking about the matter. We find the concept interesting because we're in the health insurance business."

Because health insurance is a cyclical business with both good and bad claim years, "we're interested in a variety of ways of controlling that fluctuation," he said.

However, Mr. Scott said that he is not yet convinced that using health insurance futures to hedge will be effective and still has questions about how the contracts will operate.

And, while Washington National wants to learn more about the concept, it is not prepared to move quickly once they are introduced, Mr. Scott stressed. "We would not be a near-term user."

Others said they have no plans to use the contracts.

"Quite frankly, we do not see any practical application here for us," said John Pallotta, senior vp-group insurance for New York-based Guardian Life Insurance Co. of America. "I guess the concept is clear, but I'm not sure the practical aspect of it is clear," he said.

And Frank Grimone, executive vp, treasurer and chief financial officer for Central Reserve Life of North America Insurance Co. in Berea, Ohio, said flatly: "I would have no interest in it. I don't see any benefit in it. We protect ourselves with the reinsurance treaty so we wouldn't have any interest in what they're doing."

Lincoln National Life Reinsurance Co. of Fort Wayne, Ind., a unit of Lincoln National Corp., is not interested in insurance futures and has failed to discover any interest among other insurers, said Thomas West, president.

"I have not found a single company that has volunteered they have any interest in it," Mr. West said.

"There were varying degrees of interest" but no strong enthusiasm for the concept when a CBOT representative spoke to the group insurance committee of the Washington, D.C.-based Health Insurance Assn. of America, said Harvie Raymond, director-insurance products for the HIAA.

"It's premature at this time to really know what the industry believes will be the benefits and the problems," said Mr. Raymond, who is monitoring the issue for the HIAA. However, he added that people are having difficulty understanding the concept on which the contracts are based.

Securities analysts who cover the insurance industry also have their doubts.

"I'm very leery that something like this is going to be successful," said David Wells, an analyst with Fitch Investor Services of New York. "It's going to be tough to implement and make work from a practical standpoint.

"I don't see how it's going to fly," he said. "I don't think there's going to be much demand for it."

"I doubt that there'll be much insurer interest," said Robert Arvanitis, senior vp and an investment banker with Conning & Co. of Hartford, Conn.

The way the contracts are currently structured, the value of a contract is based on insurers' results, he explained. Where insurers do need protection—which the proposed contracts do not provide—is in guaranteeing the price and availability of reinsurance in the future.

Employers that self-insure their health care plans also are not likely to embrace health insurance futures

Continued on next page

Insurance futures

Continued from previous page
trading, said Steve McGill, a managing consultant at A. Foster Higgins & Co. in Chicago.

He believes that self-insurers will continue to buy stop-loss insurance rather than trade futures to protect themselves from adverse claims activity.

"Stop-loss is a lot more budgetable and fixable in a corporate environment than rolling the dice of futures contracts," Mr. McGill said.

An employer usually does not self-insure unless it can reasonably predict the risk it is taking, he continued. If a company can reasonably predict its risk, "why buy futures contracts?" Mr. McGill asked.

Another consultant said he does not think health insurance futures will become popular because he believes there are few investors outside of the insurance industry that would be interested in the contracts.

Insurance futures are "fundamentally different from other futures, where there are only a couple of variables to grapple with," said Dr. Roger Taylor, national leader of health care consulting with The Wyatt Co. in Washington, D.C.

For example, while investors are interested in trading grain futures for which there are only a couple of major variables, such as rainfall, "the underwriting risk of a large pool of claims is a different animal," Dr. Taylor said.

And, because insurance companies and self-insured employers would be initial "sellers" of the contracts, the lack of other investors willing to "buy" contracts would distort the price of the contracts, which would make them less attractive to insurers and self-insurers, he said.

"When you get to the point when the buyers are few and far between," the price of the contracts would be "discounted," Dr. Taylor said. If that occurs, "then why wouldn't you go to the reinsurance market?" he asked.

Futures contracts also pose insurance regulatory questions.

Foremost, some states do not allow insurers to invest in futures contracts.

"Obviously, that's a state-by- state question," said the CBOT's Mr. Samorajski.

"I would imagine almost every state would want to adopt regulations" concerning the contracts, he said. "We're not to the point yet where we can say exactly what will be done."

If an insurer is domiciled in a state that does permit insurers to invest in futures, the insurer apparently then could trade insurance futures contracts, said Arnold Dutcher, deputy director of the Illinois Insurance Department.

The National Assn. of Insurance Commissioners does not survey the states that currently allow futures trading. An NAIC spokesman noted that if insurance futures trading is permitted as an investment, the contracts then would be rated by the NAIC's Securities Valuation Office.

Mr. Dutcher also said that while Illinois' statutes allow futures trading, the Insurance Department would nevertheless still want to promulgate regulations covering the insurance futures contracts to establish meaningful standards covering issues like diversification, accounting and reporting.

While the contracts likely will be traded, volume will not be large, Mr. Dutcher said. "All you have to do is look at the current extent of the (insurance) industry in the futures market," he explained. "They are not big players in the current futures market."

One factor that has dampened enthusiasm for the concept is that regulators have made it clear the contracts would be treated as an investment rather than as reinsurance, Mr. Dutcher said.

If the insurance contracts were to be treated as reinsurance, it would open up another market to transfer risk and represent competition for the reinsurance market, Mr. Dutcher said.

Insurers had hoped its introduction would open up reinsurance capacity and reduce its cost. Now, he said, the value of the contracts to insurers' bottom line will be based on the performance of the underlying portfolios of the insurance futures contracts.

Because the futures contracts will not be considered reinsurance, "it's just hard to see how it would replace normal reinsurance or even be cheaper," said Sean Mooney, an economist with the Insurance Information Institute in New York.

One of the major benefits of reinsurance is the surplus relief it provides, which particularly enables smaller insurers with small capital bases to write more business. Since insurance futures contracts will provide only investment income, "it's hard to see who they're going to sell it to," Mr. Mooney said.

Meanwhile, a spokesman for the New York Insurance Department said it would have no comment on whether insurers would be able to purchase the contracts until regulators "really took a look at them."

Rating agency Standard & Poor's Corp. of New York would want to take a close look at any insurer transactions involving futures contracts, said Alan Levin, senior vp.

Mr. Levin said the agency's perspective is that if there is a developing market for futures contracts, then there might be some opportunity to hedge underwriting risk. But, he added that the concept still has a "long way to go."

While futures and options trading can lower risk, it also can increase risk and, if not properly used, lead to significant losses, Mr. Levin said.

And, he noted, few insurers have the expertise available to trade the contracts knowledgeably. "We would want to be convinced that companies are able to manage that risk. We wouldn't assume automatically they know how to manage it." ■

How contracts would work

Continued from page 3
vided by premium. Loss adjustment expenses and other management expenses would not be included.

The index would be based on 12-month policies—for which a fixed, guaranteed premium is charged—that cover 25 to 500 employees, with a maximum $300 individual deductible and up to a 20% copayment.

Factors like the age, sex, location and occupation of the covered individuals would be factored in when the clearinghouse compiles the index.

The original price of the contract would be determined by subtracting the insurers' projected loss ratio from 100% and multiplying by $100,000. For instance, if it is expected that $80,000 in claims would be paid out for every $100,000 in premiums collected—or an 80% loss ratio—the price would be $20,000.

Insurers and employers that self-insure their health plans could use the policies to hedge underwriting losses. For instance, using the previous example, an insurer would write $100,000 in policies with the expectation that they would generate $80,000 in losses. The insurer then could "sell" a futures contract for $20,000 to hedge against its underwriting risk.

By the end of the policy year, however, the insurer finds it has paid out $90,000 in claims on the policy. That means an "excess" loss of $10,000.

If the policies that comprise the index on which the futures contract is based perform similarly, the contract price would have fallen to $10,000, according to the formula used to set contract prices:

100% − 90% × $100,000 = $10,000

The insurer then could "buy" a futures contract for $10,000, which would give the insurer a $10,000 profit on the contract, since it originally "sold" a contract for $20,000. The $10,000 "profit" generated by the futures trading would offset the $10,000 "loss" generated by the health insurance policy written by the insurer.

Insurance futures contracts would be based on one-year policies. And a runoff period of up to six months before the contracts are settled would allow for incurred-but-not-reported claims.

Health insurance futures contracts have natural buyers and sellers, said Mr. Hayes.

Insurers and self-insured employers which are interested in hedging in case claims exceed projections would be the likely initial sellers. And hospitals and other medical organizations, which fear that revenue for health care procedures—in other words, health insurance claims—would not meet expectations, would be the natural initial buyers.

Individual speculators also would trade based on their perceptions of where health care inflation and utilization are headed, Mr. Hayes said. Trading also could be based on investors' projections of interest rates, he said.

The index on which the contracts are based initially would be updated monthly, which would stimulate trading. For example, if after one month the policies on which the index is based are producing claims that would results in an 85% loss ratio on an annualized basis, the price of the contract would drop from the original $20,000 to $15,000, which could trigger trading.

Mr. Hayes said that eventually the index could be updated more frequently.

Trading could also be triggered between updates of the index by factors such as increases in the health care component of the Consumer Price Index, the announcement of new medical technologies and changes in the number of people with AIDS.

Once the initial contracts are established and popular, Mr. Hayes said additional health insurance contracts could be introduced, focusing on areas like managed care plans; large, self-insured employers' experience; long-term care insurance; and retiree medical benefits.

The automobile physical damage futures contracts, which would be similar in structure to the health insurance contracts, are expected to be based on six-month policies with a maximum deductible of $1,000, said Gregory Samorajski, senior operations manager-financial institutions for the CBOT, who is in charge of both contracts' development.

Options trading, as well as futures trading, would be available on both the health and auto contracts, said Mr. Samorajski.

In options trading, a trader can purchase the right to buy or sell a futures contract at a specific price before a specified date. This allows futures traders to hedge their positions, said Mr. Samorajski.

"It's a way to limit risk without eliminating upside potential," he said. ■

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Pre-disaster plan called critical

Bank's vp describes Hugo effort

By COLLEEN JOHNSON

NEW ORLEANS—Protecting bank property is critical in a hurricane, and pre-disaster planning can help, says a South Carolina bank executive.

David R. Conley, vp at South Carolina National Bank, described how his bank prepared for and dealt with Hurricane Hugo at a session at the American Bankers Assn. National Security and Risk Management Conference late last month.

A few days before Hurricane Hugo hit in September 1989, a recovery control team, composed of senior bank officers, met to make sure communication plans were in place and prepare a checklist for branch offices, Mr. Conley said.

To help protect bank property, managers were told to have items like mineral oil, petroleum jelly, plastic duct tape, large plastic bags, rubber gloves, plastic sheets and a paint brush.

The checklist then instructed employees on how to power down automatic teller machines and computer equipment, and how to place currency and important documents in plastic storage bags in the vault. Items in the vault should be moved above floor level, the checklist noted. Both sides of the vault door should then be coated with mineral oil and petroleum jelly to protect against rust, and duct tape should be placed over the outline of the door.

Windows should be taped to prevent broken glass from flying into the office, he said.

A command center was set up at the bank's Columbia headquarters. Mr. Conley advised having a back-up location in case the original command center is severely damaged.

Before a storm hits, employees should be directed to call the command center for help with either bank or personal difficulties, he said.

Mr. Conley also recommended that banks plan on assisting employees whose homes are damaged by a hurricane, and that employees be urged to develop personal disaster recovery plans.

"Once their lives are back in order, they'll be able to come in and help you get your bank up and running, and not before," he said.

One lesson Mr. Conley learned the hard way: Have a list of current employee phone numbers. In the aftermath of Hurricane Hugo the bank found many of its numbers were outdated. It wound up asking a radio station to broadcast a message asking employees to call in if they needed help, he added.

Use materials and workers from outside the area to clean up after a disaster, he advised. By doing so, banks will avoid depleting already scarce local resources. "You couldn't beg, borrow or steal a slab of plywood in Charleston 48 hours after Hugo hit," noted Mr. Conley.

The bank attempted to open a branch in every city hit, if only for a few hours, on Sept. 25, the first business day after the hurricane was over, he said.

Portable generators powered lights and calculators, Mr. Conley said, adding that employees should be instructed on the limited capabilities of these generators. At one branch where a generator wasn't fully functioning, an investigation later found that employees had drained its power on non-essential items like a coffee pot and two curling irons, he said.

Key branches should be prewired to accommodate a generators, he added.

Cleanup teams removed downed trees from around the affected banks, and extra security was provided, he said. "Remember this is not business as usual," he said.

'Remember this is not business as usual," says Mr. Conley. 'People are very stressed out.'

"People are very stressed out."

Also, employees—from tellers to executives—from areas not severely damaged by the storm volunteered to help staff branches in the disaster area, Mr. Conley noted. "I think this speeded our recovery up tremendously," he said. "It also boosted morale like you wouldn't believe."

Money spent and actions taken during the cleanup should be documented for insurance purposes, he said. And, bank risk managers should make sure they know how much of the extra expense of getting back in business is covered by the bank's property insurance, he added.

In addition, bank officials should get to know the local authorities who will control access to a hurricane-stricken area after the storm, he pointed out.

Finally, Mr. Conley suggested banks put on a hurricane preparedness workshop for employees, noting that the National Weather Service is willing to provide speakers for these meetings.

Thomas Gerrity, vp-information security at First City Bancorp of Texas Inc. in Houston, moderated the session. ■

Bankers beware of pollution liability: Expert

By COLLEEN JOHNSON

NEW ORLEANS—Bank trust departments should beware of a court ruling that lenders may be liable for cleaning up pollution on property used to secure loans, experts warn.

Pollution-related lawsuits probably have prompted banks to revise their lending practices "to stay away from environmental trouble," said Kenneth O Freer, president of The Hampton Corporate Strategy Group Inc. in Portsmouth, N.H. "Look at what you're doing in the lending area, and pick those same practices and bring them into the trust area," he recommended.

Mr. Freer and Michael R. Garfield, senior counsel for Bank of Boston, spoke last month on a panel about trust property management at the American Bankers Assn. National Security and Risk Management Conference.

The U.S. Supreme Court recently declined to review an 11th U.S. Circuit Court of Appeals ruling on lender liability for cleanup costs. The appeals court held that a lender with "the capacity to influence the corporation's treatment of hazardous waste" could be held liable under the Comprehensive Environmental Response, Compensation and Liability Act (*BI*, Jan. 21).

That ruling contrasts with a 9th Circuit interpretation of the Superfund secured lender exemption. In August, that court held that a municipal entity that issued revenue bonds to a firm to promote industrial development was not liable for cleanup costs because the municipal entity was not involved in managing that firm (*BI*, Sept. 3, 1990).

To avoid liability, Mr. Freer said banks should avoid operating property held in trust and be "very careful" in dealings with closely held businesses. He gave tips for trust departments managing environmental exposures:

- Use an environmental checklist to identify potential exposure on all properties the bank holds.
- Establish a committee to oversee administration of all properties with potential exposure.
- Before acceptance, require a completed environmental checklist for all properties and surveys for those likely to have such exposures.
- Require that all trust documents authorize the bank to monitor, review and inspect any property held in a trust or estate.
- Require that all trust documents give the trustee power to clean up properties. This probably will minimize the bank's liability and save the customer money in the long run, he said.
- Avoid placing officers on boards of closely held corporations that might have pollution exposures. Unless a bank purchases a specific rider, its directors and officers policy generally won't protect such officers, he said.
- Analyze closely held companies from a financial and investment management viewpoint. Avoid management involvement by requiring the company to hire competent third-party managers who make financial reports to the trustee.
- When possible, dispose of closely held companies and properties with pollution potential within six months. If a bank holds property it is foreclosing on longer than six months, a proposed EPA rule would place the burden of proving it was not held for investment purposes on the bank, he said.
- When liquidating a business as part of an estate, employ an independent firm or auctioneer who indemnifies the bank.
- When liquidating business, do not oversee completion of work in process or take other actions that may cause the trust department to be held liable as an operator.

If a client wants to place property in trust, the bank's new business officer should inspect the property for environmental problems like asbestos and buried oil tanks, Mr. Garfield said. If the bank doesn't look for such problems before the property is placed in trust, the client could later argue that the bank should have done so and is responsible for cleanup costs, he said.

Banks also must keep an eye on properties held in trust to make sure no outside party places toxic substances on the land, he said.

Bank risk managers should make sure they are familiar with both state and federal environmental regulations, he noted.

Dennis W. Kreiner, vp and assistant secretary of Mercantile-Safe Deposit & Trust Co. in Baltimore, moderated the session. ■

370 attend banking conference

NEW ORLEANS—About 370 people attended the 1991 American Bankers Assn. National Security and Risk Management Conference.

The annual conference was held Jan. 22-25 at the Hyatt Regency New Orleans. Concerns about travel due to the Persian Gulf war apparently did not significantly affect attendance, an ABA spokesman said. Only three of 24 registrants from England did not attend, and one of two registrants from Israel did not come.

Next year's conference will be held Jan. 26-29 at the Sheraton Harbor Island in San Diego. Those interested in attending should contact Saundra Currence, ABA program manager, at 202-663-5290. ■

Bank acquisitions require eye for detail

By COLLEEN JOHNSON

NEW ORLEANS—Risk managers for banks contemplating a merger or acquisition should carefully research the other company, experts say.

"Bankers who do not do their homework thoroughly. . .are in for some very unpleasant surprises," said Edward G. Weiss, director of corporate risk management for First of America Bank Corp. of Kalamazoo, Mich.

Mr. Weiss spoke at a session on mergers and acquisitions at the American Bankers Assn. National Security and Risk Management Conference late last month.

Once they learn a merger or acquisition is being considered, bank risk managers should "immediately get as much information on that organization as possible," Mr. Weiss said. One of the best contacts could be the risk manager's agent/broker or insurer, he said, adding that no risk manager should contact the other organization without approval from superiors.

When that first contact is made, "keep in mind, the tone of your voice is very important," Mr. Weiss said. He advises planning what to say, keeping conversations brief and bearing in mind that the other person may be thinking, "Where's my job going?"

Mr. Weiss also suggested calling the proposed change an "affiliation" and noted that it's important to "be friendly."

"Just because your company is interested. . .you don't walk in like a bull in a china shop," criticizing past practices, he recommended.

Before proceeding, risk managers should review: insurance policies; annual reports; appraisals; audit reports; an automobile list; branch locations; building values; captive programs; charge-off reports; the claims history; claim reserves; the value of furniture and fixtures; contractual obligations; the value of electronic data processing and the tapes and discs on which it is stored; and environmental risks.

He also advises reviewing: farm management programs; foreclosures; insurance reports; leasing; prior and pending litigation; loss runs; real estate on which the bank had foreclosed and to which it now has title; repossessions; funds set aside for deductibles or self-insurance; settlement practices and trust-held properties.

Risk managers should also look at companies used by the organization in question. These include the: brokerage, data processing firm, insurer and agency, leasing company, mortgage company, title company, travel agency, foreign bank and the corresponding bank.

Next comes a written transition plan for insurance programs Mr. Weiss suggested having the plan approved by management and sending copies to the chief executive of the target company.

Insurance policies can be consolidated either on the date of acquisition or upon expiration.

After the session, he recommended consolidating individual policies for the company being acquired at the time of expiration. This helps the acquiring company avoid antagonizing the insurers and agents for the acquired company, and possible early cancellation penalties, he explained.

Some types of coverage, however, must be consolidated at the time of acquisition. A clause in directors and officers liability and financial institution bond policies says coverage ends on the date of an acquisition, he explained.

All cancellations or non-renewal of policies should be made in writing, and former agents and brokers should be thanked for their service. Also, risk managers should contact the chief executive of the company being acquired and ask if that person knows of any event that could lead to a claim, he said.

John F. Roskopf, vp at Rollins Burdick Hunter Co., a retail brokerage unit of Aon Corp. in Chicago, also offered tips for risk managers dealing with an acquisition. Attendees viewed a video of Mr. Roskopf's presentation, since he was recovering from surgery.

In reviewing the closing agreement, risk managers should consider the assumption of incurred but not reported claims and current, past and future liability; whether claims reserves—both by the company and the insurer if there is a retrospectively rated policy—are adequate; terms of transfer; and prior insurance.

In doing a financial analysis of the company to be acquired, a risk manager should look at adverse claims development and its potential impact on cash flow, income or assets, Mr. Roskopf said. This will show that the risk manager is looking at the "big picture," and not just technical issues, he added.

Prior mergers and acquisitions, along with divestitures, should be reviewed to see whether the company to be acquired may have divested a company but retained responsibility for the IBNRs of its products, Mr. Roskopf said.

Risk managers should also consider possible liability for any discontinued products, Mr. Roskopf said. And they should be aware that if an acquired company has products under warranty, continuing to honor the warranties could strengthen a case for successor liability, he said.

He recommends examining the loss history of a potential target company. By avoiding acquiring that company's insurance policies, the purchasing company can avoid liability for incidents predating the buyout, Mr. Roskopf explained.

Risk managers should object to a target company's suggestion that it will settle pending cases to clean up the books. That could set an unfavorable precedent, he said. And, since the acquiring company may sometime need testimony from officers of the acquired company, the acquiring company should try to reach an agreement for "access to their talent," he added.

Among the items Mr. Roskopf recommended bank risk managers review in a potential acquisition are:

- The approval process for loans and overdrafts.
- Computer/data security.
- Who signs checks and makes disbursements.
- Documentation and audit procedures.
- The adherence to investment guidelines.
- Owned real estate and lender liability.
- Housekeeping, in that falls are a frequent source of claims.
- Non-bank divisions like finance companies, leasing companies, data processing services, foreign exchange operations, tax and personal finance planning, insurance agencies and charitable and community work.

Michael R. Becker, vp of First Chicago Corp. in Chicago, moderated the session. ■

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Experts detail bomb threat response plan

A key part of any response plan is outlining who will search for a bomb and how they will do it, says Mr. Baldassaro of Hibernia National Bank. The best people to search a targeted area are employees who are familiar with it, he says.

By COLLEEN JOHNSON

NEW ORLEANS—A bank's response plan to bomb threats should be designed to correspond to the various degrees of immediacy and specific threats, according to a corporate security manager.

War in the Persian Gulf has made terrorism a "hot topic," said Peter J. Baldassaro Jr., vp at Hibernia National Bank in New Orleans. He spoke on "How to Design a Bomb Threat Plan that Won't Blow Up" at the American Bankers Assn. National Security and Risk Management Conference late last month.

Although only about 5% of bomb threats to banks come from terrorist groups, these are the ones that should raise the greatest concern, Mr. Baldassaro warned.

About 70% of bomb threats come from inside sources, such as unhappy employees and customers. And the remaining 25% come from sources with no apparent business connection to the bank, he said.

Moderator Daniel E. Hunter, senior vp-corporate security at C&S/Sovran Corp. in Atlanta, stressed, however, that he didn't think the Gulf war would increase terrorist threats to banks.

After receiving a number of bomb threats, Hibernia National Bank decided to develop a response plan, with assistance from law enforcement officials and a security consultant, Mr. Baldassaro said.

A bomb threat raises several issues, he said, including: how to provide a reasonable level of safety expected by employees and customers; the impact of business interruption; possible negligence claims; and potential endangerment of insurance coverage if the bank does not act prudently in such a situation.

When forming a response plan, a bank should consider how it will be communicated to employees and tested and what to do if a bomb explodes, Mr. Baldassaro said.

One person, rather than a committee, should be designated to make decisions when a threat is received, he said. "This guy is going to be Harry Truman, because the buck is going to stop there."

Any threat must first be evaluated in terms of how specific it is, he said.

For example, more drastic measures should be taken if a location of the bomb or time of detonation is given, or if the threat is or could be related to a terrorist group, Mr. Baldassaro said.

To lay out such guidelines, Hibernia National Bank, with the help of law enforcement officials and consultants, has developed a series of responses depending on the level of the bomb threat.

For example, if a caller says only that there is a bomb in the bank, the bank should call police, increase observation and control at entries, and search exit and stairwell areas, he said. However, if the caller is more specific and provides information such as a location of the bomb but does not indicate political motivation, the bank should also order searches of the building and specific departments and areas, in addition to the previously described steps, he said.

If the caller gives a detonation time that is more than an hour away, the bank should stop all entry to the building and evacuate, along with taking the above steps, Mr. Baldassaro said.

Finally, if the threat is politically motivated—or the caller implies or states the threat is from a terrorist group—and gives a detonation time of less than one hour, the bank should call police, search exits and stairwells, stop all entry to the building, order an evacuation and conduct a post-threat search, he recommended.

A key part of any response plan is outlining who will search for a bomb and how they will do it, he said. The best people to search a targeted area are employees who are familiar with it and they should be trained how to conduct the search, he said.

Bombs are most likely to be planted in public areas like a restroom or near the entrance to a building, because the person planting the bomb will want to carry it for the shortest time possible, Mr. Baldassaro said.

To help employees deal with a bomb threat, Hibernia has placed a tear-out sheet in the office phone directory that illustrates the different categories of bomb threats. An employee that receives a threat over the phone needs only to pull out the part of the sheet describing the threat and forward it to the appropriate person, Mr. Baldassaro said.

This helps employees clearly remember what was said, he explained.

Evacuation routes should be established, as should a gathering area away from the building, so that employees will not scatter and can be called back to work if it is a false alarm or minimal damage occurs, he added.

If an evacuation is necessary, people should be directed to exit by going "up and away," or to a floor above the bomb, if possible, and away from the device before descending, he said.

Bank managers should also plan ahead to help police preserve the crime scene and deal with reporters, Mr. Baldassaro said.

During his presentation, Mr. Baldassaro referred to an article in a bank security publication that says "nationwide statistics on bomb threats indicate a ratio of one real bomb to every six threats."

However Bill Chain, an FBI agent who also spoke at the session, said there "really are no reliable statistics" on nationwide bomb threats.

Bernard Graiser, a New Orleans police sergeant, said officers in his district responded to 150 reports of bomb threats in 1990. About 20 of them were "good calls," meaning that a bomb or some device was found, he said. ■

Tips on maximizing broker relations, service

By CCLLEEN JOHNSON

NEW ORLEANS—Whether searching for a new broker or trying to maintain a good relationship with a current one, risk managers should make sure their broker understands—and does—what they want, experts say.

Credibility is the most important trait risk managers must project in the insurance marketplace, said John E. Foley, corporate planning officer of Alexander & Alexander International Inc., a division of Alexander & Alexander Services Inc. in New York.

"If you're cavalier with your brokers and underwriters, it'll come back to haunt you," Mr. Foley said during a panel discussion at the American Bankers Assn. National Security and Risk Management Conference late last month.

Asking a variety of brokers for proposals—which do not include bids from insurers—"does keep your broker on his toes," but should not be done annually unless changes are necessary or there are problems with a program, Mr. Foley said. Putting together a proposal for a particular client is "very expensive," he said.

Brokers generally don't make much money during the first year with a new client and are looking for long-term relationships, Mr. Foley said.

Risk managers seeking broker proposals should start four to six months before renewals and should be specific, he advised.

Risk managers for banks, Mr. Foley said, should ask prospective brokers for:

- Background on their company and information on how they service financial institutions.
- Information—including resumes—on the service team that would be assigned to the account.
- References from financial institution clients, including contact names and phone numbers.
- Information on how clients are kept abreast of market changes.
- Details on how coverage summaries, premium and loss exhibits, commission paid schedules loss control reports, risk analysis reports and attachment point analysis would be provided.
- Information on whether the broker is affiliated with or precluded from using a particular insurer.
- Information on ability and experience in evaluating and developing alternative insurance mechanisms.
- Descriptions of services that would be provided, along with a description of the method and amount of compensation.
- A thorough analysis of strengths and weaknesses of the current program with recommendations for change at renewal.

Edgar W. Armstrong, consultant and manager with The Wyatt Co. in Washington, D.C., said asking several brokers for proposals is the best policy when looking for changes in D&O or financial institutions bond coverage. The broker chosen on the basis of a proposal will then obtain the insurance, said Mr. Armstrong, noting that the market for those types of coverage is too limited for one bank to have four or five brokers seeking competitive bids from insurers.

Competitive bidding can be used for general property/casualty coverage, but shouldn't be done more than every four to six years, he said.

Risk managers could also award a permanent appointment to a broker, but "I've never found a situation where it's worked," Mr. Armstrong said.

Some reasons for seeking proposals or competitive bids, according to Mr. Armstrong, include: merger or acquisition; change in the underwriting cycle; dissatisfaction with the current broker; notice of non-renewal or a major change in policy conditions; dissatisfaction with current underwriters; consolidation of coverage; a new exposure; and concern over insurance costs.

Mr. Armstrong's tips for seeking proposals or competitive bids from brokers include:

- Base specifications on an audit of your current insurance program, including any new risks or changes. But, don't let competitors bid on an incumbent broker's package.
- Limit the number of brokers involved.
- Don't award the business to a broker that can't handle an account of that size.
- Don't let more than one broker go to the same underwriter in the bidding process—except in the case of reinsurance.
- Let brokers improve on your specifications.
- Tell prospective brokers you don't intend to put the program up for bids every year.
- Look at factors other than price when choosing a broker—such as scope of resources and the way the broker treats you.
- Thank all participants in the bidding or proposal process.

Mr. Armstrong suggests that risk managers develop a contract with the chosen broker, covering topics such as how the business will be placed, how many underwriters will be looked at and what services will be provided.

Also speaking on the panel was Wynne B. Romefelt, vp/risk management officer at First National Bank of Toms River, N.J. Hank Bieniecki, vp of Boatmen's Bancshares Inc. of St. Louis, moderated the session. ■

Risk management education

Business students all need to know the basic principles

By Sandra G. Gustavson

THERE IS QUITE A CONTROVERSY raging over the appropriate role of risk management education in the undergraduate business curriculum.

With some notable exceptions, most colleges and universities involved in undergraduate business education simply ignore the entire subject of risk management. Some deans and others with political power within institutions of higher education cite budgetary constraints in explaining this omission. Others quote the historical position of the American Assembly of Collegiate Schools of Business (AACSB), which is the sole accrediting body for U.S. business schools. The AACSB has never recognized risk management as a unique discipline. Instead, the subject has been equated with the study of insurance, which the AACSB deems as too specialized and vocational in nature to justify study by all business students.

Many of the assumptions being made about the study of risk management are simply untrue, and decisions based on those assumptions may have dire consequences in the future. A basic awareness of risk management principles is important for all future business leaders.

Students who cannot recognize potential sources of risk are inadequately prepared to participate fully in management processes intended to achieve basic organizational goals such as profit maximization, earnings stability and growth. At best, these future managers may learn basic risk management principles in an ad hoc manner over time as they perform their jobs. In many instances, such persons will implement less-than-optimal methods of handling risks, perhaps only after losses occur, with no prior integration of risk management concerns into overall managerial philosophies. At worst, these individuals may endanger the very survival of the organizations they will be attempting to manage.

This way of dealing haphazardly with potentially catastrophic risks certainly is not desirable in an environment in which management accountability is expected and demanded.

Alternatives exist. If all business students were required to learn the basic principles of risk management decision-making, they and the organizations that will employ them in the future would be well served. The risk exposures now facing most organizations are too large in both size and scope to rely on outmoded management methods that fail to integrate risk management considerations into all aspects of their planning, organizing, leading and controlling processes.

In prior decades, it was possible for many organizations to concentrate primarily on the risk financing phase of risk management and then merely buy insurance to protect against obvious perils and employee obligations. But in the intensely competitive, ever-changing climate of the 1990s and beyond, such unidimensional management decisions will rarely be either optimal or prudent. Business, legal and societal pressures are all combining to require more sophisticated, integrated approaches. Now—and even more so in future years—it is essential that quality management education include risk management as an integral and indispensable element.

Is this even remotely feasible? The answer is a resounding "Yes!" It is feasible, but it is also unlikely without overwhelming support from both the business and academic communities.

The accreditation standards set up by the AACSB are currently undergoing revision, with a vote on new standards expected to occur in April. One of the major changes that likely will be enacted at that time is a provision allowing each individual business school to specify its own mission. For accreditation purposes, each school's curriculum would then be judged in relationship to that stated mission. This type of change is being contemplated for a variety of reasons, one of which is to allow more flexibility within business school curriculums.

The concept of increased flexibility is indeed desirable, but it should not be used as a blanket excuse for completely ignoring subject areas as vital to the future as risk management.

The preamble of the December 1990 draft of the proposed new standards being considered by the AACSB states, "Just as managers face rising expectations for their performance and the performance of their organizations, programs in management education also should anticipate rising expectations. . . ." Can any examples of businesses or other organizations be cited in which responsible management decisions are possible without consideration of sources and consequences of various types of risk? How can the standards for responsible management education condone deficiencies of knowledge that may undermine not only the achievement of basic organizational goals, but also the survival of an organization itself? It would seem that the integrity of the higher education system demands something more.

The American Risk & Insurance Assn. has taken the lead in trying to change this situation. This past fall, ARIA's position paper, "Risk Management: An Essential Part of the Common Body of Knowledge for Business," was endorsed, published and distributed through a grant from the Risk & Insurance Management Society Inc. The paper's endorsement by RIMS was followed with official endorsements by several other groups, including the Public Risk Management Assn., the Western Risk & Insurance Assn. and the Southern Risk & Insurance Assn.

The ARIA paper calls for the incorporation of some form of risk management education into all accredited business programs. Such a requirement must be implemented with a separate course in risk management at some schools.

In other institutions, risk management principles might be integrated into existing courses in management, finance, accounting, marketing and business law, and the paper offers specific suggestions about how to achieve such integration. The key point of ARIA's position is that all business students need to be aware of basic risk management principles. Exactly how that would be accomplished at each school can certainly vary, especially in light of the AACSB's increased concern for curriculum flexibility.

Regardless of the obvious merit of arguments favoring widespread risk management study, the inclusion of such a requirement in the new AACSB accreditation standards is not at all assured. According to the December 1990 draft of the new standards, the only business disciplines that would be specifically required are accounting and economics, which are described as necessary "foundation knowledge for business."

The list of other foundation knowledge that would be required includes behavioral science, mathematics and statistics. Elsewhere in the draft, there is a requirement addressing the need to provide students with "an understanding of perspectives that form the context for business." Against this background, one might ask whether it is at all reasonable to expect the AACSB to add risk management to standards that are so intentionally vague and limited. But that is not the right question to ask. Rather, one must ask whether it is either reasonable or responsible to omit risk management from standards intended to assure that students are well prepared to lead useful professional and societal lives.

Now is the time for individuals and others who realize the importance of risk management to make their convictions known. On Feb. 17, the AACSB committee that is drafting the new standards will meet for the last time prior to issuing a final draft to be voted on in April. Prior to Feb. 17, letters from the business and governmental communities can help to focus the committee's attention on how and why risk management is important for all business students. Letters should be addressed to the chairman of the committee, John P. Evans, Graduate School of Business, Carroll Hall, University of North Carolina, Chapel Hill, N.C. 27599, and should provide illustrations of the significance of risk management within the letter writer's own organization. Specific examples pointing to the potential consequences of ignoring risk management principles also would help the committee understand exactly what risk management is all about.

After Feb. 17, letters of support can still be helpful. Persons who are trustees, directors, fund-raisers or alumni for colleges and universities should personally contact institutional leaders they know. Deans, presidents and others involved with business education must be made aware of the importance of risk management and should be asked to consider supporting its study on a widespread basis. Individuals wanting to express support more directly should consider writing letters to AACSB President William G. Shenkir, Dean, McIntire School of Commerce, University of Virginia, Charlottesville, Va., 22903-2493, and President-Elect Richard J. Lewis, Dean, College of Business, Michigan State University, East Lansing, Mich. 48824.

Business deans at the following institutions also are currently serving as AACSB officers or directors and might be contacted: Southern Methodist University; Louisiana Tech University in Ruston, La.; Henderson State University in Arkadelphia, Ark.; Oklahoma State University; North Carolina A&T State University; Roosevelt University in Chicago; University of Arizona; San Diego State University; and the Massachusetts Institute of Technology.

Finally, it should be noted that AACSB membership consists not only of colleges and universities, but also many business, government and professional institutions. Organizations that are AACSB members are eligible to send representatives to the national AACSB meeting at the Adams Mark Hotel in St. Louis on April 21-24. Prior to that time, there will be a regional AACSB meeting at the Hyatt Regency Hotel in Houston March 13-14. Personal conversations with deans and other AACSB members attending these meetings can solidify arguments made in letters and provide an opportunity to address questions posed by those for whom the study of risk management is still a new idea.

Time is short before final decisions on this issue will be made. ARIA, RIMS, PRIMA and many others have taken a public stand expressing the crucial need for risk management education. But the rationale for their position and the dangerous consequences of ignoring the need must be expressed repeatedly this spring if there is to be any chance for success. ■

Sandra G. Gustavson is a professor of risk management and insurance and head of the Department of Insurance, Legal Studies and Real Estate at the University of Georgia in Athens. Ms. Gustavson also is president of the American Risk and Insurance Assn.

Benefit managers

Continued from page 3

preciate benefit managers' contributions and, thus, benefit managers will continue to receive more respect.

Richard S. Raskin, a consulting actuary with The Wyatt Co. in New York, said that both management and employees are expecting more from corporate benefit departments.

Management is "trying to get more out of their benefit departments and at the same time are trying to control the costs of administration. They are very reluctant to allow increases in staff," Mr. Raskin said.

Employees "expect to have plans that are easier to work with, that are more user friendly," he added.

Higher health care costs, complex regulations and greater employee demands all are creating more work for benefit departments, said Charles J. Mazza, vp of human resources at Mead Corp. in Dayton, Ohio.

"I don't see it changing," he said. "All of those pressures. . .are still out there."

Benefit managers have handled the extra workload by enhancing automation systems to ease administrative chores and also to allow more interaction with branch office personnel and employees, said Tom Seuntjens, director of financial services for Honeywell Inc. of Minneapolis.

Although, the survey did not ask if benefit departments have reduced their staffs, some have. Honeywell, with 60,500 employees worldwide, has 21 employees in its benefits department, down about 20% over the past three years, Mr. Seuntjens said.

The survey also polled benefit professionals about the most serious problems facing employee benefit departments.

Getting more staff to handle the increasing workloads, communicating benefits to employees and benefit costs were the most common replies, said Mr. Davidson, the survey author.

Buck's Mr. von Wodtke suggested that constantly changing rules are one of the biggest problems facing benefit managers.

"If you want to run a department the way it should be run, you want to get people into a routine," he said. The constantly changing regulatory environment prevents departments from developing a routine, he said.

The study also found that:

- 51% of the heads of employee benefit departments have final authority when negotiating with service providers, while 46% have only advisory authority. Three percent did not respond.
- Only 44% have the final authority to select a service provider, while 52% had advisory authority. Four percent did not respond.
- 21% of those heading employee benefit departments have sole control over the department's operational expenses, like salaries and travel costs. Fifty-five percent share control with another manager and 19% had advisory input only, while 4% had no control over these expenses and 1% did not respond.
- The size of benefit staff varied with the size of the organization. For example, benefit departments at companies with more than 5,000 employees have an average of six professional staff members and five clerical workers. Benefit departments at companies with 1,001 to 5,000 employees reported an average of two professional staff members and two clerical workers, while departments at firms with 1,000 or fewer employers averaged one professional and one clerical employee.
- 73% of the employee benefit divisions reported to the human resources department. Seven percent reported directly to the chief executive officer, 7% reported to the finance department, 6% reported to the personnel department and the remainder reported to other departments.
- 70% of the respondents felt that the human resources department was the ideal department to which to report. Thirteen percent said that they thought the benefit department should report directly to the CEO.
- Only 7% of the companies in the survey had a separate staff dedicated to international benefits. Of these companies, 27% had set up the divisions within the past two years.

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Free copies of the survey "Employee Benefits: An Organizational Analysis" are available from the Public Relations Department, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

Federal regulation

Continued from page 2

censed companies, which are now more often than not the innovators of new coverages and new capacity," Mr. Holbrook said.

Another cornerstone of utopia would be a system based on "mutual trust, not litigation," he said.

"Claims adjustment used to be a matter of good will, good faith, mutual trust and word of honor among insurer, client and broker. But no more. Now it's an adversarial world where litigation can be the rule, not the exception," he said.

"Much too quickly, the risk manager, underwriter and broker are left out of the (claims) process, negotiations cease and the legal types take over," Mr. Holbrook said.

The perfect insurance world would be one in which "service counts, not where the commodity mentality prevails," he said.

Mr. Holbrook charged that insurance became a commodity-driven market in the 1980s, when the market began placing a greater emphasis on price than on quality of service.

Long-term relationships are a casualty of the commodity mentality, he said. "Many buyers believe they must put their business out to bid for the lowest quote for both underwriting and broker services."

Integrated and specialized global underwriting would be another feature of insurance utopia, he said. "The insurer's organizational structure must integrate," he said. "Separation of domestic and international underwriting is no longer useful."

Mr. Holbrook said "specialized, integrated underwriting will create more efficient insurance programs. The result will be that a broker in Atlanta can place an Atlanta risk in London, Zurich, Tokyo, anywhere."

Insurers' branch offices with decentralized underwriting are no longer practical or needed, he said. "This system will bury insurers in duplicative costs for maintaining multiple branch plant facilities. We need focused marketing, specialized underwriters accessible from anywhere around the world."

Lloyd's of London, with a single location and a global book of business, is an excellent example of the kind of underwriting that is needed, Mr. Holbrook said.

The industry should live up to its "traditional" role: a cost-stabilizing factor, he said. "And, we need to eliminate the situation where price and availability become yet another risk."

The U.S. insurance system is the most "expensive, inefficient, inconsistent, cumbersome and cyclical" in the world, Mr. Holbrook charged.

National Union Fire Insurance Co. President Jeffrey W. Greenberg agreed that insurance is a "very competitive," but "very inefficient industry." It has too much capital, too many people, and it provides too little return for its investors, he said.

Mr. Greenberg said the number of insurers in the market "would lead one to conclude that there will indeed be a great deal of consolidation in the property/casualty business over the next five to 10 years. And it should happen. The industry is inefficient."

Herbert E. Goodfriend, an independent analyst, predicted a "fierce level of consolidation" among insurers during the current economic downturn in the United States.

"The economy is now truly in a recession," he said. "And it is more difficult to increase prices in this kind of environment."

Yet Europeans and Asians are hungrily eyeing U.S. insurers, he said. The "worse the industry gets in the United States, the more complex, the more troubled it is, probably the more interesting it's going to become to overseas buyers."

Mr. Goodfriend noted that foreign purchasers feel "the grass is always greener. But, secondly, they've got the bucks. So, as long as the dollar remains weak, they will have excess capital to export and that's where they will employ it: right here in these United States."

Whatever course the U.S. insurance industry takes—utopia, a streamlined industry with fewer insurers or the same system burdened by too many markets and too much capital—some kind of federal regulation is likely, some panelists said.

And, it likely will happen sooner than later, said Paul Brown, director of governmental affairs for RIMS in New York. "I think it's obvious to everyone that Washington will take a major role in insurance regulation," he said. But, "to what extent and exactly when this will take place is still up in the air."

For example, the House Oversight and Investigations Subcommittee, chaired by Rep. John Dingell, D-Mich., will likely produce a bill proposing federal solvency standards, Mr. Brown said (*BI*, Jan. 14).

"That is the minimum level of intrusion of the federal government we see at this point," he said.

In addition, "there will be some critical debate in Washington" on whether the McCarran-Ferguson Act should be repealed, said Dick Dorsey, vp of the Southeast region of the American Insurance Assn.

The 1945 law grants insurers limited exemptions from federal antitrust law and charges states with regulating the insurance industry.

Some insurers may be willing to discuss the possibility of amending McCarran-Ferguson, he said. "I look for a few more companies to say in the future that maybe there is some basis to negotiate, maybe there is some basis to compromise on the position that they have had on McCarran in the past."

Mr. Brown said he also expects McCarran-Ferguson to be revised. Rep. Jack Brooks, D-Texas, already has introduced a bill to "as he puts it, overhaul McCarran-Ferguson," Mr. Brown said (*BI*, Jan. 21). However, the bill more likely would "obliterate" the act, he said.

That bill is expected to produce a "heated battle" because many representatives are not behind the proposal, he said. "If change in McCarran-Ferguson is inevitable, we hope a better bill comes along to do it."

But Mr. Dorsey said he believes regulatory activity will be heaviest at the state—rather than the federal—level in upcoming months. Issues like rate rollbacks, rate freezes, prior approval of rates and the creation of consumer advocate offices will continue to dominate state legislative debates and appear in the platforms of state politicians, he said.

Moderators of the session were Judy Hughes, corporate risk manager with BellSouth Corp. in Atlanta, and Eben Jones, director of risk manager at Rollins Inc. in Atlanta. ■

Risk manager's goal: 'absolute credibility'

By MICHAEL BRADFORD

ATLANTA—A risk manager's ultimate goal is to attain "absolute credibility," says an award-winning risk manager.

"That's the goal, but how do you get there?" asked Stephen M. Wilder, director of corporate risk management at The Walt Disney Co. in Burbank, Calif., and the 1990 *Business Insurance* Risk Manager of the Year (*BI*, April 30, 1989).

Speaking on a panel discussion at the 1991 Risk Management Educational Conference, held Jan. 30-Feb. 1 in Atlanta and sponsored by the Atlanta Chapter of the Risk & Insurance Management Society Inc., Mr. Wilder said a risk manager needs a wealth of technical knowledge to achieve credibility among peers and colleagues.

"I'm not sure that you can fake it," he said. "Either you know it or you don't."

A risk manager's universe of knowledge must encompass an understanding of insurance policies, finance, taxes, tort law, government regulations and a host of other subjects, Mr. Wilder pointed out.

In addition, participation in professional associations like RIMS is essential to gain knowledge and credibility, he stressed.

There are several other criteria risk managers must meet in order to achieve credibility and prove the worth of their departments and programs, Mr. Wilder said. Those criteria include:

- The successful integration of risk management with other departments.

Risk managers must work with financial, tax, accounting, personnel, operations and other departments, he said. "Not only do you have to communicate, but you have to do it in their language," he added.

- The ability to solve problems.

"People come to us with all kinds of strange problems," he said.

As an example, he mentioned a particularly hairy situation Disney found itself in during the filming of the 1990 movie "Arachnophobia."

The film's crew needed 1,000 to 1,500 leggy blond spiders—which are found only in Australia—to appear in the movie. About 2,000 of the arachnids were rounded up.

The problem, Mr. Wilder recounted, was the threat of a large spider loss, which would shut down production.

The solution: "We went to Lloyd's and bought a policy with a 1,000-spider deductible," he said. The policy covered expenses related to lost production time and spider replacement costs in the event of a loss.

- Acceptance of the fact that the risk manager can't do it all.

Risk managers have to find internal or external resources to help execute many programs, Mr. Wilder said. "We can't all possibly be on top of everything, whether it is workers compensation reform, ergonomic studies, disaster planning."

- Giving something back to the community.

Teaching classes and participating in professional organizations allows the risk manager to promote the profession and enhance its credibility, Mr. Wilder said.

Risk managers who strive for excellence in their profession also must command good communications skills, according to Larry D. Gaunt, a professor of risk management and insurance at Georgia State University in Atlanta.

And those communications skills have to include more than speaking well and writing clearly, he stressed.

"We're talking about the human skills that make people want to listen to what you have to say and make people want to tell you things," Mr. Gaunt explained.

These communications skills will "make the difference in creating risk management awareness in the organization. . .and in changing behavior of people to be more consistent with risk management."

The future, several panelists agreed, will see businesses placing greater emphasis on risk management and the evolution of risk managers' duties.

Mr. Gaunt said that by the year 2000 risk managers will "probably be a little further removed from insurance than we are today."

"I think we're going to see more loss-spreading techniques, more self-insurance, higher retentions. . .," he said.

And more emphasis will be placed on risk assessment and risk control, rather than on risk financing, as companies increasingly turn to self-funding techniques, Mr. Gaunt predicted.

Risk managers will depend more upon their information systems as risk management is integrated into other company operations, according to Mr. Gaunt, "so that you can do risk control, risk assessments, cost allocations and those kinds of things throughout the organization."

Thomas V. Irvin, assistant vp-marketing at CIGNA Special Risk Facilities, a unit of Philadelphia-based CIGNA Corp., said statistics show that risk management is gaining increased emphasis at smaller businesses.

He referred to a Logic Associates Inc. survey of risk manager salaries that showed that between 1982 and 1989, the pay at smaller companies "gained considerable ground" in relation to the pay at larger businesses.

"In the smallest companies, base salaries grew 67%, while at the largest companies, salaries grew 16%," he noted (*BI*, April 30, 1990; May 23, 1983).

The same pattern was found in the educational and professional designation status of risk managers, according to Mr. Irvin. "The resumes of risk managers at smaller companies closed in on their big company colleagues."

To illustrate, Mr. Irvin pointed out that in 1982, less than 5% of risk managers in the smallest four categories of companies surveyed by Logic had Chartered Property & Casualty Underwriter designations, while more than 10% had the designations in the largest three company groups. But by 1989, more than 10% of risk managers in all categories had CPCU designations, Mr. Irvin noted.

"I'll let you decide what this salary compression and professional designation proliferation means, but it is a very dramatic trend," Mr. Irvin told conference attendees.

"As an aside, you may be interested to know that risk managers with law degrees have almost faded away. They used to be more than 10% of risk managers. They are now less than 2%," he said.

And, Mr. Irvin said, "Women have doubled their share of top (risk management) jobs."

He added that "it is obvious to me that we have witnessed a fundamental growth of interest in the risk management profession, and I forecast further gains in the years to come."

The panel was moderated by Ted Young, risk manager at Cox Enterprises Inc. in Atlanta. ■

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Taking a quest for respect back to school

By MICHAEL BRADFORD

ATLANTA—Risk managers aren't getting the respect they deserve either within their corporations or from business schools, claims the president of the Risk & Insurance Management Society Inc.

Though no longer the "Rodney Dangerfields of the corporation," risk managers are not as well-accepted or understood as other managers, claims Cheri J. Hawkins, president of RIMS and assistant treasurer and director of insurance at Weyerhaeuser Co. in Tacoma, Wash.

Part of the reason risk managers are not getting the recognition they deserve is that business schools do not regard the field as highly as others, Ms. Hawkins remarked in a speech earlier this month at the 1991 Risk Management Educational Conference sponsored by the Atlanta chapter of RIMS.

Only 33 U.S. colleges offer a major in risk management, Ms. Hawkins said. And risk management is not included as a part of the core curriculum in America's business schools, she said.

"A major reason that risk management is not more widely taught, is that the American Assembly of Collegiate Schools of Business, which is the sole accrediting body for U.S. business schools, still remains unconvinced that risk management is an essential tool of management."

In fact, the AACSB views risk management as "little more than insurance" and treats it as an elective, Ms. Hawkins said.

"This situation is of deep concern to RIMS," she said. "If risk management is not taught in many. . .business schools, many of the graduates are unlikely to understand or value our profession."

Ms. Hawkins pointed out that the American Risk & Insurance Assn., an organization of risk management educators, has petitioned the AACSB to include risk management in the core curriculum.

RIMS has endorsed a position paper drafted by ARIA and sent to the AACSB regarding the effort to have risk management included in the core curriculum.

In addition, RIMS is asking members to write to the AACSB supporting the ARIA plan, Ms. Hawkins noted (see Perspective, page 20).

"If we can get risk management and insurance into the core curriculum of business schools, we will have accomplished something for our generation," she declared.

The ARIA paper, she added, puts forth a convincing argument for including risk management in the core curriculum by illustrating the magnitude of the costs associated with managing risks and the need for effective management.

The paper points out that in 1990, U.S. companies spent nearly $150 billion in insurance premiums and around $100 billion on alternatives to commercial insurance. Another $80 billion was spent on health care benefits, according to the ARIA paper.

"To these figures could be added the unreimbursed cost and the non-quantifiable elements of property losses and adverse liability judgments for which organizations were not prepared," Ms. Hawkins said.

The AACSB received the proposal last month, she said. The group will decide in April whether to include risk management in the business school core curriculum.

"So we still have a little time to convince them," Ms. Hawkins said. "I don't know whether we will be successful this time, but I can promise you that we will keep trying and keep trying until we do get that accomplished."

Regardless of the decision, progress is being made in spreading the teaching of risk management, Ms. Hawkins observed.

In recent weeks, for example, the University of Michigan endowed a professorship in risk management at its school of business administration, she noted. "Their aim is to create a $1 million endowment. To date, they have already collected $800,000."

"Is risk management worth a $1 million endowment? You better believe it," she stated.

Ms. Hawkins said there are nine other universities with chairs in risk management and insurance, including one at the graduate level at Northwestern University in Evanston, Ill.

'We will have accomplished something for our generation,' says Cheri Hawkins.

In addition, The College of Insurance in New York, which offers a master's degree in risk management, is prepared to grant advanced status to incoming students who have taken undergraduate courses in risk management, Ms. Hawkins pointed out.

On another topic, Ms. Hawkins said RIMS also is considering legal action to stop other professionals from identifying themselves as risk management professionals.

In particular, she noted, there is concern over the growing practice of professional money managers to identify their business as risk management.

Adding to the confusion is a new publication called Corporate Risk Management that is aimed at corporate money managers, Ms. Hawkins said. She referred to a recent issue that contained no stories on "risk management as we use the terminology."

Ms. Hawkins said, "When we use the term 'risk manager,' we mean a lot more than managing the monetary risk of corporate investment, although some of our risk managers do have that in their job descriptions."

By using the term "risk management," corporate money managers will confuse its meaning to the "very audiences we are now trying to educate," Ms. Hawkins said. "This confusion could erode the respect that we now command."

As a result, RIMS anticipates hiring an attorney to pursue its efforts to protect the meaning of risk management, she noted.

Ms. Hawkins said, "We don't have all the answers we need to do more than just examine our options right now. But once we know what those options are, I promise you that we will act on behalf of our members and our profession because this is an issue that North American RIMS intends to take head-on." ■

Record crowd attends Atlanta RIMS meeting

ATLANTA—A record crowd turned out for the 1991 Risk Management Educational Conference held Jan. 30-Feb. 1 at the Inforum in downtown Atlanta.

The conference—sponsored by the Atlanta Chapter of the Risk & Insurance Management Society Inc.—drew 275 registrants who came to hear a lineup of noted speakers at the conference, which is recognized as one of the most prestigious meetings among local chapters of RIMS.

Attendance was up from last year's total of about 250 registrants.

Speakers at this year's gathering included representatives from RIMS, the American Insurance Assn., major insurance companies and brokerages, as well as industry analysts and other experts.

Topics covered included government's role in the insurance industry, the future of risk management and the globalization of insurance. Special sessions focused on subjects like environmental risks and AIDS.

The site for next year's conference may change, but information on the 1992 meeting is available from David G. Adler, The Portman Cos., 231 Peachtree St. N.E., Suite 200, Atlanta, Ga. 30303. ■

Meaning varies, but globalization thrives

By MICHAEL BRADFORD

ATLANTA—Globalization of insurance and risk management means different things in different parts of the world, according to a brokerage executive.

As trade within Asia increases, for example, Asian companies will adopt more sophisticated risk management techniques and look for insurers with operations throughout the continent, said J. Kenneth Seward, senior vp and director of the international division at Johnson & Higgins.

And as Japanese firms invest more abroad "they are coming to recognize the advantages of Western risk management techniques," he said last month at the 1991 Risk Management Educational Conference in Atlanta, sponsored by the Atlanta Chapter of the Risk & Insurance Management Society Inc.

Japanese clients of J&H located outside of Japan are "very involved in the use of captives," Mr. Seward noted. Those companies "are drawing on the resources of captive management companies in Bermuda, Singapore, Dublin and Luxembourg," he said.

Captives also are beginning to stir interest in Australia, Mr. Seward observed, where "buyers are enjoying a perpetually soft market with no change in sight."

Because national law does not permit captive formation, Australian companies generally rely on captive managers in Singapore, he pointed out.

Several 1990 laws were designed to make Australian tax codes more appealing to captive managers (*BI*, April 30, 1990).

China still maintains a "rigidly monopolistic insurance system," Mr. Seward said. But J&H has been able to act on a consulting basis to help arrange local coverage and structure difference-in-conditions programs.

Even in Latin America—traditionally "the most tariff-bound and least flexible" region—change is afoot, he noted.

"Led by Chile, the move to liberalize insurance practices or deregulate insurance altogether, has been joined by Mexico, which has moved from a strict tariff system to a free market," Mr. Seward said.

Argentina and Colombia also have moved toward freer markets. Brazil and Venezuela remain the region's least flexible countries. "Indeed, only in Brazil is there no move toward deregulation under way," he said.

Yet center stage belongs not to Asia, Australia or Latin America. "The real opportunity for multinational insurance buyers lies in Europe, which is clearly the center of the internationalization trend," Mr. Seward said.

In fact, he said, changing regulations recently allowed J&H to put together a property insurance program for operations in the United Kingdom, Germany and Belgium. "The risk manager felt that he would save time and money with a single policy and it would spare him from having to deal with separately written policies in each country."

Though he professed no particular insight into the Persian Gulf War, he offered an anecdote to illustrate the confusion plaguing businesses in the area:

As the Jan. 15 United Nations deadline approached, J&H personnel in Riyadh, Saudi Arabia, were told by U.S. managers they could leave.

"Like most firms, we have no indigenous employees," he said. "It's almost impossible to find Saudis who want to work in the insurance business."

An American employee decided to leave with his family, said Mr. Seward, which displeased the British manager of the office. The manager "faxed us copies of statements from the U.S. Embassy and the British Consulate in Riyadh saying, 'Don't worry about anything, Riyadh is completely safe, we're out of range of the Iraqi missiles.' "

Shortly after the war began, the Riyadh office of British insurer Sun Alliance Group P.L.C. was damaged by debris from the interception of an Iraqi Scud missile by a U.S. Patriot missile. Sun Alliance employees were moved to J&H's facility.

But the Sun Alliance office was 400 yards from the J&H office manager's apartment, said Mr. Seward. "When last heard from, he and the boys had all gotten sleeping bags and were spending the night about 10 miles west of Riyadh." ■

Budget proposal

Continued from page 1

1988 from $1.9 billion in 1984, have forced some physicians to discontinue high-risk practices or to engage in unnecessary defensive medicine.

"Growing liability costs and unnecessary medicine contribute to high health care costs that are a problem for everyone," according to the budget document.

To reduce malpractice premiums and defensive medicine, the administration will propose a tort reform package and encourage states—by withholding certain federal funds—to adopt a "requisite" number of reforms in that package. Up to 30 to 40 measures could be included, administration officials say.

Among the measures the administration wants states to adopt are:

- Eliminating joint and several liability for non-economic damages.
- Capping non-economic damages in medical malpractice suits. No figure is included in the budget.
- Requiring structured payments for medical malpractice awards rather than lump-sum payments.
- Promotion of pretrial alternative dispute resolution, including mediation and pretrial screening panels, to encourage settlements.

States will have until 1995 to adopt such measures.

But starting in 1995, the Department of Health and Human Services would create a special pool. Consisting of 1% of the annual increase in Medicare prospective payments for hospitals, or about $800 million in 1995, this pool would be split among hospitals in states that adopt the administration package.

In addition, states adopting a tort reform package would share in a much smaller pool—about $90 million for 1995—that would be based on federal matching funds for the Medicaid program, which is jointly funded by the federal and state governments.

"This structure provides incentives for the states to quickly adopt reforms—the states that act first will receive a reward, as will the state's hospitals," the budget said.

The proposed tort reform package "is a fine-tuning of the legal system to help control costs and improve the quality of care," said Stuart Gerson, an assistant U.S. attorney general.

Some Washington observers say the medical malpractice reform package will receive a favorable reception in Congress, though no one is predicting quick approval.

"There is a feeling on Capitol Hill that medical malpractice reform could help put the brakes on health care inflation by reducing defensive medicine, a factor in higher health costs," said Dallas Salisbury, president of the Employee Benefit Research Institute in Washington, D.C.

Others note that medical malpractice reforms will be strongly opposed by the plaintiffs' bar.

Meanwhile, the budget continues a trend of recent years by proposing to shift more health care costs to employers from the federal Medicare program.

In the latest cost-shifting change, the administration proposes to reduce the cutoff point at which an employer health care plan—not Medicare—would be the primary payer of medical bills for non-elderly employees who are eligible for Medicare because they are disabled.

Under current law, this part of the so-called Medicare Secondary Payer program applies to employers with at least 100 employees. The administration wants to extend the program to employers with as few as 20 employees, the same threshold used in the part of the Medicare Secondary Payer program that makes employer health plans the primary payer for workers age 65 and older.

On the other hand, the administration wants to reduce the number of small employers that are affected by yet another Medicare Secondary Payer program for people with permanent kidney failure.

Under this program, employer health plans—regardless of company size—are the primary payer for up to 18 months for beneficiaries who are entitled to Medicare solely because of permanent kidney failure. The budget package would exempt employers with 20 or fewer employees from the 18-month requirement.

These two changes in the Medicare Secondary Payer program would, in the aggregate, save the Medicare program $80 million in fiscal 1992 and increase employers' health care costs by a corresponding amount.

"Unfortunately, this is not a surprise. What would be surprising is if the government didn't propose more cost-shifting to employer plans," said Ellen Goldstein, director of health care policy with the Assn. of Private Pension & Welfare Plans, a benefits lobbying group in Washington, D.C.

In addition, a provision in the proposed budget that would raise Medicare Part B premiums for well-to-do retirees—defined as individuals with annual adjusted gross income of at least $125,000 and couples with adjusted gross income of at least $150,000—would increase health care costs for the roughly 10% of employers that pay Part B premiums for their retired workers.

Monthly Part B premiums, now $29.90 and expected to rise next year to $31.80, now cover about 25% of the program's cost. Federal revenues cover the remainder.

Under the budget package, though, well-to-do retirees would have to pay 75% of the program's cost for a monthly premium of about $95 in 1992 when the provision would go into effect.

Few employers have retirees earning at least $125,000 per year. As a result, the cost impact on companies paying the Part B premium would be relatively small.

But observers worry that if Part B premiums are raised for a specific group of retirees, it could set the stage for proposals to tax highly paid employees on employer-paid health care premiums.

"This could set a precedent for taxing health care benefits for highly-paid employees," said Frank McArdle, a consultant with Hewitt Associates in Washington, D.C.

Other budget provisions include:

- Creation of a central clearinghouse in the Department of Health and Human Services to keep track of whether employees have group health insurance; employers would be expected to indicate on W-2 wage statements that an employee was covered under a company health plan.

Analysis of employees' health insurance would be intended to reduce improper Medicare payments of medical bills for employees, such as older workers, that should have been covered by the employer plan.

- Requiring public employers not covered by Social Security to pay the 6.1% of the FICA tax that goes toward retirement benefits.

Congress has killed identical earlier proposals.

Finally, the budget notes that the administration is preparing legislation to further reduce the PBGC's vulnerability to big losses.

Among other things, it will propose clarifying and improving the PBGC's status as a creditor in bankruptcy proceedings as well as limiting guarantees of so-called plant shutdown benefits. ■

INTERNATIONAL

Lloyd's backs new terrorism wording

Line slip forming to underwrite policy

By GAVIN SOUTER

LONDON—Lloyd's of London underwriters are now offering a separate policy to cover malicious damage and sabotage to land-based risks that may be caused by Iraqi sympathizers.

The decision to allow underwriters to offer the new policy developed by Lloyd's war, civil war and financial guarantee subcommittee clears up widespread confusion over whether terrorist acts related to the Persian Gulf war are covered by all-risk property and terrorist policies.

The new policy incorporates a war risk exclusion clause, but only for property that is directly attacked by military forces.

Also, Lloyd's war risk committee has imposed strict underwriting guidelines on use of the new policy, which some brokers say are too restrictive.

Brokers late last week were scrambling to arrange a line slip that would use the new policy wording to insure against terrorist attacks, including those related to the Gulf war.

Capacity and rates were unavailable as of Thursday.

The decision to draft a new terrorist policy follows pressure from energy insurance brokers who explicitly wanted terrorist coverage to cover the risk of attacks by Iraqi sympathizers on fixed oil rigs and petroleum refineries outside the Persian Gulf.

Until this new wording was drafted, Lloyd's underwriters would not guarantee that such terrorist acts, which have been encouraged by Iraqi leader Saddam Hussein as an extension of the war, would be covered by existing property or terrorism policies.

Lloyd's old war risk exclusion—designated 437 by its audit code—that is included in existing policies excludes losses "caused by or resulting from an act or incident that occurs or is committed, whether directly or indirectly, by reason of or in connection with war, invasion, acts of foreign enemies, or civil war."

The terrorist coverage already written by Lloyd's underwriters currently only covers losses from "any act for political or terrorist purposes." Policies exclude for losses due directly or indirectly "war, invasion, acts of foreign enemies or civil war" (*BI*, Jan. 21).

The old war risk exclusion dates from the Spanish Civil War. In 1937 underwriters first became concerned about the accumulation of land-based losses from aerial bombardment, said Lloyd's non-marine underwriter Michael Cockell, chairman of the war, civil war and financial guarantee subcommittee.

"A lot of people have asked whether there is any cover (for terrorism linked to the Gulf war), but difficulties arise when you are talking about a Jihad. What exactly is it? You have a man who is asking people to take up arms and this could cause damage, but is this

Continued on next page

Lloyd's names flock to buy stop-loss cover

By CAROLYN ALDRED

LONDON—A dramatic contraction in the reinsurance market is leading to an increased demand for stop-loss protection by Lloyd's of London members, brokers say.

With reinsurance capacity off about 50%, most syndicates will be facing much higher retentions this underwriting year, brokers point out. This means syndicates—and thus the members, or names, who pledge their personal wealth to underwrite at Lloyd's—now are taking larger net risks.

As a result, several members' agents are advising members who previously have not bought stop-loss insurance to consider purchasing the coverage to protect them against large underwriting losses that could wipe out their personal wealth. About half of the market's 26,534 members now have the coverage.

Reduced reinsurance capacity, though, also is increasing the exposure for stop-loss underwriters. This year most have increased the minimum excess point above which they will offer stop-loss insurance and have raised premiums 10% to 50%, according to brokers.

However, less than two years after the stop-loss market nearly collapsed following large losses in 1989, brokers do not anticipate a shortfall in availability of stop-loss insurance capacity.

"The major problem with the stop-loss market for 1991 is the fact that the reinsurance market has contracted so much. Clearly, underwriters throughout the market are more exposed than 12 months ago," said James Barder, director of Seascope Special Risks Ltd., a stop-loss brokerage unit of Leslie & Godwin Ltd.

"This has resulted in an increase in excess points, a greater selection by underwriters and an increase in prices," he said.

Aware that 1991 is a "very exposed year," many members' agents have quoted stop-loss coverage and urged members to buy it, said Edward Vale, marketing director for Holman Wade Ltd., a leading stop-loss broker.

"Exposure to major losses has increased because of the contraction in the reinsurance market. It has made a significant number of people more aware of the risk side of underwriting," he said.

Lloyd's members' 'exposure to major losses has increased because of the contraction in the reinsurance market.'
—Edward Vale

About 50 Lloyd's syndicates write some stop-loss insurance or reinsurance, Mr. Vale said.

Stop-loss underwriters now offer minimum excess points of 12.5% to 15% of a member's gross premium underwriting limit on average, compared with 10% in 1990, brokers agree.

"Names are accepting higher excesses (deductibles) but buying more cover," Mr. Vale said.

In the open market, members can purchase up to 500,000 pounds ($990,000 at current exchange rates) of coverage for a single year and up to 1 million pounds ($2 million) for a three-year period, Mr. Vale said.

Premium hikes depend on the number of syndicates in which a member participates, but increases average about 10%, according to Mr. Vale.

Rates also vary considerably depending on the type of business written by the syndicates to which a member belongs. For example, rates would be higher for members who belong to syndicates that write high-risk business like excess-of-loss catastrophe reinsurance or U.S. casualty insurance.

Generally, 200,000 pounds ($396,000) of stop-loss coverage now cost about 3,000 to 5,000 pounds ($5,900 to $9,900) for one year, Mr. Vale estimates.

But, Mr. Barder said that some premiums have increased 50%.

Brokers characterize stop-loss capacity as sufficient and say that most protection will be in place by March, which is earlier than in some years.

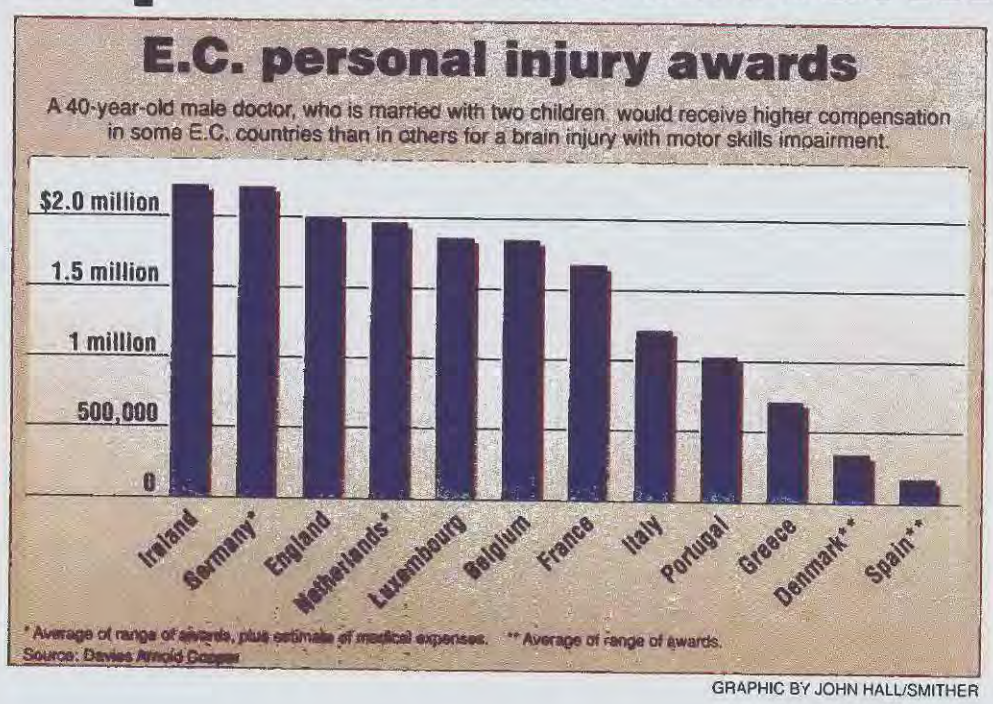
Half of the market will be able to buy the same amount of stop-loss coverage Mr. Vale estimated. He noted that Holman Wade already has issued about 9,000 quotes.

But, stop-loss underwriters are turning down more applications than they have in previous year as they grow more selective, according to Mr. Barder.

To avoid being stuck with poli-

Continued on next page

Report seeks uniform injury compensation



GRAPHIC BY JOHN HALL/SMITHER

By GAVIN SOUTER

LONDON—European governments should curb the tremendous variation in personal injury awards and liability standards within the European Community, a London law firm contends.

If left unchecked, the inconsistencies will prompt plaintiffs to shop around for the highest awards, says a new report from Davies Arnold Cooper, a London-based law firm specializing in personal injury and insurance company defense.

Davies Arnold Cooper, however, stops well short of recommending the U.S. tort system as a guide for the European Community.

"We oppose the suggestion that the U.S. tort system provides a worthwhile example for the European personal injury award systems to follow," the report says.

Prepared by David McIntosh, a senior partner, and Marjorie Holmes, a partner, the report recommends that:

- An E.C. committee look into discrimination resulting from different liability systems and award levels.
- Consideration be given to introducing a single pain and suffering compensation scale throughout Europe, based on the Economic Community Unit.
- Consideration be given to setting up a compensation scale to make awards more consistent, particularly in cases of instant death of people without dependents.
- All countries, particularly Spain and Portugal, be encouraged to give judges guidelines on granting personal injury awards.

All E.C. countries have fault-based liability and, in some limited areas like injuries caused by products, they impose strict liability.

But discrepancies among various E.C. nations remain. The E.C. product liability directive, for example, lets nations decide whether to subject producers of agricultural raw materials to strict liability; whether to cap compensation for serial damages; and whether to allow the developmental risks defense (*BI*, May 28, 1990).

Little has changed, says the report, in the underlying legal systems where the product liability directive has been adopted: the

Continued on next page

INTERNATIONAL

Damage awards

Continued from previous page
United Kingdom, Germany, Denmark, Portugal, Luxembourg, Italy and Greece.

To illustrate the differences, the report cites a case involving the Medical Drug Law in Germany. That law allows no developmental risks—or state of the art—defense, even though national law permits the defense for other products covered by the E.C. directive.

So a "hemophiliac infected with an imported HIV-contaminated blood plasma or blood product before it was regularly tested may well be better off suing, in terms of liability, in Germany than in all E.C. countries which have implemented the (directive), save Luxembourg, because all allow developmental risks defenses," the report says.

Davies Arnold Cooper based its research on personal injury awards for two hypothetical victims. Practicing litigators in each of the 12 E.C. nations were asked to assess likely compensation for various injuries to:

- A male doctor, age 40, with a wife and two dependent children.
- A single female medical student, age 20, with no dependents.

The lawyers were asked to estimate the most generous reasonable awards for instant death and for other injuries that caused varying degrees of disability, including:

- Burn types A, B, and C (burns to face, burns to face with permanent scarring and burns to other parts of the body), which cause 15% to 20% impairment.
- Quadriplegia, 100% impairment.
- Paraplegia, 70% impairment.
- Brain damage, 80% impairment.
- Brain damage with motor skills impairment, 90% impairment.
- Amputation of leg above knee, 35% impairment.
- Amputation of leg below knee, 30% impairment.
- Amputation of arm above elbow, 35% impairment.
- Amputation of arm below elbow, 30% impairment.
- Loss of eyesight (one eye), 30% impairment.

In all cases the lawyers were asked to assume that there was no dispute over liability.

Estimated award levels varied among countries (see chart, page 28) and none had the highest or lowest in all cases. Some trends, however, did emerge.

Despite its comparatively high standard of living, Denmark often had the lowest award, the report found. "Medical expenses, which account for the major part of the awards in quite a considerable number of countries, are not relevant in Denmark. This is because there is little private care available. The state medical care is of an extremely high standard," the report said.

Denmark's high taxes—the average income tax rate is 50%—make quality care possible, the report noted.

Portugal also had low awards compared with E.C. averages, the lawyers said. "The Portuguese stress that, because the judge is not bound by any particular case law, and, in the first instance, decisions are not made public, the amount of awards can vary hugely. Those figures given, however, such as funeral expenses. . .are much less than in the other countries."

Estimated awards in Greece and Spain also tended to be low, the report found. It attributed this to comparatively low salaries for Spanish and Greek doctors.

The report found that English awards had comparatively high pain and suffering components but extremely low awards for the death of a person without any dependents.

When single adults with no dependants die instantly, the report said, "the estate will not receive any compensatory award except funeral expenses, and parents and other relations will not be entitled to bereavement or other damages."

Irish awards are high compared with other E.C. countries, including England, even though the Irish legal system is based on the English system, the report says.

Several major differences exist, however. One is that Irish courts factor in allowances for inflation and for the risk that the victim would never work again when calculating losses, the report says.

Compensation levels in France were found to be similar to those in England. Yet structured settlements, in which an annuity is used to pay an award, are much more common in France, the report noted.

Italy's system of compensation differed the most from the English system, according to the report. In Italian personal injury awards, three types of damages are calculated for fatal accidents and personal injuries: biological damages; property damages; and moral or personal damages.

Biological damages cover violation of the "mental, psychological and physical integrity of the injured party regardless of loss of income," the report said. Property damages are defined as loss of income and moral damages as "compensation for pain and suffering where the harmful act could be regarded as a crime."

Pain and suffering awards vary significantly, the report said: "Why is pain and suffering for a quadriplegic man in Greece only worth 5,263 pounds ($10,420 at current exchange rates), whereas in Ireland, using the same concept of compensatory awards for the same injury, the injured person can hope to recover 162,037 pounds ($320,833)?

"Why is it that in Denmark, where the standard of living is relatively high, a compensatory award for pain and suffering is only 24,955 pounds ($49,411) by comparison to Ireland or even Germany where, for the same injury, the award could be 162,037 and 120,690 pounds ($320,833 and $238,966), respectively?" the report asks.

Among E.C. countries, only The Netherlands does not give bereavement damages to the families of those injured or killed.

Consumer advocates in England look to the United States as a guide for damage awards; Davies Arnold Cooper advises looking elsewhere.

Despite the urgings of the Assn. of American Trial Lawyers and Ralph Nader, the law firm opposes "the suggestion that the U.S. tort system provides a worthwhile example for the European personal injury award systems to follow.

"We believe that those truly interested in improving personal injury compensation through Europe should concentrate on ironing out identified differences and minimizing distinctions between levels of awards recovered in any E.C. countries to those truly justified by local circumstances," Davies Arnold Cooper said.

"If, at the same time, the lottery as to whether or not liability can be established and if access to justice by way of a fair system of funding litigation on behalf of those who cannot afford to do so themselves is devised, a fairer system for victims of injury could be forged," the law firm concluded.

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Copies of "Personal Injury Awards in E.C. Countries" are available for 125 pounds each from Lloyd's of London Press Ltd., Legal Publishing and Conferences Division, 1 Singer St., London, EC2A 4LQ, England.

Terrorism coverage

Continued from previous page
war damage?" he asked rhetorically. "Now we are saying that as long as it is not a result of overt military activity, the damage is covered."

The new policy wording—designated 237—covers "malicious damage and sabotage" to property caused by "terrorists, saboteurs, vandals or other persons acting maliciously or by way of protest."

Losses caused directly by "war or civil war" are excluded. By contrast the old policy wording exclude damages from indirect losses.

The new policy would not cover an Israeli building hit by an Iraqi Scud missile because it was caused by an act of war, Mr. Cockell said. Damage from a terrorist bomb, however, would be covered.

The new wording also excludes losses directly caused by seizure, confiscation by authorities, the discharge of pollutants, consequential loss and nuclear contamination.

Lloyd's war, civil war, and financial guarantee subcommittee also have imposed strict restrictions on underwriters who wish to write the new coverage:

- Premiums generated by this type of coverage cannot exceed 5% of syndicate premium capacity.
- All syndicates must ensure that they have adequate systems to control their location and aggregate exposures.
- Syndicates should inform any relevant reinsurers of any material change in the account protected.
- The new terrorist policy wording must be used in all cases without amendment.
- All underwriters on a line slip—not just the leading underwriter—must agree to the new clause.
- Policies periods cannot exceed one year.
- The coverage must be written as a separate policy and not as an endorsement to existing policies.

"It is much clearer if we give clients a separate product which targets what they are concerned about" than amend old wordings that would require the agreement of all underwriters, said Stephen Merrett, chairman of Lloyd's Underwriting Assn. and a leading war risk underwriter.

By giving the wording a new audit code, Lloyd's can supervise the volume of business written, said Mr. Cockell. He added that it was impossible to judge how many syndicates will write the coverage or what the premium will be.

Mr. Merrett said early last week that so far no policies had been signed, although many clients—particularly from the United States—had expressed interest in the new coverage.

Already, American International Underwriters (UK) Ltd. provides up to $30 million in coverage against "property terrorism sabotage," which includes terrorist acts linked to war. It currently rates are more than 1% of insured value for risks in Saudi Arabia and Jordan and about 0.2% for risks outside the region (*BI*, Feb. 4).

Some brokers contend the new Lloyd's coverage is too restrictive.

"It is not a panacea; it has gone halfway," said Philip Hallett, executive director in the energy department of C.T. Bowring & Co. Ltd.

"The wording does go some way toward clearing up the situation. . .but it does include two specific exclusions which we would rather not see—pollution and business interruption."

He characterizes the new wording as a big improvement and says brokers will continue to push for broader coverage.

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International Editor Stacy Shapiro in London contributed to this report.

Stop-loss insurance

Continued from previous page
cyholders who are members of syndicates with open years, stop-loss underwriters are carefully scrutinizing syndicate portfolios, according to Mr. Barger.

"Lloyd's is going through a transitional and turbulent phase" he said. "A number of syndicates (will) not continue underwriting after this year."

Meanwhile, stop-loss brokers continue to attempt to place unlimited run-off reinsurance for names stuck on syndicates with open years.

Uncertain liabilities have prevented dozens of syndicates from closing their underwriting accounts after the normal three-year accounting period. Some already have made cash calls on members and expect to have to make future cash calls.

As a result, many members have sought quotes from underwriters prepared to take on their liabilities.

"We've been getting quotes for this type of business for four years," Mr. Barder said. "There is a market, and there will continue to be a market, but prices are generally very expensive."

Because of the high premiums, only 2.5% to 5% of members who are given quotes actually buy runoff coverage, he estimated.

"Underwriters who write this business recognize there is a great exposure here and they do charge large prices. In fact, for a lot of names, paying the premium would put them into bankruptcy," he said.

Stop-loss broker Holman Wade hopes to put together a facility this year that would provide runoff reinsurance for members, according to Mr. Vale.

At least in its initial stages, any such facility would be available to only certain syndicates that have future liabilities that are easy to assess, he noted.

Underwriters would be unlikely to participate in a facility to reinsure syndicates like syndicate 317/661, managed by R.H.M. Outhwaite (Underwriting Agencies) Ltd., which has estimated liabilities that run into hundreds of millions of dollars, he noted.

The Outhwaite syndicate wrote runoff reinsurance policies for many other syndicates and insurers in the early 1980s that faced huge asbestos and pollution liabilities.

"If we did manage to put a facility together, capacity would be very limited and the Outhwaite syndicate would be one of the last to be accepted," Mr. Vale predicted.

Mr. Barder has secured quotes for runoff reinsurance for many Outhwaite members but has placed only one order because of the huge premiums on such volatile business. ■

Advertiser Index

Issue of February 11

Business Insurance

INTERNATIONAL

Heart valve maker sets compensation

By CAROLYN ALDRED

LONDON—A manufacturer of an artificial heart valve is offering compensation on a case-by-case basis to Europeans who were fitted with faulty heart valves.

However, the London-based European division of Irvine, Calif.-based Shiley Inc., a unit of New York-based Pfizer Inc., is warning that it will vigorously defend any attempts by European claimants to sue it in the United States.

Shiley is offering "prompt and fair settlement for any death or injury caused through fracture of the valve," according to the company.

Settlements will be paid out of Shiley's own funds rather than insurance, said Philip Hedger, a director of Shiley's European division.

Shiley also is trying to locate and register between 4,000 and 5,000 British patients who were fitted with the Bjork-Shiley heart valves between 1979 and 1985.

Up to 85,000 people worldwide were fitted with the Bjork-Shiley Convexo-Concave heart valves before the valve was withdrawn from the market in 1986 because of a risk of structural failure, the company says. About half the sales were in the United States.

Shiley estimates that 400 valves have failed worldwide so far, leading to 300 deaths, Mr. Hedger said.

Pfizer already faces litigation from relatives of U.S. recipients of faulty heart valves seeking damages related to actual fractures. In addition, some recipients whose valves have not malfunctioned are seeking "pre-fracture damages" from Pfizer, claiming they have suffered emotional distress because of the risk of malfunction.

Pfizer last year said its "reserves and insurance are adequate for any potential liability" stemming from the suits (*BI*, March 5, 1990).

And, in December, a federal judge denied Pfizer's motion to dismiss a shareholders' class-action lawsuit charging that Pfizer and several directors and officers defrauded investors by concealing product liability problems with the artificial heart valve.

The shareholder complaint charges that hundreds of product liability lawsuits have been filed and that Pfizer has settled about 180, some for $1 million or more. The terms of the settlements are secret under court orders.

Pfizer confirms that it has directors and officers liability insurance but would not provide coverage details.

Now U.S. law firms are "trying to persuade" British and European claimants to pursue litigation against the company in the United States in an attempt to gain larger awards, Mr. Hedger said.

U.S. lawyers also are suggesting that patients in Europe who have been fitted with the valve but have experienced no problem can sue Pfizer in the United States for "anxiety" compensation, he said.

However, Shiley's European division is warning claimants in Britain and Europe that successful litigation in the United States cannot be guaranteed and that even successful actions will take years to conclude.

"Shiley Inc. wishes to spare claimants and relatives the cost, delay and anguish resulting from litigation" by offering a "prompt and fair settlement for any death or injury caused through fracture of this valve," the company said.

"Each claim will be assessed individually depending on its particular circumstances, and compensation may therefore vary from case to case. A claimant will be encouraged to review proposed compensation with a local lawyer before settlement," Shiley said.

However, "Shiley wishes to make it clear that it will vigorously defend 'anxiety' claims. A functioning valve provides no basis for a claim," it noted.

But, Shiley is using media campaigns to alert patients and doctors to the risks associated with the heart valve and is offering to register patients with Medic Alert, a charitable foundation that allows people with medical problems to be identified in an emergency.

Medic Alert was founded in the United States in 1956 and has spread to other countries through Medic Alert Foundation International. For a one-time fee, the foundation provides a member with a bracelet or necklace that includes a brief description of the member's medical problems and a means of contacting Medic Alert for more information.

The foundation also has an International Implant Registry, which lists implant recipients and any hazards associated with the implants.

By locating people who have had the Shiley C-C artificial heart valve fitted and giving them an identification bracelet, "we hope that patients, or people acting on their behalf, would seek appropriate medical attention and thereby improve the likelihood of successful reoperation" in the event of structural failure, the company noted.

The registry already is being implemented in North America, and Shiley is consulting various medical bodies and regulatory authorities in Europe to initiate similar facilities in each European country.

British patients are advised to contact Medic Alert Foundation, 17 Bridge Wharf, 156 Claedonian Road, London, England N1 9UU.

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New York Bureau Chief Douglas McLeod contributed to this report.

LONDON

S&P cuts ratings for 3 British insurers

By GAVIN SOUTER

LONDON—Standard & Poor's Corp. has lowered its rating of three major British insurers and warned that the claims-paying ability and security of other insurers could also be in jeopardy.

S&P lowered the ratings of Royal Insurance Holdings P.L.C. and two subsidiaries; General Accident Fire & Life Assurance Corp. P.L.C.; and British reinsurer Mercantile & General Reinsurance Co. P.L.C., which is owned by Prudential Corp. P.L.C.

S&P pointed out that the entire British insurance industry has been hit by huge losses during the past year, including the January and February 1990 windstorms in Northern Europe, which will cost British insurers around 2 billion pounds ($3.9 billion at current exchange rates).

The winter losses, S&P says, were followed by:

- High subsidence claims for the second successive summer. These are property losses caused when building foundations subside due to heat.
- Record fire losses in the third quarter and a 30% overall increase for the first nine months of 1990.
- Competition in the motor insurance market.
- A drop in stock prices, which brought many insurers' solvency ratios to their lowest level in 10 years.

Royal Insurance Holdings P.L.C. and Royal Insurance P.L.C. had their commercial paper ratings lowered to A-2 from A-1. Royal Insurance (U.K.) Ltd. had its claims-paying ability lowered to AA from AAA. And, the claims-paying rating of the U.S.-based Royal Indemnity Co. Intercompany Pool is downgraded to A− from A+.

The re-rating of Royal Insurance Holdings and Royal Insurance reflects the company's increasingly strained capitalization and reduced financial flexibility, which primarily result from operating losses in the United States and major operating and investment-related losses in the United Kingdom, S&P says.

Royal's profitability has weakened since 1986, says S&P, and it predicts operating losses will exceed 100 million pounds ($193 million) for 1990.

However, S&P expects Royal's earnings to improve in 1991 as U.K. rates are increased and a return to more normal weather is expected. Long-term, however, S&P predicts that Royal's performance will lag behind its competitors until its U.S. operations show signs of recovery.

The re-rating of Royal Indemnity Co. Intercompany Pool again reflects operating difficulties and the weakened financial positions of its parent, Royal Insurance Holdings.

Explaining the re-rating of Royal, S&P Vp Michael Wetton, said: "All insurers have suffered over the past year, but in the case of the Royal there are additional problems, such as its U.S. operation, which has lost money, is losing money and will still be losing money."

Meanwhile, the claims-paying ability rating of General Accident Fire & Life Assurance also has been lowered to AA+ from AAA.

S&P says the change reflects diminution of General Accident's historically excellent capital adequacy following major operating and investment-related losses in 1990.

S&P says that the timing of General Accident's expected earning rebound is uncertain due to competitive pressures in the U.K. and overseas markets and questions over the future direction of stock markets.

Until 1989, the insurer had enjoyed four years of increased profits, but profits were halved that year due to weather losses; losses from real estate agency operations; the acquisition of New Zealand insurer NZI Corp.; and deterioration in U.K. property and motor lines, S&P says.

Mercantile & General Reinsurance Co. and Mercantile & General Reinsurance Co. of America also had their ratings reduced to AA+ from AAA.

The change reflects M&G's deteriorating earnings performance over the past two years, which is largely related to the need to strengthen reserves on marine and liability business from previous years, as well as catastrophe losses, according to S&P.

Although M&G's capitalization remains very strong, its solvency margin is expected to fall because of a substantial decline in value of U.K. stocks, says S&P.

But the ratings do reflect the implied support of M&G's parent, Prudential Corp., which has a long history of providing financial support to its subsidiaries, S&P said.

Meanwhile, other British insurers had their ratings affirmed by S&P. These include Sun Alliance Group P.L.C., Eagle Star Insurance Co. Ltd. and Guardian Royal Exchange P.L.C. Sun Alliance & London Insurance P.L.C.'s claims paying ability is rated AAA, while Sun Alliance Group's commercial paper is rated A-1+; Eagle Star's claims paying ability is rated AA+; and GRE's commercial paper is rated A-1.

But, S&P warned, "these ratings are subject to downward pressure if the quality and stability of earnings, as well as companies' surplus strength, do not return to more favorable levels." ■

The professional marketplace

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War-related stress

Continued from page 3

During the Vietnam War, the fledgling EAP movement was confined to programs for recovering alcoholics.

Today, "the vast majority of caring for war stress will occur in the EAP," said Miriam Fretthold, vp of professional practice at St. Louis-based Personal Performance Consultants Inc., an EAP serving 600 employers nationwide with 3.8 million employees.

At the outbreak of war, several EAP providers, including Personal Performance Consultants, Los Angeles-based Managed Health Network and Jacksonville, Fla.-based Resource EAP Inc., sent letters to their employer clients reminding them that special programs such as workshops, seminars and literature on stress could be made available to their employees as part of their contractual relationship.

The EAPs since have received numerous requests from employer clients that say their employees are nervous, distracted and upset by the war, executives of EAP providers say.

The EAPs have responded in various ways.

For example, counselors from Personal Performance Consultants, Managed Health Network and The Holman Group have given on-site seminars at the request of employers.

For example, Personal Performance Consultants counselors have conducted on-site sessions to help employees of Atlanta-based Turner Broadcasting System Inc., which operates Cable News Network.

The sessions are designed for "all levels and all types" of employees, including those who are in constant touch with their colleagues in the Persian Gulf, Ms. Fretthold said.

Personal Performance Consultants counselors also have debriefed employees returning from their jobs or military duty in Saudi Arabia and provided support groups for them and other employees, Ms. Fretthold said.

In debriefing sessions, employees share their experiences of leaving their jobs and homes in Saudi Arabia. They express what they felt then and what they are feeling now.

It is important "not to bury those feelings or they may pop up" in the future, Ms. Fretthold said.

It is also important to let people see that the "flood of emotions" that accompanies a traumatic situation is normal. The process of debriefing also identifies "when you need to seek more help," she said.

Several EAPs also reported many requests from clients for help with how to deal with children's fears caused by the war.

"More parents are bringing their children in" to visit EAP counselors, said Colleen Richardson, director of accounts and training at Resource EAP.

In addition, EAP counselors have found that workers seeking counseling for other problems—typically marital problems—also have worries and have had arguments with their spouses about the war. These war-related worries and arguments often are "the straw that broke the camel's back" that leads employees to seek counseling, Ms. Richardson pointed out.

With the threat of terrorist attacks and the chartering of private airlines by the government for military duty in the Persian Gulf, airline flight attendants comprise a group of employees perhaps most susceptible to stress.

As a result, the in-house EAP for the Washington, D.C.- based Assn. of Airline Flight Attendants, which represents 30,000 flight attendants employed by 19 airlines, has developed war-related materials for members who fly internationally.

The materials explain how to calm worried family members and they include phone hot line numbers for workers who are upset about the war and need counseling, said Barbara Feuer, EAP director.

In response to airlines' requests, the flight attendants' EAP also has developed materials for airlines that fly military charters, and it is developing materials for crew members of carriers that may be flying bodies back from the Persian Gulf, she said.

The materials are distributed through a network of 150 volunteer flight attendants who are trained in handling trauma.

The volunteers assess and, if necessary, refer flight attendants to a network of professional counselors located in cities where the airlines are based, Ms. Feuer explained. About 17% of referrals to the EAP come from airline management, "which is significant, since this is a union EAP," she said.

The flight attendants' EAP also has a trauma intervention process, which offers debriefing sessions in the event of plane crashes and acts of terrorism. "One of the unique things about our programs is that we are proactive. We know (trauma) is inevitable," Ms. Feuer said.

While members' dues pay for the EAP, the airlines' benefit programs pay for whatever outside counseling is required.

"And no matter what their insurance is like, we can find them resources," Ms. Feuer asserted.

Other EAPs also are training employees to help colleagues deal with war-related stress.

For example, Salt Lake City-based Human Affairs International, an EAP with more than 500 clients with a total of more than 3.5 million employees and dependents—including American Express Co. of New York, Armonk, N.Y.-based International Business Machines Corp., which also is served by Personal Performance Consultants, Exxon Corp. of Irving, Texas, and Union Carbide Corp. of Danbury, Conn.—has trained supervisors on-site to deal with war-related worker stress.

"One of our biggest projects was with American Express in Phoenix," where HAI trained supervisors on-site on how to recognize and deal with employees' war-related stress, noted Donald McKean, national sales director at HAI, which is the managed mental health care subsidiary of Aetna Life & Casualty Co. of Hartford, Conn.

"We spent a lot of time defining stress and the physiological reaction to stress. We provided personal inventories employees can take to assess their stress level and tips on how to manage stress," according to Mr. McKean.

HAI also provided a "war packet" for employees about stress, including how to talk to children about war.

HAI also offers American Express employees support groups led by professional counselors.

Nationwide Mutual Insurance Co. has formed a new support group at its Columbus, Ohio, headquarters for employees who have relatives and friends who are in the military and are assigned to the Persian Gulf.

More than 150 Nationwide employees attended the first meeting last month and "exchanged information and stories about loved ones in the war," according to the company.

They also exchanged tips on such matters as "the best way to send overseas mail or to make overseas telephone calls." The group will hold regular meetings every two weeks.

At Wells Fargo Bank N.A. in San Francisco, an article in the recent issue of the employee newspaper written by Renee Carroll, clinical director of the bank's in-house EAP, explained to workers that feelings of distress are normal during a crisis like the Persian Gulf war.

"Most of us feel a profound sense of loss. A loss of certainty, a loss of stability, a loss of our usual sense of safety and place in the world, along with loss of peace and the inherent loss of life that war inevitably means," Ms. Carroll, a psychiatric nurse, observed in the article.

"The day after the war was announced, a number of our people were too upset to even come to work," according to Brian Lawton, vp and director of the EAP at Wells Fargo.

"As this goes on, people will become a little worse," Mr. Lawton predicted. "It's a demoralizing experience."

Ms. Carroll outlines in her article some means of coping with the "wide range of emotional responses" as well as physical symptoms caused by the constant awareness that the United States is at war.

And, she explains that "war protesters and those who are Arab-American, be they Saudi, Iraqi, foreign or born in the United States," are likely to become scapegoats "to vent our angry and uncomfortable emotions on."

"These two groups of people are more like us than they are different," Ms. Carroll writes, counseling "patience, understanding of ourselves and others."

Mary Lou Finney, regional manager of employee counseling at Los Angeles-based Hughes Aircraft Co. and president of the Los Angeles Chapter of EAPA, agreed.

"There's a great awareness in the chapter that we have to pay attention, that people have to be ready and willing not to be judgmental, whatever the politics of the person who needs assistance," Ms. Finney said.

The 150-member Los Angeles chapter also is the first chapter in the nation to put together a referral packet of local counseling resources for its members, which may be made available to non-members.

"If there's a big offensive, people might be very upset by it," and it is important to make resource information widely available, Ms. Finney explained.

"Considering how competitive EAPs are, the L.A. chapter has taken a significant step" in sharing resource information among members, the EAPA's Mr. Bickerton said. ■

Union Carbide

Continued from page 2

injured more than 200,000 others (*BI*, Dec. 10, 1984).

Lawsuits against the chemical company were consolidated in India, and the Indian government assumed the right to pursue all claims arising from the accident.

The Indian government agreed to a settlement in February 1989 under which Union Carbide paid $420 million and Union Carbide India paid $45 million (*BI*, Feb. 20, 1989).

Challenges to that settlement are now pending before the Indian Supreme Court, the Union Carbide spokesman said (*BI*, Jan. 22, 1990).

Union Carbide had total primary and excess general liability insurance limits of $202.5 million to respond to the settlement and recovered $170 million from insurers. It was unable to collect the remaining $32.5 million from Transit, Midland and Integrity, which are now insolvent.

CIGA filed a declaratory judgment action against Danbury-Conn.-based Union Carbide over Transit-related claims in Hartford Superior Court in 1986. Union Carbide responded with a summary judgment motion in January 1989 seeking guaranty fund coverage for the company's claims against all three defunct insurers.

At the time, CIGA warned that the Union Carbide claims—along with another $32 million in Transit-related claims filed by former asbestos producer Raymark Corp.—could devour the lion's share of CIGA's assets, causing proration of other claims against the fund (*BI*, Feb. 13, 1989).

However, assessments have brought CIGA's available funds to more than $80 million, and any eventual payment of Union Carbide and Raymark claims shouldn't be a problem, according to Paul M. Gulko, president of Guaranty Fund Management Services, CIGA's Boston-based manager.

A Superior Court judge granted summary judgment in Union Carbide's favor on several of the coverage issues it raised in the litigation with CIGA, and both sides appealed elements of the lower court ruling to the state Supreme Court.

In one of the key issues in the case, the Supreme Court panel affirmed the lower court's finding that CIGA's $300,000 cap on guaranty fund coverage of claims applies separately to each of the Bhopal victims rather than to each of the six policies written by the three defunct insurers.

CIGA argued unsuccessfully that a "covered claim" is a claim by a policyholder for indemnification under a liability policy, not the separate tort claims that give rise to the claim for indemnification.

The court also rejected CIGA's argument that a "covered claim" is synonymous with an "occurrence" and that since the Bhopal disaster was a single occurrence, Union Carbide's recovery from CIGA should be limited to $300,000.

Likewise, the court rejected CIGA's contention that the consolidation of numerous Bhopal lawsuits into a single action controlled by the Indian government rendered it a single claim subject to the $300,000 cap.

"If we were to accept CIGA's argument that only an insured may present a covered claim and that such a claim for indemnification from a single occurrence is limited to $300,000, the protection of Connecticut residents against losses resulting from insolvency of insurance carriers, which the legislature intended to provide, would often prove illusory," the court concluded.

CIGA also is not entitled to offset its liabilities against amounts Union Carbide collected from solvent insurers by citing provisions of the guaranty fund law intended to prevent duplicate recoveries on the same loss, the Supreme Court found.

"CIGA's proposed interpretation effectively reduces the coverage afforded by the insolvent policies to the extent of the coverage available under the solvent policies even though the loss remains partially unsatisfied," the court ruled. This would "penalize the prudent practice of dividing portions of the total liability coverage among different insurers" and "seriously undercut the protection that the legislature intended to provide," the court noted.

The Supreme Court also concurred with the lower court's refusal to rule on whether payments to Bhopal victims from sources other than the Union Carbide settlement could reduce CIGA's liability for covered claims. Court filings to date have not disclosed whether victims have received any such payments, the court noted.

But, the Supreme Court panel overturned the lower court's order that CIGA must pay $6.4 million in Union Carbide defense costs on behalf of the insolvent insurers.

Noting that Union Carbide's $5 million first excess policy issued by Royal Indemnity Co. included an endorsement providing for self-insurance of these expenses, the court found there is a dispute over whether other excess insurers covered defense costs (*BI*, Dec. 24, 1984).

The court concluded that further trial court proceedings are necessary to resolve the defense cost issue.

Further trial court proceedings also are needed to resolve how CIGA's $100 per-claim deductible should be applied, the Supreme Court found, concurring with the lower court's refusal to rule on this issue.

However, the Supreme Court rejected CIGA's argument that it should be allowed to multiply the deductible by the number of Bhopal claims and deduct that amount from any obligation to Union Carbide, an approach that would wipe out any guaranty fund recovery for the chemical company. The court concluded that this "simplistic approach" is not supported by the guaranty fund statute.

But, the court found that it did not have enough information about how the Bhopal settlement is being allocated among victims to determine how the deductible provision should be applied. ■

Airline crash

Continued from page 1

same runway moments before they collided.

USAir Flight 1493, carrying 83 passengers and six crew, crashed into SkyWest Metro 3 as the USAir jetliner was landing at Los Angeles International. The SkyWest airliner, which was preparing to take off at the time, carried 10 passengers and two crew members.

Thirty-four people died in the accident, including all those on board the SkyWest airliner. Twenty-six people were injured, 11 of whom remained hospitalized last week.

Just 18 hours before the crash, USAir's hull and liability insurance program was renewed through brokers Frank B. Hall & Co. Inc. of New York and Leslie & Godwin Ltd. of London.

USAir paid about double the premium paid for last year to renew its coverage, to aviation underwriters and brokers in London and the United States.

One London broker said that USAir's hull premium increased 119% while its liability premium increased 135%.

A London aviation underwriter participating on the coverage estimated that USAir paid between $20 million and $22 million for the 12-month policy renewed Feb. 1, compared with the $16.5 million premium paid for an 18-month policy from Sept. 1, 1989, to Feb. 1, 1991.

When completing the renewal, USAir reduced the value of its fleet to $9.2 billion from $10.4 billion to minimize the increase in its hull insurance premiums, brokers and underwriters contend.

USAir reported a net loss of $214 million in the first nine months of 1990, including a loss of $115 million alone in the third quarter.

Hull insurance premiums are basically determined by multiplying the insured value of an airline's aircraft by the rate quoted by the underwriter. So if an airline reduces the value of its fleet, the premium is less.

As a result, while the Boeing 737 aircraft was insured for its replacement value of $33 million on Jan. 31, it was insured for just more than $16 million under the coverage that took effect on Feb. 1, the day of the crash.

Many brokers and underwriters believe that it would cost USAir at least $20 million to $25 million to replace the Boeing 737 aircraft.

"They underinsured it," surmised one London broker.

Reducing the fleet value and the value of the particular aircraft, "I assume, was a function of reducing the premium," according to a U.S. aviation underwriter. "When rates go up, airlines may insure their fleet at book value rather than replacement value."

The insured value of the Boeing 737 "surprises all of us," said another London aviation broker.

Officials at Frank B. Hall in New York and Leslie & Godwin in London would not comment on USAir's coverage.

USAir's premium increases are indicative of a general trend since Jan. 1 of increased airline hull and liability insurance premiums, brokers and underwriters agree.

However, USAir's massive hike "is the biggest increase we have seen so far," the London broker said.

Many observers said USAir's whopping rate increase could be due to the 132% loss ratio the airline has posted over the past seven years.

Included in this losses is the December 1987 crash of a USAir-owned Pacific Southwest Airlines jetliner at Los Angeles International, which killed 43 people. Authorities determined that the crash was caused by a disgruntled former USAir employee who boarded the plan with a pistol (*BI*, July 3, 1989; Dec. 14, 1987). "USAir's increases are an exception, but the trend is up" for airline hull and liability insurance premiums, said the London aviation underwriter. USAir's premium hikes "can't be typical, nice though that would be."

"The general trend for everything is up," agreed David Trezies, chairman of London-based broker Sedgwick Aviation Ltd.

Mr. Trezies noted that although USAir is the largest air carrier whose insurance has been renewed so far this year, smaller airlines already have been hit with rate increases, albeit much smaller than the USAir rate hike.

For smaller airlines, "the average rate increases for Jan. 1 renewals was around 45% for hulls and 30% for liabilities," Mr. Trezies said.

Signs that airline hull and liability insurance costs would rise this year after five years of cut-rate pricing came during Jan. 1 renewals when aviation insurers were force to pay premium increases ranging from 50% to 300% for aviation reinsurance (*BI*, Dec. 10, 1990).

And, although aviation insurers' reinsurance programs were renewed, insurers now are retaining more of their risk, according to underwriters.

"Also, there's a general understanding that rates have been significantly low" for aviation hull and liability coverage, a U.S. underwriter said. "We need the rate change to preserve the aviation (insurance) market."

However, most brokers and underwriters note that the real impact of the rate hikes will not be felt until the fourth quarter of the year, when more than 75% of the major airlines renew their insurance programs.

Besides its hull insurance, USAir also carries $850 million of liability insurance, according to the U.S. Department of Transportation, which received confirmation of the Feb. 1 coverage renewal the morning before the crash.

The DOT and other sources say the underwriters on USAir's hull and liability coverage are:

- U.S. Aircraft Insurance Group Inc., a New York-based consortium of property/casualty insurers, which writes 25% of the USAir coverage. Sources say USAIG is the claims lead.
- London insurers, which write another 25% of the risk. The London coverage is led at Lloyd's of London by the Ariel syndicate.
- French insurer La Concorde through La Reunion Aerienne in Paris, which writes 15% of the coverage.
- Associated Aviation Underwriters of Short Hills, N.J., which writes another 15% of the coverage.
- Compagnie des Assurances Maritimes et Terrestres in Paris, which writes 7.5% of the coverage.
- Aviators International Insurance Group in Dallas, which writes another 7.5% of the coverage.
- Philadelphia-based CIGNA Corp., which writes 5% of the coverage.

SkyWest insured its Fairchild Metro 3 aircraft for around $3.1 million and carries $250 million of liability insurance, brokers and underwriters agree. The coverage is placed in the United States by Alexander & Alexander Services Inc. of New York and in London by A&A subsidiary Alexander Howden Ltd.

According to the Department of Transportation, SkyWest's insurers are:

- USAIG, which writes 22.5% of the coverage. USAIG also is the claims lead for SkyWest.
- The London market, which writes 47.5% of the coverage. London sources say the coverage in London is led by English & American Insurance Group P.L.C.
- Aviators International Insurance Group in Dallas, which writes 7.5% of the coverage.
- La Concorde in Paris, which writes 12.5% of the coverage.
- Insurance Co. of North American, a CIGNA unit, which writes 5%.
- U.S. Fire Insurance Co., a unit of Crum & Forster Inc. of Basking Ridge, N.J., which writes 5%.

However, at least one attorney wonders whether the two airlines will be held liable for any of the damages resulting from the disaster at Los Angeles International Airport.

Although the airlines' insurers will initially pay claims, the airlines may be able to recover those payments from the U.S. government, according to George N. Tompkins Jr., a partner with Condon & Forsyth of New York.

The collision at Los Angeles International occurred when a Federal Aviation Administration air traffic controller gave permission to USAir Flight 1493 to land on the same runway where she had just directed SkyWest Flight 569 to await takeoff.

Tape recordings released last week by the National Transportation Safety Board also suggest that a USAir pilot asked three times whether the jetliner was clear to land but only received a response a minute and a half after the last request.

The NTSB also reportedly will investigate allegations that a ground-based radar system maintained by the FAA to help air traffic controllers keep track of traffic was out of service.

"The government should pay 100% on this, if what I read is true," said Mr. Tompkins, a leading airline defense attorney.

The U.S. government has been held liable in several air crash cases, though it has been cleared of any liability in others.

In particular, the U.S. District Court for the Central District of California ruled in 1989 that the U.S. government was 50% liable for the August 1986 mid-air collision of Aeromexico Flight 498 with a single-engine Piper aircraft over Cerritos, Calif. The collision killed 64 people on the Aeromexico DC-9, three people in the Piper aircraft and 15 people on the ground (*BI*, Sept. 22, 1986; Sept. 8, 1986).

The estate of William Kramer, who was flying the Piper aircraft, was held liable for the other 50% of damages.

The court found that the Aeromexico crew "was diligent and professional at all relevant times and that the collision could have occurred even though the Aeromexico pilots were performing diligently and professionally," according to the judgment.

However, the court said that the FAA air traffic controller at Los Angeles Terminal Radar Approach Control should have seen the small Piper aircraft, which had wandered into controlled air space without clearance, and should have issued a warning to the Aeromexico flight crew.

"The Federal Aviation Administration, acting by and through its employee, was negligent in failing to issue a warning to the crew of AM498 to advise them of the presence of (the Piper) in time to take action to avoid collision," the court said.

By law, an air traffic controller "is legally required to give all information and warnings specified in his air traffic control manuals including merging target warnings and traffic advisories," the court said. "As a matter of law, the United States is liable for all deaths, injuries, damage and destruction proximately caused by the negligence of the FAA, through its employees, in failing to warn the pilots of AM498 of the presence of (the Piper)."

The Aeromexico decision is currently being appealed. ■

Info

- The New York Business Group on Health Inc. has issued a report assessing workplace AIDS education programs. **"AIDS Education in the Workplace: What Employees Think"** attempts to determine employee sources of AIDS information, how the employer is regarded as a source, the level of knowledge about AIDS transmission, attitudes about co-workers with AIDS and the employer's role toward those workers. Copies are available for $10 plus $2.50 postage and handling. Contact NYBGH, 622 Third Ave., 34th Floor, New York, N.Y. 10017-6763; 212-808-0550.

- **"A Pocket Guide to Automatic Sprinklers"** is a booklet from Factory Mutual Engineering & Research that explains how an automatic sprinkler system works and how firefighters can work with it. Topics in the guide include types of sprinklers, temperature ratings on the systems, alarms and sprinkler control valves. The guide is intended as a reference for fire department training, inspections and pre-fire planning. Copies are available for $1.25; for orders of 100 or more, the cost is $1 a copy. Contact Factory Mutual Engineering Corp., Order Processing, 1151 Boston-Providence Turnpike, P.O. Box 9102, Norwood, Mass. 02062; 617-762-4300, ext. 2151.

- **"Liability Prevention & You: What Nurses and Employers Need to Know,"** a new brochure published by the American Nurses Assn., is designed to educate nurses, nursing students, employers and risk managers about the various types of liability that confronts those in the nursing profession. The brochure explains the difference between the National Practitioner Data Bank and ANA's National Nurses Claims Data Base. Single copies of the brochure are available free of charge from ANA; sets of 25 brochures can be purchased for $5 by state nursing association members or $6.50 by non-members. Contact the ANA at 800-274-4262.

- A catalog of publications is available from the **American Institute for Property & Liability Underwriters** in conjunction with the Insurance Institute of America. The catalog describes 48 textbooks published by the institutes under the categories of insurance principles, insurance coverages, risk management, insurance operations and insurance in a business environment. Copies of the 43-page catalog of publications are available free from the institutes' Field Services Department, 720 Providence Road, Malvern, Pa. 19355; 215-644-2100, ext. 7518.

- The Occupational Safety and Health Administration has released a new booklet intended to help small businesses manage **safety and health protection programs.** The 56-page booklet, a revised version of the "OSHA Handbook for Small Businesses," informs employers of voluntary protection programs, compliance programs and their spin-offs. The OSHA handbook describes a four-point safety program including management commitment and employee involvement, worksite analysis, hazard prevention and control and training programs designed for employees, supervisors and managers. Single free copies of OSHA publication No. 2209 are available from the OSHA Publications Office, Room N-3101, U.S. Department of Labor, Washington, D.C. 20210, or from regional OSHA offices.

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Pension proposal

Continued from page 1

tions may make separate lines of business testing impossible for many companies, benefit experts say.

"How many companies will get over all these hurdles? At this point, I'd say not very many," said Dennis Coleman, a partner with Kwasha Lipton in Fort Lee, N.J.

"Employers, in many cases, will be disappointed. Many employers will not find the significant relief they may have expected," said Harry Conaway, a principal with William M. Mercer Inc. in Washington, D.C., and a former Treasury Department official.

"On the whole, there are a lot of disasters in these regulations," said Frederick Rumack, director of tax and legal services at Buck Consultants Inc. in New York.

Among the problems in the proposed regulations identified by consultants:

- To test pension plans on a separate lines of business basis, a plan first has to pass the so-called nondiscriminatory classification test.

Because of the unusual way the IRS requires this test to be run—companies would have to exclude certain non-highly compensated employees who actually are covered by a plan—the plan could easily fail this test (see related story).

- Companies with lots of so-called shared employees, like organizations with a large headquarters staff that provides services to various units, may not be able to test their plans on a separate lines of business basis.

A requirement in the rules says that for a unit to be considered a separate line of business, 90% of its employees must exclusively work for that unit (see related story).

In addition, collecting information to determine if 90% of employees who provide services to a certain line of business do so exclusively may be difficult.

"In the real world, you have lots of situations where employees in a conglomerate provide services to different units," Kwasha Lipton's Mr. Coleman said.

Consultants add that the separate lines of business rules are so complex and voluminous that all the problems may not be discovered for weeks.

"It is like an onion. The more you peel, the more layers of complexity you find," said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

Still, benefit experts say, the problems posed by the separate lines of business rules should not be compared to Section 89, the horrendously complex non-discrimination rules for health care plans passed by Congress as part of the Tax Reform Act of 1986. Section 89 was repealed in 1989 after employers bombarded Congress with complaints about the rules' complexity and massive data collection requirements.

Unlike Section 89, which affected all employers offering health care plans, many employers—like small and mid-sized organizations offering single pension plans that cover all employees—have no reason to use the separate lines of business rules.

In addition, some companies that offer different pension plans to various corporate units may find that they don't have to use the separate lines of business rules to pass the non-discrimination tests.

And, some employers may not be fazed by the complexity of the separate lines of business rules and may actually welcome the rules, some experts assert.

"I view these rules as giving employers flexibility (in running the non-discrimination tests) that they didn't have before. I was not displeased with the rules," said Steve Vernon, a consultant with The Wyatt Co. in Sherman Oaks, Calif.

"The regulations will not be that bad if the IRS modifies a couple of key interpretations," said Allen Steinberg, a consultant with Hewitt Associates in Lincolnshire, Ill.

By contrast, Section 89 contained so many problems that legislators eventually agreed with employers that repeal—not overhaul—was the only solution.

In addition, Section 89 was a take-it-or-leave-it proposition; employers never were given a chance to comment before the provisions were added to the 1986 tax law.

The separate lines of business rules are only proposals. The IRS is giving employers until April 2 to comment.

The IRS "has an open mind. There still is hope for change but employers have to communicate their problems because the IRS soon will be developing final rules," said Scott Tucker, a Mercer associate in Washington, D.C.

Indeed, the IRS in the past has responded to employer comments. The IRS last year modified its so-called minimum pension participation rule, once described as the symbol of regulatory complexity, after a flood of employer protests (*BI*, May 21, 1990).

Comments on the separate lines of business rules, which were published in the Feb. 1 issue of the Federal Register, should be sent to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (EE-147-87), Room 4429, Washington, D.C. 20224. ■

Rule may stymie many firms

By JERRY GEISEL

WASHINGTON—A special Internal Revenue Service precondition may prevent many employers from testing their pension plans on a separate line of business basis.

The new standard "may make the separate lines of business regulations unworkable," asserts John Woyke, a principal with benefit consultant TPF&C, a unit of Towers, Perrin, Forster & Crosby Inc. in Valhalla, N.Y.

Under the precondition, employers can use the separate line of business rules only if all their pension plans first pass a special IRS non-discrimination test. This test—known as the Section 410(b) non-discriminatory classification test—compares the percentage of highly compensated employees—those earning more than about $60,000 annually—covered by a plan with the percentage of non-highly compensated employees covered.

Even a companywide pension plan that covers most lower-paid employees could fail the 410(b) test. That is because employees in lines of business other than one being tested are excluded from the test even if the plan includes those employees.

An example provided by Hewitt Associates in Lincolnshire, Ill., illustrates how a companywide pension plan offered to a high percentage of lower-paid employees would flunk the 410(b) test, thus preventing the employer from testing other pension plans on a separate line of business basis.

This example assumes that Company X has two separate lines of business: a high-tech electronics unit and a textile unit. The two units employ a total of 2,000 people—175 are highly compensated and 1,825 are not.

Two companywide pension plans are offered, one for salaried employees and one for hourly employees. The high-tech unit also offers a small profit-sharing plan, causing the company to look at the separate line of business rules to meet certain IRS non-discrimination rules.

Of the high-tech unit's 1,000 employees, 150 are highly paid. All 150 are salaried. Of the 850 lower-paid employees, 300 are salaried and 550 hourly.

The textile unit has 1,000 employees. Twenty-five, all salaried, are highly paid. Among the lower-paid 975 are 575 salaried employees and 400 hourly employees.

For the pension plans to pass the 410(b) test, the employer would have to look at its entire workforce. However, in running the test for each separate line of business, employees in the other line of business would be excluded, even if they actually were covered by the plan.

The Hewitt example shows the problems that arise when running the 410(b) test as required by the IRS on the high-tech salaried employees' plan.

The salaried employees' plan for the high-tech unit "covers" 150 highly paid employees out of a total of 175 highly paid employees companywide. As a result, the plan "covers" 86% of highly paid employees for testing purposes.

The salaried employees plan actually covers all highly paid employees. But under IRS 410(b) testing requirements, the 25 highly paid employees from the textile unit are excluded when the test is run for the high-tech unit.

Next, the employer must calculate what portion of its workforce is lower-paid workers. At Company X, lower-paid employees comprise 91% (1,825 divided by 2,000) of the workforce.

This percentage—91%—is used to determine a number known as the "unsafe harbor percentage." Unsafe harbor percentages, which range from 20% to 40%, are found in a special IRS table. The figure is 20% for employers whose workforces are at least 90% composed of lower-paid employees.

The percentage of highly paid employees considered for testing purposes as covered by a pension plan is then multiplied by the unsafe harbor percentage.

The result is the percentage of the company's lower-paid employees that must be "covered" by the salaried employees' plan for the plan to be considered non-discriminatory.

In the case of Company X, the percentage of highly paid employees covered by the plan—86%—would be multiplied by 20%, the unsafe harbor percentage. The result—17.2%—would be the minimum percentage of lower-paid employees that must be covered by the salaried employees' plan.

However, when the test is run on the salaried plan covering only the high-tech unit's workers, the plan only "covers" 16.4% (300 divided by 1,825) of Company X's lower-paid employees. The plan would be considered discriminatory. Thus, the company could not test its pension plans on a separate line of business basis.

In fact, 48%—or 875—of the company's 1,825 lower-paid employees are covered by the salaried employees' plan. But the IRS separate line of business rules require the 410(b) test to be applied as if the employees in the textile unit are excluded from the salaried employees' plan.

"The proposed regulations distort the real coverage of this plan," said Allen Steinberg, a Hewitt Associates consultant.

"The IRS really is creating a fiction," said TPF&C's Mr. Woyke. ■

Headquarters employees may disrupt pension tests

WASHINGTON—An employer with a large central headquarters staff that performs services for different corporate units may not be able to use the Internal Revenue Service's rules for testing pension plans on a separate line of business basis, benefit consultants say.

In order for a corporate unit to be considered a separate line of business for pension non-discrimination testing purposes, the IRS says that 90% of that unit's employees must exclusively work for that unit.

"Shared" employees—like central headquarters staff members—would be added to each unit for purposes of the 90% exclusivity test when testing each unit's workforce, which will cause many units to flunk the test.

An example provided by consultant William M. Mercer Inc. illustrates how a company with a large headquarters staff that provides services to two corporate units could not pass the 90% exclusivity test.

This example assumes the company has 10,000 employees and has two lines of business. The first line of business, an electronics unit, has 8,000 employees, while the second line of business, a textile unit, has 1,000 employees. The company also has 1,000 headquarters employees who provide services to both units.

In applying the 90% exclusivity rule, a company has to prove that 90% of a unit's employees, including shared employees, exclusively perform services for that unit.

In the Mercer example, the electronics unit would be considered to have 9,000 employees, including its own 8,000 employees and the 1,000 headquarters employees.

In order for the high-tech unit to pass the test, 90%, or 8,100 employees, must work exclusively for that line of business. In fact, only 8,000 employees, or 88.9%, exclusively work for that unit. As a result, the high-tech unit could not be considered a separate line of business.

The second unit, the textiles unit, also would flunk the 90% test. That unit would be considered to have 2,000 employees, including 1,000 shared headquarters employees and 1,000 non-shared employees. As a result, 90%, or 1,800 employees, would have to provide services exclusively to that unit.

In fact, the unit only has 1,000 employees exclusively providing services to that unit, far shy of the 90% threshold.

"Companies with large headquarters' staff always will have problems with the 90% test," said Harry Conaway, a Mercer principal in Washington, D.C.

—By Jerry Geisel

Datebook

FEBRUARY

FEB. 25. Crane Management Awareness seminar in Orlando, Fla. and Philadelphia; sponsored by the Crane Institute of America Inc., $195. **Also March 4** in Denver; **March 11** in Cincinnati; **March 18** in Houston; **March 25** in Chicago. Crane Institute, 1053 N. Orlando Ave., Suite 4, Maitland, Fla. 32751; 407-647-1800; 800-832-2726.

FEB. 25-26. Improving Reinsurance Collections conference in New York City, sponsored by Executive Enterprises Inc.; $1,045. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

FEB. 25-26. Insurance Regulation Course in New York City, sponsored by Executive Enterprises Inc.; $1,045. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

FEB. 25-26. The New Clean Air Act From A-Z conference in Chicago, sponsored by Executive Enterprises Inc.; $1,045. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333 or 212-645-7880.

FEB. 25-26. Asbestos Litigation: The Eye of the Storm seminar in Bal Harbour, Fla., sponsored by Andrews Communications Seminars; $500; group discounts are available; 10% discount for Asbestos Litigation Reporter subscribers. Kristi Pfluger, Seminar Registration Department, The Backe Group, 327 E. 50th St., New York, N.Y. 10022; 212-355-6636.

FEB. 25-27. Fundamentals of Insurance course in Charlotte, N.C., sponsored by the Risk & Insurance Management Society Inc.; $540 for RIMS members; $640 for non-members; less $45 if registered at least six weeks prior to course. **Also April 8-10** in Boston, **June 10-12** in Seattle, **Sept. 11-13** in Dallas, **Oct. 21-23** in Kansas City, **Dec. 4-6** in Atlanta. Education Department, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

FEB. 25-27. The Trustees and Administrators Institute in Orlando, Fla., sponsored by the International Foundation of Employee Benefit Plans; $555 for IFEBP members; $630 for non-members. Registrations Department, International Foundation, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

FEB. 25-MARCH 1. Accredited Safety Auditor seminar in Vancouver, British Columbia, Cleveland and Madrid, Spain, sponsored by the International Loss Control Institute; $1,050 for ILCI members; $1,250 for non-members. **Also March 4-8** in San Francisco; **March 11-15** in Atlanta and Lexington, Ky.; **March 18-22** in San Juan, Puerto Rico. ILCI, P.O. Box 1898, 4546 Atlanta Highway, Loganville, Ga. 30249.

FEB. 25-MARCH 1. Modern Safety Management seminar in San Francisco, sponsored by the International Loss Control Institute; $855 for members; $950 for non-members. **Also March 4-8** in Calgary, Alberta; Lexington, Ky.; and Atlanta; **March 11-15** in San Juan, Puerto Rico, and Salt Lake City; **March 18-22** in London and Los Angeles. ILCI, P.O. Box 1898, 4546 Atlanta Highway, Loganville, Ga. 30249; 404-466-2208.

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

Auto coverage

Continued from page 3

insurers.

Regulators said the rule was needed because the non-admitted share of the state auto market had increased dramatically. That subjected consumers to the "vagaries of financial institutions which are not regulated by the state and whose liabilities are not protected by guaranty funds," said a statement.

The department maintains there is no reason for widespread use of non-admitted insurers. Proposition 103 orders admitted insurers to cover good drivers, and CAARP exists for more difficult risks.

Unless regulators adopt or modify the rule, it will expire March 15. The department's decision must be approved by the state Office of Administrative Law.

Another hearing must be held if the measure is to be modified substantially. If adopted, the regulation could be challenged in court.

Brokers and business representatives attacked the regulation at the hearing before Administrative Law Judge Michael Jacobs and regulators.

Policyholders that had established relationships with non-admitted insurers were told to switch to admitted insurers or CAARP, which raised rates 85% in the past year, they said.

Commercial auto coverage—particularly for difficult risks like trucks, limousines, taxicabs and ambulances—is not readily available from admitted insurers, they said.

"Some years there are no (admitted) carriers for our business," said David C. Haley, a retail broker with ABI Business Insurance Services Inc. of Westlake Village, Calif., who "shops for markets" for taxicabs, limousines and ambulances.

Most coverage he places is with non-admitted insurers domiciled in states that have "a review process stronger or as strong as California's," he said.

"Where were the admitted carriers in 1985?" asked Earl Riggs, chairman of the insurance committee of the California Ambulance Assn. in Sacramento, Calif.

National Union Fire Insurance Co. of Pittsburgh, Pa., for instance, canceled a national insurance program for ambulances in 1985.

In 1986 the ambulance group formed an insurer. But the regulation now bars members from using AzStar Casualty Co. of Phoenix, which is not admitted in California.

AzStar is licensed in five states and operates on a non-admitted basis in 17 other jurisdictions, including California.

"I truly am upset. I put a lot of time and effort into forming AzStar. I'm appalled to think that at a snap of somebody's fingers" an insurer serving 181 companies must relinquish that business, he said.

"Thousands of insureds are now in financial difficulty because many were self-insured" and bought excess coverage from non-admitted insurers, ABI's Mr. Haley said. Now, "they have to shut their programs down."

Mr. Riggs also said that because no other insurer would cover ambulance fleets in 1985, the association was forced to obtain coverage through CAARP. But getting those policies took four months. And even then, he said, the coverage did not satisfy the $1 million limits required for municipal contracts.

H. Dean Abernathy, president of IDA Insurance Services Inc. of Modesto, Calif., a retail broker who places coverage for truck fleets, also criticized CAARP as inefficient.

Calling IDA's placement with offshore insurers "limited," he said it typically uses "excellent" U.S. non-admitted insurers, he said.

Mr. Abernathy agreed that some offshore companies are unreliable. One, he said, would not pay a client's $70,000 claim.

"There is significant evidence of severe abuse by alien carriers, but the problem is not solved" by the regulation, said David R. Harrison, an attorney with of Raul V. Aguilar in San Francisco, representing surplus lines brokers at the hearing.

In written comments, California's Surplus Line Assn. said the department had failed "to carefully tailor a regulation which specifically addresses the root causes of the problem it purports to remedy."

The association instead favored Emergency Regulation 15, which "would set minimum asset and longevity requirements for alien non-admitted carriers, among other things."

That regulation initially was scheduled to take effect last fall, and then on Jan. 27, but it "is still under review," the association said.

Brokers and insurers also urged regulators to enforce existing laws on surplus lines brokers and non-admitted insurers and to quickly adopt standards for offshore insurers that are not domiciled in any state.

Because "you have not been enforcing the law, the department will be held responsible when policyholders don't have their claims paid," said attorney Richard Barger of Barger & Wolen in Los Angeles, who was state commissioner from 1968 to 1972.

"You're going to have egg all over your face—and so will the commissioner," said Mr. Barger, who represents Century-National Insurance Co. of North Hollywood, Calif., which writes commercial and personal auto insurance, principally in California.

Representatives of several admitted insurers said that their commercial auto rates were being undercut by offshore insurers, many of which do not incur any state licensing costs.

Admitted insurers claim this competition is unfair, since state law prohibits placing a risk in the non-admitted market only on the basis of price.

One insurer is suing on those grounds.

In two suits in Los Angeles Superior Court, Condor Insurance Co., which writes coverage for trucking companies, claims several surplus lines brokers, offshore insurers and retail brokers violated state law by placing auto coverage in the non-admitted market, said Condor attorney Edgar Fraser of Wadsworth, Fraser & Dahl in Los Angeles.

Condor of El Segundo, Calif., has lost more than 50 policies worth about $1 million in premiums a month because surplus lines brokers induce policyholders to cancel their Condor policies and buy coverage from offshore insurers, he said.

Brokers fraudulently misrepresented the financial condition of the offshore insurers, the suits charge. And they allegedly lied on forms filed with the Surplus Lines Assn. certifying that coverage placed with offshore insurers was unavailable in California.

The suits seek compensatory and punitive damages, which can be trebled under the Racketeer Influenced and Corrupt Organizations act. Condor is also seeking damages from surety companies that wrote bonds for the defendant brokers. ■

Rate filings in California backlogged

By JOANNE WOJCIK

LOS ANGELES—A huge number of commercial lines rate filings in California are backlogged because of the rate freeze imposed last month when new Insurance Commissioner John Garamendi took office.

While former Insurance Commissioner Roxani Gillespie officially approved 28 commercial lines rate filings shortly before she left office Jan. 7, 468 filings are still awaiting action, the Insurance Department says.

Meanwhile, the California Board of Equalization raised the state's premium tax rate to 2.46% from the 2.37% level in 1990 after concluding that savings to consumers under Proposition 103 reduced premium tax revenues by some $50 million.

The 28 insurance rate filings approved by Ms. Gillespie were made by 18 different insurers. Only four of the filings sought rate hikes, all of which were approved. They are:

- A 38% increase in commercial auto liability rates requested by Condor Insurance Co.
- An 18.79% increase in other liability rates filed by American Fidelity Insurance Co.
- A 15.6% increase in commercial auto liability rates filed by Pacific National Insurance Co.
- A 5% increase in insurance agents errors and omissions coverage filed by Utica Mutual Insurance Co. Utica Mutual originally had sought a 14% increase.

Five rate filings approved by Ms. Gillespie were for rate decreases. They are:

- A 15.6% decrease in allied lines rates sought by Century Indemnity Co.
- A 15.6% decrease in allied lines rates requested by CIGNA Property & Casualty Insurance Co.
- A 15.6% decrease in allied lines rates sought by State Farm Fire & Casualty Co.
- A 5.6% decrease in commercial multiperil rates requested by Crusader Insurance Co.
- A 4.7% decrease in medical malpractice liability insurance rates requested by Medical Insurance Exchange of California.

The remaining insurers whose filings were approved by Ms. Gillespie prior to Jan. 7 had sought either approval of existing rates or minor policy form changes.

Most property/casualty insurance rates in California were made subject to prior approval of the insurance commissioner under Proposition 103, the voter-approved ballot initiative that also sought to roll back insurance "charges" to 20% below November 1987 levels.

Prior approval regulations established by former Commissioner Gillespie were scrapped by Mr. Garamendi on Jan. 8 when he proposed rules of his own (*BI*, Jan. 14).

Under administrative law proceedings, several hearings will seek comment from interested parties before Mr. Garamendi's rules are implemented. He has targeted March 15 for completion of the hearings.

Even though Proposition 103 only applies to property/casualty insurance, all insurers in the state—including life/health insurers—will be subject to the new 2.46% premium tax rate, said E.V. Anderson, administrator of excise taxes for the California Board of Equalization.

A provision of the voter-approved ballot initiative allows the state's tax board to raise the premium tax rate to account for any revenue losses.

The premium tax rate will return to its statutory 2.35% level in 1991, Mr. Anderson said.

To determine its revenue shortfall for 1990, the board subtracted actual premiums charged by insurers from an estimate of what premiums would have been had Proposition 103 not passed. To arrive at this figure—$2.14 billion—the board calculated how much inflation and population growth would have boosted premiums since Proposition 103 was approved in November 1988.

The board derived its base premium rate data from a survey of insurers representing 93% of the premium volume written in California, Mr. Anderson said.

California insurers will likely pass on the tax increase to policyholders in the form of higher premiums, said a spokesman for the Assn. of California Insurance Companies.

He also questioned the method the board used to determine premium increases since the lingering soft market would likely have caused premiums to decrease, not increase. "The sheer force of the marketplace would have driven rates down," he said. ■

Update

Cigarette suits allowed in Texas

AUSTIN, Texas—A federal law does not protect cigarette makers from lawsuits in Texas state court, a state appeals court ruled.

The 3rd Texas Court of Appeals in Austin this month rejected arguments by units of Phillip Morris Cos. Inc., RJR/Nabisco Inc. and Brooke Group Ltd., formerly Liggett Group Inc., that the federal Cigarette Labeling and Advertising Act requires suits seeking damages be filed in federal court.

In dismissing four suits against tobacco companies, a lower court had ruled that the federal law pre-empts state statutes. The suits were filed in 1985 and 1986 by two smokers suffering from cancer and the widows of two other smokers who had died of cancer.

"This probably is the first step in a long appellate process," said Mike Davis, a plaintiffs' attorney with Byrd, Davis & Eisenberg in Austin. He said he expects the companies to appeal.

Jury limits fidelity bond cover

CHICAGO—A fidelity bond written by a Lloyd's of London underwriter and other European insurers does not cover millions of dollars of losses a financial services company sustained on bad loans, even though the company claims an official approved the loans to generate the losses, a federal court jury ruled last week.

The company, Heller International Corp.—now doing business as Heller Financial Inc.—contended a vp in its Phoenix office approved the loans in hopes g the losses would cover up embezzlement.

Heller, though, could not prove that claim, said defense attorney Mark A. Brand, a partner at Pope & John Ltd. in Chicago.

The U.S. District Court jury in Chicago did, however, order Lloyd's underwriters and other insurers that wrote the $10 million fidelity bond to pay Heller $77,090. That represents the portion of the $1.8 million that the official was earlier convicted of embezzling that the jury ruled was covered by the fidelity bond.

Chicago-based Heller, a subsidiary of The Fuji Bank Ltd., had sought $29 million of compensatory damages, prejudgment interest and bad-faith damages, among other things.

District repeals gun liability law

WASHINGTON—The District of Columbia City Council last week repealed its controversial "assault weapon" liability law.

At the request of Mayor Sharon Pratt-Dixon, Council Chairman John A. Wilson introduced a resolution to repeal the law, which the council approved on a voice vote without debate in December.

The measure, which was signed into law by then-Mayor Marion Barry in December, would have held the manufacturers of a named group of assault weapons strictly liable for deaths and injuries caused by their use (*BI*, Jan. 7).

Mayor Pratt-Dixon requested the repeal because of concerns raised in Congress about passing a gun law while she was trying to secure $100 million in federal funds for the district, said a spokeswoman for Mr. Wilson. "She thought that (the law) would be a problem."

Congress has final approval over any legislation passed in the District of Columbia.

However, a spokeswoman for the mayor said: "I would not say these two issues were aligned." The mayor sought the repeal because she "didn't feel that the law was in the best interests of the city at that particular time," the spokeswoman said.

War risk rates continue to fall

LONDON—War risk rates for ships and cargo headed to the Persian Gulf continue to plummet as allied forces continue their strong campaign against Iraqi targets.

"The ability of Iraqis to damage shipping is perceived to be less" than at the outbreak of war last month, said Stephen Merrett, chairman of Lloyd's Underwriters Assn. and a leading war risk underwriter.

Because there have been no serious attacks on Gulf shipping, rates have been falling, he said. For example, hull war risk rates are now "not much more than 20% of the rates which were quoted when missiles were first in evidence," Mr. Merrett pointed out.

Aviation war risk underwriters also have eased up on premium hikes for airlines flying to the Middle East, he said. In particular, no additional premiums are being charged for flights to Cyprus and other countries peripheral to the war, he said.

However, premiums are up 20% to 25% for some airlines susceptible to terrorist attacks that are renewing their 12-month hull war risk policies, Mr. Merrett said.

Briefly noted

The **Risk & Insurance Management Society** Inc. has named Paul Brown director of governmental affairs. Mr. Brown, who formerly held the position of assistant director of governmental affairs for RIMS, replaces Howard Greene, who is leaving RIMS to be vp and director of industry, government and legal affairs at GRE of America Corp. of New York, a unit of U.S. insurer Guardian Royal Exchange Assurance P.L.C. . . .**Temple University** in Philadelphia reached a tentative contract agreement early last week with the union representing professors who went on strike for 29 days last fall over, among other thins, a university demand that members pay $260 each year toward health insurance (*BI*, Sept. 17, 1990). Terms of the settlement were not released, pending formal approval by the union and the Temple board of trustees. . . .A Texas court jury in Houston last week ordered 25 former asbestos manufacturers to pay $47 million to 289 former **asbestos workers** at an Exxon Co. U.S.A. plant in Baytown, Texas. The jury found that the former asbestos manufacturers were negligent in exposing the workers to asbestos. . . .**Canadian Universal Co.**, a subsidiary of American Universal Insurance Co., which had been declared insolvent in January (*BI*, Jan. 14), also was declared insolvent by Rhode Island liquidators on Feb. 5. . . .A federal judge has refused **Exxon Corp.**'s motion to dismiss a lawsuit by a group of shareholders claiming the company violated federal securities law by failing to disclose information about litigation stemming from the March 1989 Alaskan oil spill in its April 1989 proxy statement.

Guaranty fund

Continued from page 2

the Michigan Property & Casualty Guaranty Assn.

The case stemmed from a 1985 jury verdict ordering Borman's, owner of an 80-store supermarket chain, to pay $1.15 million to a plaintiff in a slip-and-fall case.

Borman's was unable to collect $950,000 of the award from its primary general liability insurer, Ideal Mutual Insurance Co., which was ordered liquidated in New York in 1985. After paying $1 million toward settlement of the case, Borman's filed a claim with the Michigan guaranty fund.

The guaranty fund rejected the claim, though, citing a 1969 statute denying coverage to policyholders if their net worth exceeds 0.1% of the aggregate premiums written by guaranty fund member insurers in the preceding calendar year.

If coverage is denied, 'you'd better stop assessing the premiums,' Mr. Brown says.

From 1980 to 1987, Borman's net worth ranged between $22.8 million and $38.8 million while the net worth cap under the Michigan guaranty fund statute rose from $4.3 million to $7.7 million.

Borman's sued the guaranty fund in 1986, charging that the net worth limitation adopted by the Michigan Legislature was not rationally related to a company's ability to absorb an uninsured loss and therefore violated the U.S. Constitution's equal protection clause and provisions of the Michigan Constitution.

After a seven-day trial in 1989, a U.S. District Court judge agreed with Borman's, ruling that the guaranty fund limitation was unconstitutional (*BI*, July 17, 1989).

However, a three-judge appellate panel on Thursday reversed the lower court order.

"The burden upon a party seeking to overturn a legislative enactment for irrationally discriminating between groups under the equal protection clause is an extremely heavy one," the court noted.

The 14th Amendment allows states wide latitude in creating statutory classifications "for legitimate social or economic purposes," the court concluded, citing an earlier federal court ruling that "state legislatures are presumed to have acted within their constitutional power despite the fact that, in practice, their laws result in some inequality."

"Though Borman's put on testimony which suggested that net worth was an unreliable and imperfect measure of ability to absorb loss, the test for constitutional purposes is not whether the legislative scheme is imperfect but whether it is wholly irrational," the appeals panel wrote.

The court found that the guaranty fund had presented enough evidence to justify use of the net worth test "as a proxy for a more complex calculation" of a policyholder's ability to absorb loss. The guaranty fund also presented evidence that the net worth limitation is much easier to administer than more complex tests.

While ease of administration alone isn't enough to justify an otherwise irrational law, the court upheld Michigan's right to consider it in adopting a law.

"In enacting (the net worth limitation), the Legislature conceivably may have concluded that the ease of administration and the preservation of limited fund resources for legitimate claimants justified the adoption of the rough net worth standard rather than a more precise mechanism of individual determination.

"Even when the wisdom of judgment of the state Legislature is debatable, a federal court is not free to set aside the Legislature's judgment to substitute its own," the appeals panel ruled.

An A&P spokesman declined to comment on the ruling or say whether Borman's will appeal. ■

Illinois seizes insurer

CHICAGO—A Cook County Circuit judge has placed the Illinois assets and records of a Cayman Islands-domiciled insurer into the conservatorship of state regulators, who say the insurer was operating in Illinois without a certificate of authority.

In an order sealed until Feb. 4, Judge Sophia H. Hall on Jan. 24 authorized the seizure of Illinois records and assets of Heartland Casualty Co. and several companies and individuals that allegedly had dealings with the insurer. The companies primarily were involved in issuing performance bonds for school asbestos-removal projects.

Regulators also took custody of records relating to other unidentified offshore insurers that may have been operating without proper authorization. Those records were held by Professional Risk Management Corp. of America, a claims manager based near Chicago.

That firm's president, Charles W. Hannon, also named in the state petition for conservatorship, said he is concerned that the companies will be unable to process claims or pay litigation costs in Illinois. An Insurance Department lawyer said regulators are working on a plan to handle claims, but would not give more details.

In a motion filed last week, Mr. Hannon argued he and his company should be dismissed from the petition because the law cited in the complaint applies only to insurers. Kathy Eigell, a department investigator, said it also pertains to actions taken on their behalf.

Also named in the petition are Heartland's manager, International Underwriting Managers (Cayman) Ltd., and its managing director, David L. Roberts, who would not comment.

Heartland Casualty is unrelated to Heartland Insurance Co. of America in Scottsdale, Ariz.

—By Colleen Johnson

N.Y. regulators rapped

NEW YORK—A management audit of the New York Insurance Department recommends several changes to eliminate inefficient and ineffective operations, but regulators say some costly changes are unlikely due to a state budget crunch.

The department suffers from a lack of management attention to "operating efficiency, resource deployment, information systems and human resource management," according to a Price Waterhouse audit report released earlier this month.

Lack of attention to internal organizational needs has caused a "substantial" backlog, including 21,000 unresolved consumer complaints, as well as 3,500 pending policy form submissions, the audit said.

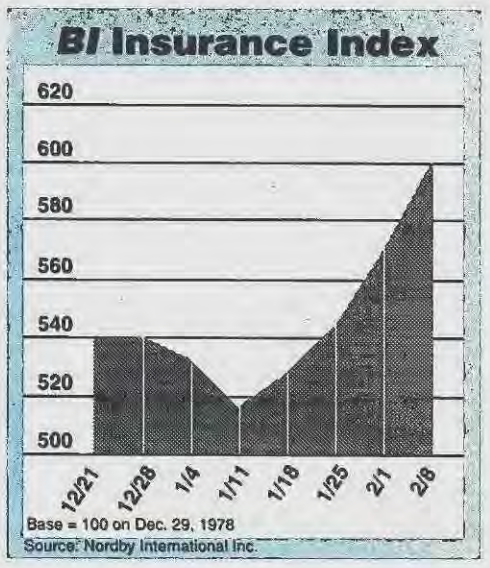
Price Waterhouse recommends, among other things, automating more tasks, standardizing more of the insurer examination process, reducing communication and organizational barriers among the department's 14 bureaus and reorganizing all consumer services into a separate bureau.

Deputy Superintendent Kevin Foley says the department "sees it as basically a good report that noted our strengths and specified our weaknesses."

However, while the department views the report "very seriously," the state's budget crisis makes it unlikely that additional funds can be found this year to implement costly changes, Mr. Foley said.

The New York Legislature budgeted $250,000 for the audit last year at the request of State Sen. Guy J. Valella, R-Bronx, chairman of the Senate Insurance Committee (*BI*, July 16, 1990).

—By Meg Fletcher



Insurance industry stocks continued their upward trend last week as the *Business Insurance* Index went up 30.4 points to 600.1 on Feb. 8, from 569.7 on Feb. 1. Advancing issues for the week were led by American Indemnity Financial, up 45.7%; Statesman Group Inc., up 34.5%; and AmBase Corp., up 33.3%. Declining issues for the week followed Pacificare Health System, down 14.0%; Chandler Insurance, down 6.7%; and Durham Corp., down 6.1%. The most active issue for the week was USF&G Corp., with 5 million shares traded. The *BI* Index was up 5.3%; The Standard & Poor's 500 were up 4.8%; the Dow Jones 30 Industrials were up 3.7%; and the New York Stock Exchange Composite went up 4.6%.

British Issues

Feb. 7 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence	pence
Comml Union	490	22.4	28.7	5.8	492—	483
Genl Accident	501	15.1	33.4	6.7	501—	484
Gdn Royal Exch	199	17.3	15.3	7.7	199—	187
Royal	413	21.9	34.0	8.2	413—	383
Sun Alliance	356	12.6	16.7	4.7	356—	333
Brokers						
Bradstock	253	14.3	12.0	4.7	253—	253
CE Heath	458	13.2	34.5	7.5	458—	454
Hogg Group	168	11.0	9.7	5.8	168—	156
Lloyd Thompson	304	20.3	10.0	3.3	304—	304
PWS Holdings	82	9.9	4.7	5.7	82—	82
Sedgwick Grp	235	17.5	16.0	6.8	235—	233
Steel Brrl Jones	258	15.3	14.7	5.7	258—	258
Willis Corroon	272	20.1	16.0	5.9	272—	262

Source: Philip Olsen, Insurance Industry Analyst London

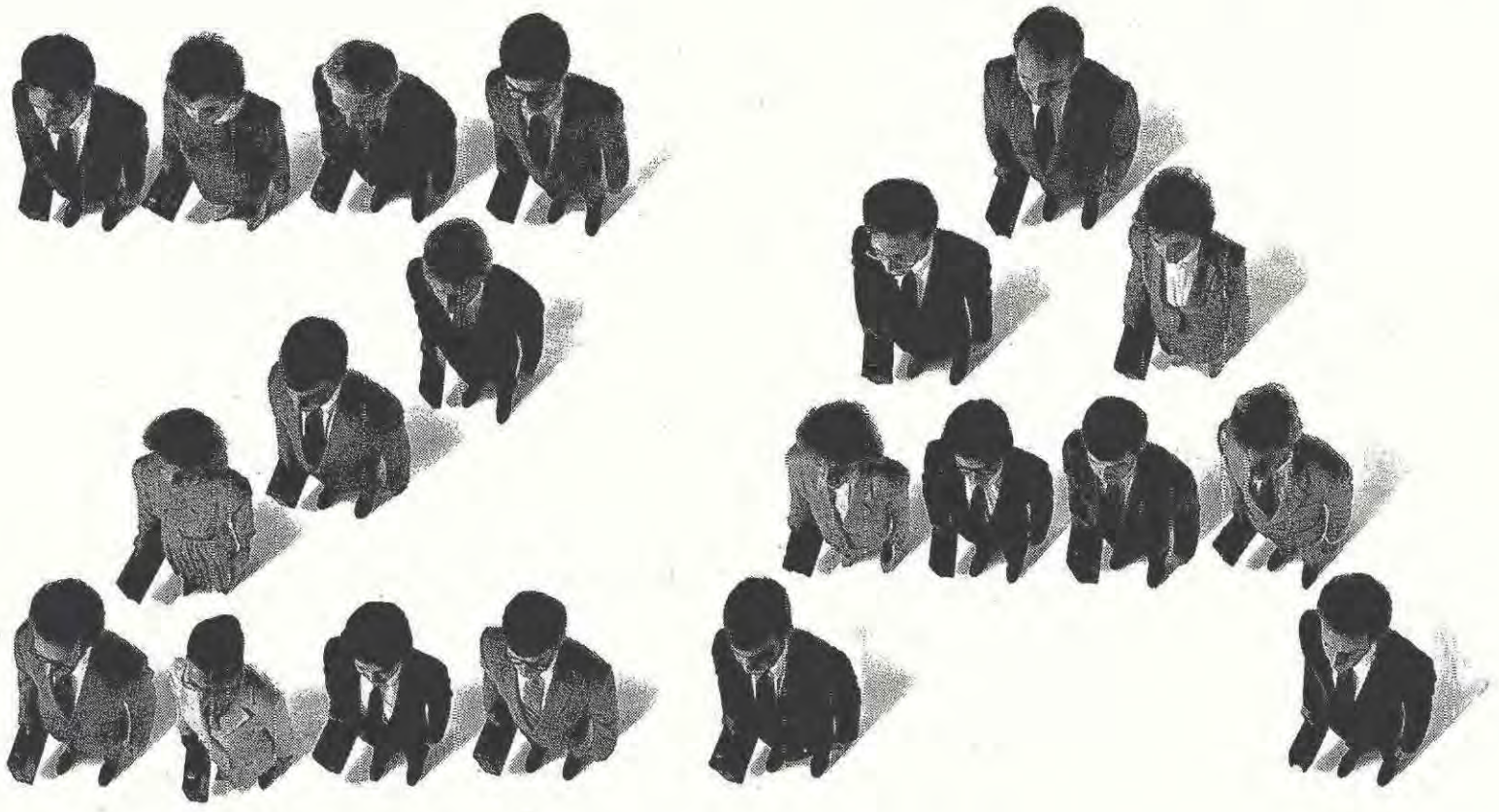
BI Industry Stock Report

FEBRUARY 4, 1991 THROUGH FEBRUARY 8, 1991

		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
BROKERS												
Alexander & Alexander	NYS	26.75	11.46	15.68	28.88	16.13	323	0.00	0.00	22	9.18	2.91
Gallagher Arthur J. & Co.	NYS	24.25	4.30	4.30	25.00	19.75	71	0.64	2.64	18	5.33	4.55
Frank B. Hall	NYS	3.38	8.00	-6.90	4.25	2.00	181	0.00	0.00	-7	-2.80	-1.21
Hilb, Rogal & Hamilton	OTC	14.25	5.56	-3.39	16.50	11.25	252	0.36	2.53	19	4.60	3.10
Marsh & McLennan	NYS	77.50	6.90	-0.64	81.00	59.75	731	2.60	3.35	19	10.56	7.34
Poe & Associates	OTC	9.50	18.75	18.75	13.00	7.75	2	0.40	4.21	14	1.93	4.92
BROKERS	AVERAGE		7.9	4.0					1.8	12		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	40.63	4.84	8.33	44.75	28.50	119	0.44	1.08	11	25.06	1.62
Berkshire Hathaway Inc.	NYS	7600.00	0.33	13.86	8900.00	5675.00	0	0.00	0.00	24	2869.00	2.65
ITT (Hartford Group)	NYS	55.25	4.74	15.10	60.88	40.25	1978	1.72	3.11	7	56.33	0.98
Sears (Allstate)	NYS	29.75	1.71	17.24	41.88	22.00	3031	2.00	6.72	9	37.75	0.79
CONGLOMERATES	AVERAGE		2.9	13.6					2.7	13		
INSURERS/REINSURERS												
Aetna Life & Casualty	NYS	45.38	3.42	16.35	54.38	29.00	2044	2.76	6.08	8	58.11	0.78
Ambase Corp.	NYS	0.50	33.33	59.74	9.63	0.16	651	0.00	0.00	0	29.08	0.02
American General	NYS	36.75	8.09	19.51	50.63	23.50	3175	3.20	8.71	8	34.68	1.06
American Heritage	NYS	22.50	7.78	7.14	24.63	19.63	14	1.00	4.44	10	22.60	1.00
American Indemnity/Fin'l	OTC	6.38	45.71	96.15	7.50	2.75	10	0.08	1.25	-19	17.38	0.37
American International	NYS	87.38	4.33	13.66	85.75	57.00	1908	0.44	0.50	13	41.92	2.08
Aon Corp.	NYS	34.50	7.39	-0.72	41.38	26.75	444	1.52	4.41	9	19.62	1.76
Argonaut Group	OTC	72.13	1.94	12.70	78.00	53.00	22	1.60	2.22	7	36.83	1.96
AVEMCO Corp.	NYS	27.38	4.29	8.42	30.13	21.13	51	0.44	1.61	17	9.52	2.88
Baldwin & Lyons Inc.	OTC	19.88	5.30	6.00	21.88	17.00	7	0.28	1.41	7	20.80	0.96
Belvedere Corp.	ASE	2.75	4.76	10.00	5.38	1.75	6	0.04	1.45	-4	8.03	0.34
Chandler Insurance	OTC	3.50	-6.67	-49.09	10.00	2.75	73	0.00	0.00	2	9.53	0.37
Chubb Corp.	NYS	63.50	6.05	17.05	63.75	34.63	1456	1.32	2.08	10	55.49	1.14
CIGNA Corp.	NYS	47.13	5.90	15.29	55.50	33.25	780	3.04	6.45	11	66.64	0.71
CNA Financial Corp.	NYS	79.00	4.64	15.12	84.00	49.50	120	0.00	0.00	14	54.87	1.44
Continental Corp.	NYS	28.00	8.74	12.56	31.38	15.75	948	2.60	9.29	10	41.36	0.68
Durham Corp.	OTC	24.88	-6.13	-11.16	34.00	23.00	18	0.92	3.70	11	26.32	0.95
Fund American Corp.	NYS	55.25	2.79	6.51	55.13	29.50	1966	0.68	1.23	138	32.74	1.69
Fremont General Corp.	OTC	16.00	9.47	10.34	21.13	10.13	177	0.80	5.00	4	19.09	0.84
Frontier Insurance Group	NYS	21.25	13.39	11.84	33.00	15.00	34	0.00	0.00	9	7.29	2.91
General RE Corp.	NYS	93.50	3.89	0.54	94.38	69.00	2303	1.52	1.63	14	29.04	3.22
Hanover Insurance Co.	OTC	29.75	3.18	12.26	31.00	21.00	61	0.44	1.48	13	32.03	0.93
Harleysville Group	OTC	25.25	14.77	10.38	26.50	13.50	70	0.64	2.53	8	18.94	1.33
Hartford Steam Boiler	NYS	54.13	9.62	11.03	62.13	43.50	183	1.80	3.33	14	18.94	2.86
Kansas City Life Ins.	OTC	32.00	3.23	3.64	36.50	30.00	7	1.20	3.75	8	39.22	0.82
Kemper Corp.	NYS	29.63	15.05	24.74	43.13	17.13	1287	0.92	3.11	114	29.97	0.99
Lawrence Insurance Group	ASE	6.63	0.00	-5.36	9.13	6.38	9	0.36	5.43	11	4.40	1.51
Liberty Corp.	NYS	46.00	1.66	11.85	50.25	39.00	13	0.92	2.00	10	31.82	1.45
Lincoln National	NYS	50.50	12.22	17.44	56.50	30.75	629	2.72	5.39	10	49.19	1.03
NAC Re Corp.	OTC	37.25	5.67	12.88	37.88	25.50	199	0.20	0.54	16	22.81	1.63
Navigators Group	OTC	38.50	4.05	17.56	39.00	24.75	24	0.00	0.00	15	15.22	2.53
Nobel Insurance LTD.	OTC	3.00	4.35	0.00	3.75	1.75	23	0.00	0.00	-	7.76	0.39
NWNL Companies	NYS	23.25	8.77	37.78	34.50	11.75	722	1.32	5.68	5	37.50	0.62
Ohio Casualty Corp.	OTC	45.00	1.69	9.76	50.75	26.75	206	2.32	5.16	10	33.30	1.35
Old Republic Int'l	NYS	28.38	12.94	24.04	28.00	19.00	176	0.76	2.68	6	30.70	0.92
Orion Capital Corp.	NYS	21.13	10.46	20.71	23.00	13.00	140	0.92	4.36	6	19.72	1.07
Phoenix RE Corp.	OTC	9.00	5.88	16.13	12.50	5.00	27	0.20	2.22	-12	12.99	0.69
Protective Life Corp.	OTC	15.50	3.33	4.20	16.75	10.25	119	0.76	4.90	9	14.54	1.07
Provident Life	OTC	20.75	13.70	18.57	26.25	12.00	675	0.92	4.43	5	23.24	0.89
Re Capital Corp.	ASE	13.88	4.72	7.77	14.75	11.75	16	0.00	0.00	10	14.43	0.96
RLI Insurance Corp.	NYS	14.00	0.90	-3.45	14.88	9.50	132	0.44	3.14	7	12.42	1.13
St. Paul Companies	OTC	67.75	6.69	7.97	67.50	47.00	937	2.60	3.84	8	43.47	1.56
SAFECO Corp.	OTC	40.00	7.02	21.67	39.50	25.13	1330	1.36	3.40	10	24.87	1.61
SCOR U.S. Corp.	NYS	13.50	9.09	9.09	13.13	8.38	28	0.20	1.48	12	10.61	1.27
Seibels Bruce Group	OTC	6.50	18.18	52.94	11.75	4.25	94	0.36	5.54	-1	13.75	0.47
Selective Ins. Group	OTC	15.50	9.73	16.98	19.00	12.50	184	1.04	6.71	6	15.72	0.99
Statesman Group Inc.	OTC	2.44	34.47	55.98	2.88	1.25	333	0.00	0.00	4	4.19	0.58
Tokio Marine & Fire	OTC	55.00	12.82	16.40	66.50	34.50	45	0.26	0.47	33	70.93	0.78
Torchmark Corp.	NYS	54.38	8.21	11.25	54.00	38.00	551	1.40	2.57	13	13.23	4.11
Transamerica	NYS	34.25	4.58	4.98	41.00	23.25	878	1.96	5.72	10	34.63	0.99
Travelers Corp.	NYS	20.63	11.49	24.06	34.88	11.50	2587	1.60	7.76	-11	44.85	0.46
Trenwick Group Inc.	OTC	25.75	9.57	11.35	25.50	16.25	104	0.48	1.86	11	16.91	1.52
United Fire & Casualty	OTC	38.50	6.94	9.61	38.50	28.75	16	1.32	3.43	9	22.56	1.71
USF&G Corp.	NYS	11.00	29.41	46.67	30.13	7.00	4956	1.00	9.09	7	22.87	0.48
UNUM Corp.	NYS	58.50	11.69	25.47	59.00	32.13	1028	0.80	1.37	11	31.20	1.88
USLIFE Corp.	NYS	35.38	12.30	26.34	41.75	23.25	163	1.48	4.18	8	54.34	0.65
Unitrin	OTC	34.75	4.51	13.01	35.13	24.50	326	0.80	2.30	14	33.99	1.02
USLICO Corp.	NYS	19.25	12.41	21.26	23.00	14.75	24	1.00	5.19	7	27.73	0.69
Washington National	NYS	14.00	13.13	28.74	25.75	9.38	184	1.08	7.71	58	32.90	0.43
Zenith National Ins.	NYS	14.75	15.69	8.26	18.13	9.88	290	1.00	6.78	10	13.81	1.07
INSURERS/REINSURERS	AVERAGE		9.5	16.5					3.5	13.4		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	18.00	5.88	18.03	22.00	9.75	2724	0.00	0.00	15	3.54	5.08
HMO America Inc.	OTC	8.13	1.56	25.00	8.19	4.25	925	0.00	0.00	11	1.12	7.25
Pacificare Health Sys.	OTC	20.00	-13.98	23.08	26.00	12.00	2065	0.00	0.00	14	6.35	3.15
Safeguard Health Enter.	OTC	4.75	0.00	0.00	7.75	4.00	0	0.00	0.00	11	2.99	1.59
Sierra Health Services	ASE	17.88	8.33	30.00	18.75	5.50	811	0.00	0.00	53	0.62	28.83
United Healthcare Corp.	OTC	27.38	-4.78	17.74	29.75	9.00	2001	0.12	0.44	28	0.34	80.51
United Medical Corp.	ASE	8.50	0.00	6.25	11.38	6.63	11	0.20	2.35	12	5.70	1.49
U.S. Healthcare	OTC	37.75	3.07	28.51	38.00	10.13	2837	0.36	0.95	33	3.07	12.30
HMOs	AVERAGE		0.0	18.6					0.5	22		
ALL COMPANIES	AVERAGE		7.8	15.0					2.9	14		

System design: Nordby International Inc.

What Account Team Stands For Better Service?



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