

Business Insurance

Reporting Weekly For Corporate Risk, Employee Benefit and Financial Executives / \$4

© Entire contents copyright 1995 by Crain Communications Inc. All rights reserved.

Texas Supreme Court upholds 1989 workers comp reform law

AUSTIN, Texas—Business groups and insurers are hailing a Texas Supreme Court ruling last week that turned back a constitutional challenge to a 1989 state workers compensation reform law credited with saving millions of dollars.

"The clouds of uncertainty have lifted," said Ron Cobb, southwest regional vp for the American Insurance Assn. in Austin.

"Under the current system, more benefits are going to injured workers, rates are very competitive and Texas has been an example

Continued on next page

Minneapolis coalition reforming health care

Group wants providers to compete for business

By CHRISTINE WOOLSEY

MINNEAPOLIS—A group of large self-insured employers in Minnesota is ushering in the next phase of a health care purchasing strategy that will significantly alter the role managed care organizations and consumers play in the local health care market.

The 22 members of the Business Health Care Action Group want to force local health care providers—rather than the managed care organizations they are affiliated with—to compete for patients based on their own cost and quality indicators.

And, they want to give employees and their families direct access to provider performance data so they will stop selecting physicians and hospitals based solely on convenience and reputation.

If they succeed, Minnesota may become the first state in which health care purchasers have created an organized delivery system

that directly competes for market share based on quality, efficiency and cost.

It's a lofty goal, but it's something the coalition has been doggedly pursuing for the past several years.

What's more, it now appears that local health care providers—and at least one major health care organization—are prepared to help them meet it.

"The Business Health Care Action Group is the most sophisticated group of buyers in the country," said George Halvorson, president of HealthPartners Inc., one of four large health plans that now dominate the Twin Cities market. "We have listened to them, learned from them and believe that the approach they are taking will work better for the entire market."

The group's latest actions are an extension of a purchasing project initiated in 1992 that was designed to improve the cost effectiveness and quality of medical care provided to

Continued on page 21

Zurich sweetens its offer for Home

By GAVIN SOUTER

NEW YORK—Zurich Insurance Group hopes a strengthened offer for Home Holdings Inc. will placate regulators, bondholders and others who were concerned about the adequacy of its earlier offer.

Zurich is enhancing its offer by including a \$1 billion reinsurance program to cover The Home Insurance Co.'s old liabilities, as well as setting up mechanisms to guarantee investment returns and debt payments.

The improved offer was made after talks with state insurance regulators, who had stressed that they would not approve the deal if The Home's policyholders were not sufficiently protected (BI, Feb. 6).

The new offer also is designed to stave off legal action by bondholders, who had opposed Zurich's initial offer as inadequate.

But the most crucial question will be whether regulators deem the enhanced offer sufficient to protect policyholders, analysts say.

Meanwhile, John J. Byrne, whose own offer for The Home was topped by Zurich, is setting up a new property/casualty in-

Continued on page 22

Four indicted in MEWA scam

Unpaid claims to tune of \$1 million

By DOUGLAS McLEOD

PHILADELPHIA—A Virginia businessman and three associates are facing charges that they defrauded employers in more than two dozen states with two phony multiple employer welfare arrangements.

A federal grand jury last month indicted Edward M. Zinner of Virginia Beach, Va., on racketeering charges, alleging that he operated two MEWAs that collected \$12.6 million in health insurance premiums and left about \$1 million in unpaid claims.

Mr. Zinner, the founder of a rock band and owner of a Virginia Beach restaurant, is also charged with hiring band members as MEWA employees and diverting their services for work with the band and restaurant.

Also named in the indictment were: Jeffery C. Neal, a plan administrator and trustee; Mark "Waldo" Waldron, a plan trustee and a keyboard player with Mr. Zinner's band; and William E. Moulton Jr., a plan sponsor.

Mr. Neal has agreed to plead guilty to certain charges in the indictment and cooperate with prosecutors, according to his lawyer, Ted Costa of Hainesport, N.J. Mr. Neal was "duped and cajoled into participating in something that got out of control," Mr. Costa said.

Messrs. Zinner and Waldron pleaded not guilty at an arraignment earlier this month and were released on bond.

Mr. Zinner "intends to defend himself to the fullest," said his lawyer, Albert Mezzaroba of Masciocchi & Mezzaroba in Philadelphia.

Mr. Waldron "performed his duties as a trustee and never engaged in any illegal or improper conduct," said his lawyer, Sidney Friedler of Sheehy & Friedler in Hempstead, N.Y. "He is going to fight this vigorously."

Mr. Moulton has not yet been arraigned, and his lawyer declined to comment.

The alleged scheme involved two MEWAs and related marketing and administration firms, all allegedly controlled by Mr. Zinner with help from the other defen-

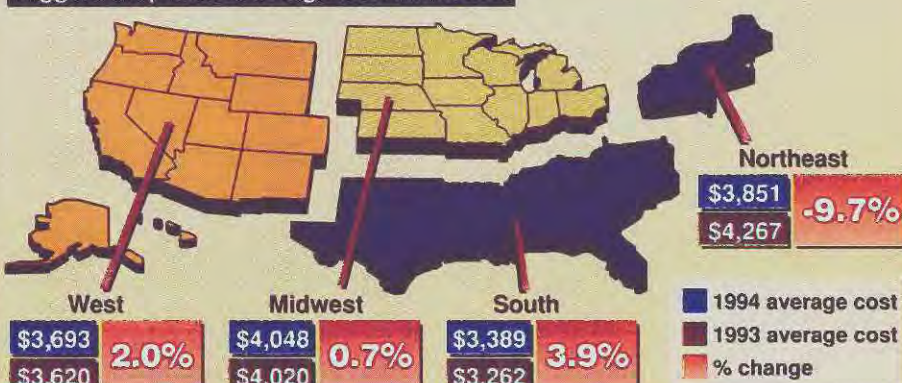
Continued on page 12

1994 group health care costs

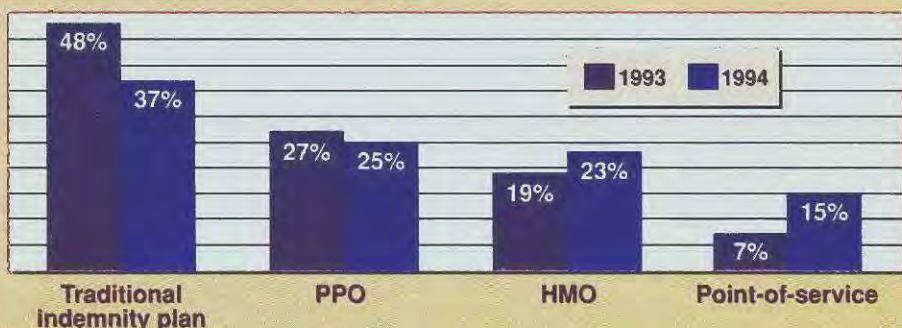
Big companies lead the way

	1994 average cost	1993 average cost	% change
Overall average	\$3,741	\$3,781	-1.1%
Fewer than 500 employees	3,452	3,240	6.5
500-999	3,390	3,681	-7.9
1,000-4,999	4,049	3,885	4.2
5,000-9,999	3,745	3,852	-2.8
10,000-19,999	3,909	4,013	-2.6
20,000 or more employees	4,401	4,537	-3.0

Biggest drop comes in high-cost Northeast



Enrollment shifts to managed care



Source: A. Foster Higgins & Co., Inc.

GRAPHIC BY JOHN HALL

Health market changes spur 1% drop in costs

By JERRY GEISEL

What would have been thought impossible only a few years ago, now is a reality: Group health care plan costs are falling.

Total costs for all health care plans dipped 1.1% to an average of \$3,741 per employee in 1994 from \$3,781 in 1993, according to a survey of 2,097 employers to be released this week by benefit consultant A. Foster Higgins & Co. Inc.

The decline in costs—the first in the nine-year history of the survey—is the most dramatic evidence that the era of spiraling group health care plan cost increases is over.

As recently as the late 1980s, group health care plan costs were escalating at a rate of more than 15% annually.

Cost increases began to ease a few years ago, and in 1993 a milestone of sorts was reached when costs only increased 8%, ending a five-year run of double-digit increases in group health plan costs.

But even as cost increases were easing, no one was predicting that plan costs might actually decline in the future.

The Foster Higgins finding that costs are falling comes in the wake of the Clinton administration's failed effort to radically transform the nation's health care system by stripping from employers control of the design and administration of group health care plans and transferring those functions to government or government-created entities.

Employers vigorously fought those

Continued on page 10

Updates

Texas comp law upheld

Continued from previous page

other states have emulated in their workers compensation reform efforts," said Jerry Johns, president of the insurer-funded Southwestern Insurance Information Institute in Austin. He added that under the 1989 law, lawyers are only involved in 8% of workers comp claims.

Last Thursday, the high court reversed an appeals court ruling that had held the 1989 law—which sets compensation levels for certain injuries and requires administrative procedures before worker lawsuits—violated workers' rights to jury trials, access to the courts and equal protection under the laws (*BI*, Aug. 23, 1993). Three justices joined a separate opinion dissenting in part.

Texas Workers Compensation Commission vs. Hector Garcia Jr. was first filed two months before the law took effect in January 1991.

Malpractice suit dismissed

HOUSTON—A Houston judge has dismissed a legal malpractice lawsuit filed by 46 people who were unhappy with the settlements they received after a 1989 Phillips Petroleum Co. plant explosion.

The victims, who were seeking \$150 million in damages, sued their attorneys in 1993 after discovering that some victims had received higher settlements than others. The group had collectively received \$33 million from Phillips in 1991.

But as the case neared trial, a Texas state court judge last week granted the defendants' motion for summary judgment, saying the victims had not shown that the attorneys' actions had damaged them.

The explosion at Phillips' Pasadena, Texas, plastics plant killed 23 workers and injured 130 others. At the time of the blast, the company had at least \$550 million in liability coverage to pay third-party losses (*BI*, Oct. 30, 1989).

Neither the lawyer for the victims, Steven Smoot of Houston, nor defense attorney Kenneth Tekell, also of Houston, could be reached.

Dingell's old panel shifts gears

WASHINGTON—The House Commerce Committee's Oversight and Investigations Subcommittee will be turning its sights to federal agencies rather than on insurance and other industries it targeted under former Chairman John D. Dingell, D-Mich.

The subcommittee will use its powers in an attempt to make federal regulatory bodies more efficient, said Robert Gordon, counsel to the Commerce Committee, now chaired by Rep. Thomas Bliley, R-Va.

At an American Bar Assn. meeting last week, Mr. Gordon said that the panel, known for its investigations of the insurance industry, will examine "management abuses" at the Consumer Product Safety Commission as well as practices at various regulatory bodies.

Mr. Gordon also offered his assessments of risk management-related legislation would fare in the 104th Congress.

A product liability reform bill will pass both the House and Senate this year, but President Clinton remains the "wild card" because he has not indicated where he stands on the issue.

The House is also likely to consider some sort of natural disaster insurance bill before the end of the year, but only after Superfund reauthorization has been tackled, he said.

Members agents' suits barred

LONDON—Nine Lloyd's of London members agents have no liability to members under tort law for the actions of an underwriter, but they do under contract law, though claims are barred by a statute of limitations, a High Court ruled last week in a rare victory for the agents.

The ruling in this case, in which members sought £50 million (\$77.8 million), could affect many future member suits over long-tail liabilities because of the statute of limitations.

But Justice Potter did rule that managing agency Pulbrook Underwriting Management Ltd. was liable in tort to the 372 members of the Syndicate 334 (1985) Names Assn. for improperly placing a runoff reinsurance contract in 1981 that was ultimately voided in 1990.

Pulbrook, now owned by Merrett Holdings P.L.C., could be liable for as much as £80 million (\$124.5 million) in members' losses, according to Sir Clive Francis, chairman of the action group.

Sources say Pulbrook has £20 million (\$31.1 million) of E&O coverage. Sir Clive said there also may be more money available if Stewart Wrightson Holdings P.L.C.—now a Willis Corroon Group P.L.C. unit—made any warranties when it sold Pulbrook to Merrett in 1985.

A.M. Best now rating HMOs

OLDWICK, N.J.—Amid rapid growth of health maintenance organizations and benefit manager demands for information about them, A.M. Best Co. is now assessing the financial strength of HMOs.

With ratings for three for-profit HMOs, Best last week kicked off its effort to gauge HMOs' financial strength, including operating performance and ability to meet obligations to subscribers. Ratings are on the same letter scale Best uses to rate insurers.

Best rated Cypress, Calif.-based PacifiCare of California an A+, PCA Family Medical Health Plans Inc. of Miami an A-, and Maxicare of California, which is based in Los Angeles, a B++.

In at least one way, the ratings will be of less importance to benefit managers than the insurer ratings are to risk managers.

Continued on page 22

Errors & omissions

• An incorrect phone number was inadvertently published for The Travelers Plan Administrators Inc. in the Feb. 6 Directory of Third-Party Administrators. The correct number is 203-954-5479.

Minneapolis will appeal domestic partner ruling

By DAVE LENCKUS

MINNEAPOLIS—Minneapolis will appeal a state appellate court ruling prohibiting the city from voluntarily extending health insurance benefits to the domestic partners of its homosexual employees.

While social policy was at the root of the case, the court focused on Minneapolis' authority under its home rule charter to expand the list of eligible plan beneficiaries spelled out by state law.

The Jan. 25 ruling, which up-

holds a district court decision, is the latest in a string of court defeats for the gay community nationwide on this issue.

Gay employees, though, still are increasingly obtaining domestic partner coverage. Approximately 500 public and private employers voluntarily offer the coverage out of a sense of fairness and for competitive reasons, said J. Kelly Strader, a professor at Southwestern University's School of Law in Los Angeles who specializes in gay and lesbian legal issues.

The Minneapolis benefits battle

began in 1988, when three lesbian employees of Minneapolis' library board sued the city and the board to obtain health coverage for their domestic partners.

The city provides health insurance benefits to city employees and their spouses, minor children and dependent children up to age 25, if they are students. Those benefits are explicitly allowed under a state statute that authorizes all public entities within the state to sponsor employee health plans.

Legal experts are unsure how

Continued on page 11

Employers Re growing

Purchase of Aachen Re expands reinsurer's global reach

By JUDY GREENWALD

OVERLAND PARK, Kan.—Employers Reinsurance Corp.'s agreement to acquire German reinsurer Aachen Re is yet another example of globalization and consolidation in the reinsurance market.

The deal is expected to significantly increase Employers Re's foreign operations, as well as en-

sure the company's standing as one of the world's largest reinsurers.

Employers Re earlier this month reached an agreement in principle to acquire most of the reinsurance business of Aachener Rückversicherungs Gesellschaft A.G., the world's 19th largest reinsurer (*BI*, Feb. 6).

Under the agreement, Aachen Re, which is a subsidiary of

Aachen, Germany-based AMB Aachener & Münchener Beteiligungs A.G., will form a new company that will still operate under the Aachen Re name and receive most of Aachen Re's reinsurance business.

The deal will add at least \$750 million in net written premiums to Employers Re's volume, which was \$3.4 billion on a statutory ba-

Continued on page 11

HMOs' continuing growth good news for investors

A healthy investment

By JUDY GREENWALD

Wall Street sees bright prospects for health maintenance organizations in 1995.

With continuing enrollment growth and moderating cost trends, HMOs are expected to continue to do well.

Two companies that securities analysts frequently cite as strong are United HealthCare Corp. of Minnetonka, Minn., and Healthsource Inc. of Hooksett, N.H.

Investor interest in HMO stocks seemed to be rising even before



HMOs began reporting their 1994 results last week. As a group, the eight stocks tracked by *Business Insurance* fell 1.2% last week and have risen 3.3% for the year.

So far, results have either met or exceeded expectations and the

shares have reflected that, said Robert Mains, an analyst with First Albany Corp. in Albany, N.Y. "There haven't been any major retreats."

HMO stocks are coming off a tumultuous year that ended in a 17% gain for the eight tracked by *BI*.

"They've been doing well after a period in 1994 I would classify as an equivalent feeling to being on Mr. Toad's Wild Ride," said Todd Richter, an analyst with Dean Witter Reynolds in New York.

Continued on page 21

New prescription benefit manager directory near

The first *Business Insurance* Directory of Prescription Benefit Managers will appear in the April 3 issue along with the annual Managed Care Market Report.

If your company provides general prescription benefit management services directly to corporate and institutional employers independently of other services such as consulting and you have not received a questionnaire, please request one as soon as possible by calling Directory Editor Kathy Welyki at 312-649-5279.

There is no charge to be listed, but companies must complete a *BI* questionnaire and return it by

the extended deadline of March 3.

Business Insurance defines general prescription benefit management services as an integrated package of services designed to control the distribution methods of prescriptions used by plan participants. The package of prescription-related services must include at least several of the following elements: claims processing, formulary management, a negotiated pharmacy network, mail-order drug plan, pharmaceutical benefit plan design consulting, prescription educational services for users and/or physicians and prescription utilization review.

Inside

• Jail may be the most effective means of cracking down on insurance scams, this week's editorial says. **PAGE 8**

• The British Virgin Islands is hoping to attract captives and insurers to the domicile. **PAGE 4**

• Flood waters are finally receding, but European businesses' problems may be just beginning. **PAGE 17**

• Stronger property/casualty insurers are slowly putting weaker players out of business, according to analyst Myron Picoult. **PAGE 23**

Departments

Advertiser Index.....20
Ask a Casualty Actuary.....15

Benefit Beat.....	6
Classifieds.....	18
Datebook.....	13
For the Record.....	22
Insurance Services Guide.....	19
International.....	17
Letters.....	8
Opinions.....	8
Perspectives.....	15

Vol. 29, No. 7—*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 and at additional mailing offices. Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 0293512, GST No. 136760444. Printed in U.S.A. Postmaster: Send address changes to *Business Insurance*, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207-3185; 800-678-9595 or 313-446-1611. Copyright 1994 by Crain Communications Inc.



"I would just like to get on with the job."

David Rowland

Lloyd's regulation hit

By STACY SHAPIRO

LONDON—Lloyd's of London's top executives claim they are neutral in an ongoing debate over whether the market should be regulated externally after 307 years of self-regulation.

Nevertheless, they asked members of Parliament at a public hearing last week for a chance to finish the reforms now under way before any new system of regulation is introduced.

Lloyd's Chief Executive Peter Middleton pleaded with Members of Parliament to give Lloyd's another 18 months to complete the task of "reformation" before any new regulatory legislation is introduced.

Presenting new legislation to replace Lloyd's Act 1982 right now would "take an immense amount of our time," which should in-

stead be spent improving the market, he said.

"I want to achieve reform," added Lloyd's chairman David Rowland, and not spend time debating the framework of any new regulation. "I would just like to get on with the job."

The Lloyd's executives were grilled by members of the Treasury and Civil Service Committee last week, which is investigating the adequacy and enforcement of the United Kingdom's financial services regulation. The unprecedented public questioning of Lloyd's executives by the British government continues this week.

The committee's inquiry into the adequacy of Lloyd's self-regu-

lation has allowed many disgruntled members to submit to the MPs their allegations of fraud, negligence, conspiracy, and mismanagement by underwriting agents and past Lloyd's Council members.

"Rarely can so many people have suffered as much damage as the regulatory failure at Lloyd's has caused," Christopher D. Stockwell, chairman of the Lloyd's Names Assns.' Working Party, said in a statement sent to the committee. "Names who joined Lloyd's were entitled to believe they were joining a well-regulated and professional organization, as Parliament had intended and believed. In reality, self-regu-

Continued on page 16

Unapproved settlement sparks bad faith award

By JUDY GREENWALD

SAN FRANCISCO—Fireman's Fund Insurance Cos. says it plans to appeal a \$10.3 million bad faith award to a California dentist who refused to consent to the insurer's settlement of a dental malpractice suit filed against him.

At issue in the complex litigation is whether a state law that says an insurer cannot settle a medical malpractice suit without the defendant's consent clashes with a clause in Fireman's Fund's

malpractice policy that calls for arbitration to determine if a policyholder is acting unreasonably in refusing to settle.

Attorneys for both sides say that, to their knowledge, this is the first time the issue has resulted in litigation, though the state law has been on the books since 1971 and Fireman's Fund has issued hundreds of policies incorporating the clause.

One of the ironies of the case is that the medical malpractice litigation underlying the bad faith

dispute was settled for just \$68,750.

The jury award, which was delivered in Superior Court in San Francisco Jan. 31, comprises \$300,000 in compensatory damages and \$10 million in punitive damages.

"I think that (the jury) just...believed that an insurance company should not push around one of their insureds like that and deprive him of his day in court," said Jan Champion of Champion Law Offices in San Jose, who represented

Salinas dentist Dr. Daniel White.

However, Fireman's Fund attorney David Gordon, of Cyril & Crowley in San Francisco, contends there was liability on the dentist's part and "Fireman's Fund reached a rational conclusion that this was a case to settle."

The jury, though, "seemed bogged down on the proposition Fireman's Fund broke the law and the context in which all this occurred didn't seem to sway them," said Mr. Gordon.

Following post-trial motions to be filed with Superior Court, he plans to file an appeal with the 1st District Appellate Court in San Francisco.

Mr. Gordon said patient Donna Herman lost several teeth, had periodontal problems and abscesses following crown and bridge work performed by Dr. White, who has a general dentistry practice, from 1989 through early 1991.

Ms. Herman sued Dr. White for medical malpractice in November

Continued on page 13

Insurer granted bad faith reversal

By DOUGLAS McLEOD

HOUSTON—A chemical company has agreed to pay \$241,500 in sanctions to United Capitol Insurance Co. for pursuing a groundless bad faith lawsuit against the insurer.

In what is believed to be the first such "reverse bad faith" award in the state, a Texas judge on Dec. 30, 1994, approved the sanctions against Pioneer Chlor Alkali Co.

The litigation stemmed from a May 1991 accident in which 42 tons of chlorine gas were released into the air at a Pioneer Chlor Alkali plant in Henderson, Nev.

The accident generated property losses of roughly \$6 million, including business interruption and various fees and expenses, and liability losses of less than that amount for third-party damages, according to Gregg Laswell, a lawyer with Andrews & Kurth in Houston, who represented Pioneer in a portion of the ensuing coverage litigation.

Atlanta-based United Capitol provided \$1 million in primary general liability coverage to Pioneer, while Lexington Insurance Co., an American International Group Inc. unit, wrote a \$5 million first excess layer, lawyers say.

Pioneer brought several coverage actions after the accident in-

Continued on page 11

Budget would prolong Medicare data program

By JERRY GEISEL

WASHINGTON—The massive federal data collection program that requires employers to provide the government health care enrollment information on their older workers could be here to stay.

The Clinton administration proposes—as part of the \$1.6 trillion budget it sent to Congress last week—that the so-called Medicare Data Match program be made permanent. The program now is set to expire in 1998.

That program is intended to identify and recover claims payments that employer health plans—not Medicare—should have paid to providers for older workers and other beneficiaries (BI, Jan. 17, 1994).

Under a series of laws Congress passed in the 1980s, employer plans became the

primary payer of health care for employees who stay on the job after 65. Medicare became the secondary payer.

Those laws, intended to shift hundreds of millions of dollars in health care costs to the private sector, also made employer plans the primary payer for some non-elderly employees with certain disabilities. Another law also increased the amount of time—and circumstances—in which employer plans are the primary payer of health care bills for employees with end stage renal disease.

But the government hasn't reaped all the savings it anticipated, in large part because providers continued to send bills of older workers and others to Medicare rather than to employer plans.

To recover those Medicare overpay-

Continued on page 13



Exxon a victim of its attitude: Lawyer

By MICHAEL SCHACHNER

NEW YORK—Arrogance and a lack of a cohesive strategy were the primary reasons why an Alaska jury awarded \$5 billion in punitive damages against Exxon Corp. for the 1989 Exxon Valdez oil spill, says the lawyer who tried the case against the oil giant.

Exxon left itself wide open to the biggest punitive award ever, contends Brian B. O'Neill, a litigation partner with Faegre & Benson in Minneapolis.

The oil company's top executives showed little remorse over the worst oil spill in U.S. history, he claimed, noting that then-Chairman Lawrence Rawl never

even visited the spill site.

It made no effort to reach a good faith settlement with the 14,000 fishermen, landowners and natives hurt by the spill, he said. And it failed to keep post-rehabilitation tabs on the alcoholic ship captain who was in charge of the oil tanker when it ran aground on Blye Reef in Valdez Harbor, according to Mr. O'Neill.

"Exxon could possibly have won this trial, or at least avoided punitive damages, had it not related to the jurors and the legal system as it did," the plaintiffs lawyer said at a recent American Bar Assn. meeting.

Irving, Texas-based Exxon declined to respond directly to Mr.

O'Neill's remarks made at the meeting.

After the punitive award, Exxon Chairman Lee Raymond called the verdict "totally unwarranted." And, in a written statement, the company said that its commitment to residents and fishermen was demonstrated by a voluntary claims payment program that paid 11,000 people more than \$300 million. "Exxon mobilized an unprecedented massive four-year effort to clean up the spill. Outlays totaled more than \$2.5 billion," the statement said.

Exxon had \$400 million of pollution liability limits through the International Tanker Indemnity Assn., a Bermuda protection and

indemnity club. It also had \$100 million of general liability coverage in the Scandinavian market excess of a \$200 million deductible, as well as \$200 million of general liability coverage in the London market excess of \$700 million (BI, April 3, 1989).

"Many companies," said Mr. O'Neill at the bar association meeting, "would have accepted their fault and could have settled for a modest sum. But not Exxon. Their lawyers and chairman don't live in the same world as you and I. At the time of trial, their current chairman didn't even know what a 12-step recovery program was, and he claimed to have de-

Continued on page 12

B.V.I. adopts flexible insurance regulations

By DOUGLAS McLEOD

TORTOLA, British Virgin Islands—The government of the British Virgin Islands has adopted new insurance regulations aimed at attracting captive insurers and other types of insurance and reinsurance companies.

The regulations, adopted earlier this month, followed the passage last year of the territory's first insurance law, the Insurance Act, 1994.

Along with such standard elements as minimum capital requirements, the law includes an unusual provision intended to make B.V.I. insurance regulation flexible: regulators may offer exemptions from the requirements to captives writing only related

business and insurance companies already regulated by a "competent authority" in another jurisdiction.

"This does not mean we are giving away the shop," said Robert Mathavious, the territory's director of financial services, noting that regulators will judge the stability, probity and track record of any insurer seeking exemption from the regulations.

"We are extremely hostile in guarding the integrity of the jurisdiction," he said.

Still, the provision is meant to strike a balance between a "reasonably firm regulatory system" and "the importance of avoiding bureaucratic imposition of the letter of the law in favor of its true spirit and overall purpose," Chief

Minister Lavity Stoutt said when the act was adopted last year.

The B.V.I. Legislature had already passed a law governing international business companies, which have been the cornerstone of the territory's financial services sector, Mr. Mathavious said.

More than 135,000 such companies have been formed in B.V.I., including trusts and other firms designed to handle offshore business, he said.

However, the government wanted to diversify the financial services sector, "and one of the areas we have looked at is captive insurance companies," Mr. Mathavious said.

The effort began with a housecleaning: A 1989 report to the British government by Coopers &

Lybrand found that scores of insurance companies had been incorporated in the B.V.I. These companies were not being licensed or regulated as insurers, though, because the appropriate statutes did not exist, noted Supervisor of Insurance Nigel Bailey.

The Legislature then passed the Companies Amendment (Act) of 1990 and the Insurance Business (Special Provisions) Act of 1991, which among other things put a moratorium on new insurance company formations, created the post of insurance supervisor and gave the supervisor authority to recommend that companies be struck from the register.

A search of the register found about 1,500 insurers, of which 800

to 1,000 were eventually struck, Mr. Bailey said.

Meanwhile, B.V.I. regulators started an approval process for insurers called for in the 1990 act, he said.

While not strictly a licensing procedure, the approval process has continued until passage of the Insurance Act last year and adoption of the accompanying regulations this month.

Among other things, the new law requires:

- A minimum solvency margin of \$200,000 for property/casualty insurers whose net written premiums do not exceed \$1 million.

The solvency margin is defined as the amount by which assets must exceed liabilities.

For those writing between \$1 million and \$5 million, the solvency margin is 20% of net written premiums. And, for those writing more than \$5 million, the margin is \$1.2 million plus 10% of net written premiums exceeding \$5 million.

For insurers writing life/health business only, the margin is \$250,000.

For those writing both property/casualty and life/health, the margin is \$250,000 plus the amount required of property/casualty insurers.

- That an insurer's assets meet government standards. Allowable assets include: cash; government bonds; stocks quoted on a recognized exchange but not exceeding 20% of the insurer's total assets; and irrevocable letters of credit issued by B.V.I.-approved financial institutions.

Unacceptable assets include investments in affiliates, real estate and stocks not quoted on recognized exchanges.

- Payment of fees. These include a \$500 fee for an insurer license application and \$2,000 for the issuance and annual renewal of an insurer's license; and \$250 for an application for a certificate of authority to act as an insurance manager, agent or broker, and \$500 for the issuance and annual renewal of this certificate.

The 1994 act also allows the governor of the British Virgin Islands to exempt certain insurers from any or all of these regulations, including:

- Captive insurers writing only the risks of their parents or affiliates.

- Insurers already regulated by a "competent authority" in another jurisdiction that the governor considers adequate.

The governor can impose any conditions, limitations or restrictions on these exemptions, can grant the exemptions retroactively and can modify or revoke them at any time.

The new law includes a confidentiality provision generally barring disclosure of information about B.V.I. insurers. However, it allows disclosure to regulatory or law enforcement officials in other jurisdictions and courts in other jurisdictions in criminal and civil proceedings.

In recent years, a number of allegedly fraudulent B.V.I.-based insurers have drawn scrutiny from regulators in the United States, where they wrote large volumes of business before collapsing.

"No offshore jurisdiction can be an island unto itself," Mr. Mathavious observed. "It is in our interest to cooperate and make sure that our good name is not tarnished."

A N A M E T O L E A N O N

STEWART SMITH GROUP



In today's competitive environment, your clients are demanding more for less.

Lean on the Stewart Smith Group for performance you can depend on.

Since 1936, the Stewart Smith Group has provided retail brokers the support they need to market difficult risks.

Ranked among the top wholesale brokers, the Stewart Smith Group has offices in 16 major U.S. cities, offering innovation and reliability in solving complex insurance problems.

Call Stewart Smith, and deal with a company you can lean on, year after year after year.

Stewart Smith

Stewart Smith East • Stewart Smith Southeast • Stewart Smith Southwest • Stewart Smith Mid America
Stewart Smith West • Stewart Smith Specialty Risks • McAlear Associates



AT BOEING, THE PROPERTY INSURANCE IS NEVER UP IN THE AIR.

When The Boeing Company of Seattle needed additional property insurance capacity for the largest building, by volume, in the world, they came to Wausau. Wausau is one of a few insurers with Highly Protected Risk (HPR) capability and the willingness to do Special Risk underwriting, including primary and excess programs. And, with Wausau's financial strength and A+ A.M. Best Rating, Wausau gives Boeing the ground support it needs.



— HPR • PROPERTY SPECIAL RISK —

Rising costs remain top concern

Health care cost management and pension plan investment education are among benefit specialists' top six concerns for 1995, according to a recent survey.

More than half—56%—of the 471 respondents to the survey said health care cost management is among their top six priorities for 1995.

Educating pension plan participants about investments ranked as a top priority for 41% of respondents, according to the survey, which was conducted by Deloitte & Touche L.L.P. for the International Society of Certified Employee Benefit Specialists. This is the first such survey commissioned by the benefits organization.

Health care reform at the state level is another important issue among benefits professionals—cited

Benefit Beat

by 33% of survey respondents. And, 31% cited compliance with non-discrimination requirements—which require employers to demonstrate that benefit plans do not unfairly discriminate between senior management and rank-and-file employees—as among their top six concerns for 1995.

Twenty-eight percent of respondents cited potential changes to self-insured employers' ERISA pre-emption from state regulation. Helping employees plan for retirement also made the list of top six priorities for 1995, cited by 27%.

The fact that benefit professionals ranked health care cost management issues as a top priority dem-

onstrates that, despite moderating health care inflation, employers anticipate health care trend factors will again creep upward, said David Harvey, president of IS-CEBS.

In addition, he pointed out, the survey reflects benefit professionals' concerns that baby boomers are approaching retirement without adequate personal savings or retirement benefits. The movement away from defined benefit plans has contributed to that concern, he noted.

Many companies have replaced defined benefit plans, which promise a worker a specific income level at retirement, with defined contribution plans, in which a set amount is invested in the plan each year. "The investment choice is often up to the employee, who typically is not very knowledgeable about in-

vesting. Employee benefit managers believe it's important to educate employees about their investments so they can better prepare for retirement," Mr. Harvey said.

—By Christine Woolsey

California HIPC

SACRAMENTO, Calif.—The Health Insurance Plan of California, the nation's first statewide small business health insurance purchasing pool, has received a \$487,000 grant from the Robert Wood Johnson Foundation to develop a risk assessment format that can be used in market-based reforms. The grant is one of the largest awards made by the foundation under its 5-year-old, \$12-million Health Care Financing and Organization program.

"We are pleased that the Robert Wood Johnson Foundation recognizes that California is at the cut-

ting edge of health care reform through its development of the HIPC," said John Ramey, executive director of the Managed Risk Medical Board, which administers the HIPC.

A fundamental principle involved in setting up workable market-based health reform models is ensuring that risk is spread evenly among participating plans in a purchasing pool. This minimizes the adverse selection that occurs when some plans offer financial incentives to attract only healthier-than-average enrollees, Mr. Ramey explained.

Even though a purchasing pool allows employees to choose among a variety of health plans, insurers may be able to influence their mix of medical risks through marketing practices or through provider network arrangements, he said.

It also is possible that risk may be distributed unevenly across plans regardless of any action taken, he added.

With the new grant, the HIPC will develop and test among its participating health care plans a risk assessment methodology that could remove any financial benefits due to risk selection techniques, and ensure that all HIPC members have access to the highest quality health care by providing no reward for providers that try to avoid high risk members.

Instead, plans that attract high-risk members would be compensated for any differences in the proportion of their members requiring high levels of care compared with other plans in the purchasing cooperative. This compensation may be a risk adjustment applied to the other plans' premiums, Mr. Ramey explained.

The HIPC, established in July 1993, currently provides health insurance for more than 4,000 employers representing 80,000 employees and dependents.

—By Joanne Wojcik

3M expanding PPOs

ST. PAUL, Minn.—Minnesota Mining & Manufacturing Co. is working with Austin, Texas-based Covantage to find and expand preferred provider networks for its 48,000 U.S. employees.

About 50% of 3M's U.S. workers now are enrolled in PPOs; the remaining 50% of the workers are enrolled in traditional indemnity plans.

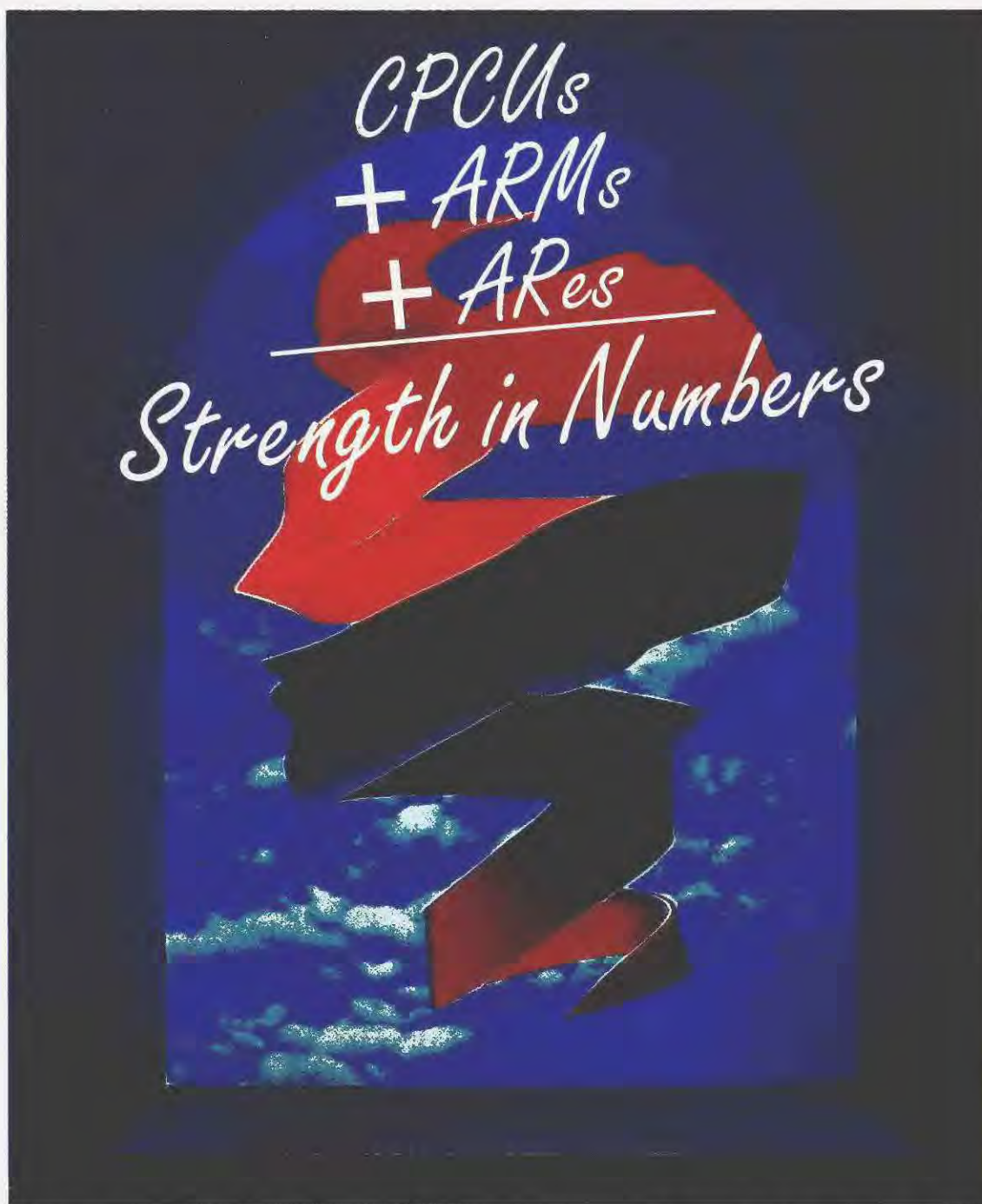
Covantage, which is a subsidiary of PacifiCare Health Systems, will work with 3M to establish managed care networks in 15 to 20 locations in several states, according to Dan Hoemke, president and chief executive officer of Covantage.

Mr. Hoemke said initially the firm will focus on developing networks in the Chicago area, Alabama and Wisconsin. 3M has employees in all 50 states.

Often managed care seeks to treat patients as cost efficiently as possible, regardless of how long it takes, Mr. Hoemke said. However, one of 3M's main objectives is to help sick or injured workers return to work as quickly as possible, regardless of expense, he continued. Covantage will work with potential network providers to achieve this objective, he said.

Covantage has good "experience in helping companies integrate their philosophies and objectives into local health care delivery systems," commented Ron Groess, manager of health care and disability benefits for 3M, which self-insures its health care benefits.

—By Deborah Shalowitz Cowans



When it comes to reinsurance, our industry-designated treaty underwriters are highly qualified to provide a superior level of broad-based knowledge and expertise.

In fact, our ability to assist our producers and provide valuable insights and recommendations about treaty structure, pricing and conditions, for a wide range of classes, is well known. No wonder so many insurance professionals count on Skandia America Re for solutions to their treaty reinsurance needs.



Skandia

**Skandia America
Reinsurance Corporation**
Rated "A Excellent" by A.M. Best Company
One Liberty Plaza, New York, NY 10006
Tel: (212) 978-4700 Fax: (212) 385-2169

Branch Offices

New York
Tel: (212) 978-4925
Fax: (212) 385-8660

Chicago
Tel: (312) 236-7833
Fax: (312) 236-3826
(800) 621-9260

Atlanta
Tel: (404) 303-9710
Fax: (404) 303-9712
(800) 242-7044

Norwalk
Tel: (203) 854-9966
Fax: (203) 853-4005

San Francisco
Tel: (415) 398-1700
Fax: (415) 398-1544

Skandia/Facman
Tel: (203) 854-9966
Fax: (203) 853-4005

IS YOUR PROPERTY CAT REINSURER BITING OFF MORE THAN IT CAN CHEW



For long-term stability, we suggest a reinsurer with a risk-balanced diet: Centre Cat. Our proprietary portfolio management tools precisely weigh our exposures against our assets, offering cedants a unique guarantee of security. We price coverages responsibly. We lead 90 percent of our programs. We're picky about the insurers and risks we underwrite—and we don't gobble up all the business we can get our hands on. Ask your broker to call us in Bermuda at 809-292-2102 for more information.

CENTRE CAT

REWARD YOUR INDIVIDUALITY

Opinions

Crack down on fraud artists

WITH HELP FROM state regulators, federal authorities are demonstrating the best and possibly only way to deal with fraudulent group health insurance schemes: put the scam artists in jail.

Insurance departments have struggled for years against the explosion of phony multiple employer welfare arrangements that began in the 1980s.

For many reasons, the fight has been slow and not entirely successful.

Take, for example, the early and prolonged confusion over whether states even had the authority to regulate MEWAs. MEWA operators were quick to claim that the Employee Retirement Income Security Act exempted them from state oversight.

One such health plan, Atlantic Healthcare Benefits Trust, founded by Edward M. Zinner of Virginia Beach, Va., was still fighting the Connecticut Insurance Department in federal court in 1993 over the state's regulatory authority (*BI*, Aug. 23, 1993).

Atlantic Healthcare lost that case, and Mr. Zinner and two others were indicted last month on racketeering charges for allegedly using Atlantic and another firm to defraud employers (see story, page 1).

Even with the question of states' regulatory authority resolved, insurance departments have faced other problems.

Some MEWA operators, for instance, have been happy to ignore state cease and desist orders or to move their operations to other states where they have an open field.

If a particular MEWA draws too much regulatory attention, experience has shown that operators will simply close up shop, start a new MEWA and begin the whole chase again.

In Mr. Zinner's case, prosecutors allege that he embezzled most of the remaining assets of Atlantic in 1992, after the MEWA had been hit with numerous cease and desist orders, and two weeks later formed a new MEWA, American Fidelity Trust, which also failed.

Insurance department administrative orders and civil lawsuits by employers are poor weapons against creative, fast-moving con artists. These actions may slow the bad guys down, but they'll still be ready to jump ahead to the next scam.

Criminal prosecutions are another story: Con artists can't set up a new MEWA, a new third-party administrator or a new employer association if they're sitting in a jail cell.

The late Alan Teale survived a constant barrage of cease and desist orders, temporary restraining orders



'A BARGAIN IS A BARGAIN. IS A BARGAIN...AM I RIGHT? THAT'S WHAT I TELL ALL MY MEWA CLIENTS!!'

and lawsuits as he formed and folded dozens of phony insurers, reinsurers and management companies over several years.

He wasn't put out of business until 1993, when he was hit with a 17-year prison term.

There are signs that the spread of phony MEWAs is slowing as both state and federal authorities grow more aggressive.

That's the good news.

The bad news is that the con artists—hard workers who are quick to adapt to circumstances—have moved on to more fertile fields.

The last couple of years have seen new variations on the MEWA scam. One, for example, is the phony union welfare plan, offering cheap health benefits to employers who sign their workers up as members of a sham union.

Regulators also worry about the threat of fraudulent alien insurance companies offering various coverages while claiming to be exempt from state regulation under the North American Free Trade Agreement or the General Agreement on Tariffs and Trade.

One other weapon is common sense. Con artists thrive by offering cut-rate products to insurance buyers looking for bargains.

If someone comes to you with an offer that seems too good to be true, be skeptical. It probably is.

For all the assumed protections of government regulation, the best rule is still *caveat emptor*.

Business Insurance®

Reporting weekly for corporate risk, employee benefit and financial executives

Vice president/
Publisher/Editorial Director: Kathryn J. McIntyre, A.R.M. (Chicago)

Editor: Paul D. Winston (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Timothy Stanton (Chicago)

International Editor: Stacy Shapiro (London)

Senior Editors: Meg Fletcher, A.R.M. (Chicago)

Judy Greenwald (San Jose)

Dave Lenckus (Chicago)

Douglas McLeod (New York)

Joanne Wojcik (Los Angeles)

Assistant Managing Editor/Graphics: Roseanne White (Chicago)

Assistant Managing Editor/News: Christine Woolsey (Chicago)

Assistant Managing Editor/Spotlight reports: Christine Woolsey (Chicago)

Bureau Chief: Michael Schachner (New York)

Copy Editors: Regis J. Coccia (Chicago)

Sara J. Hartly (Chicago)

Assistant Copy Editor: Kerry A. Dziubek (Chicago)

Associate Editors: Deborah Shalowitz Cowans (Chicago)

Roberto Ceniceros (Los Angeles)

Mark A. Hofmann (Washington)

Adrian Ladbury (London)

Sara Marley (Chicago)

Sally Roberts (Chicago)

Gavin Souler (New York)

Rodd Zalkas (Chicago)

Kathy Welyki (Chicago)

Rich Trout (Chicago)

Ovie Dent (Chicago)

Assistant to the Publisher: Karen Brown Tucker (Chicago)

Editorial Cartoonist: Roger Schillerstrom (Chicago)

Advertising Director: Martin J. Ross III (New York)

Eastern Advertising Manager: Stephen P. Lincoln (New York)

Midwest Advertising Manager: Robert L. Niesse (Chicago)

District Managers: Cynthia Bykowski (New York)

Blake Delany (New York)

Barrie Harmelin (New York)

Charles A. Horvath (New York)

Deborah D. Neale (Chicago)

Lori Lieberman (Los Angeles)

Cheryl Butler (Chicago)

Production Manager: Elmer Kerstowski (Chicago)

Director of Communications: Ronnie I. Drachman (New York)

Promotion Coordinator: Barbara O'Brien (New York)

EDITORIAL: Chicago: 312-649-5398

London: 71-608-1172

Los Angeles: 213-651-3710

New York: 212-210-0100

San Jose: 408-379-1790

Washington: 202-662-7200

ADVERTISING: New York: 212-210-0228

Chicago: 312-649-5276

Los Angeles: 213-651-3710

COMMUNICATIONS: New York: 212-210-0132

SUBSCRIPTIONS: Detroit: 800-578-9595

Published by Crain Communications, Inc., Chicago

Founder: G.D. Crain Jr. (1885-1973)

Chairman: Mrs. G.D. Crain

Vice chairman: Keith Crain

President: Rance Crain

Chairman-executive committee: S.R. Bernstein (1907-1993)

Treasurer: Mary Kay Crain

Secretary: Merrilee P. Crain

Executive Vice president-operations: William A. Morrow

Vice president-circulation: William Strong

Vice president-production: Robert C. Adams

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. Fax: 212/210-0704. CRAINCOM NYK: Suite 814, National Press Building, Washington, D.C. 20045-1801. Fax: 202/638-3155. 6530 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-2947. Fax: 213/655-8157. 540 Latimer Circle, Campbell, Calif. 95008. Fax: 408/379-3257. Cowcross Court, 2nd Floor, 75-77 Cowcross St. London EC1M 6BP, England. Fax: 71/608/1173. \$4 a copy, \$80 a year in U.S. \$100 in Canada and Mexico (includes GST). All other countries \$200/yr (includes expedited air delivery). DAVE KELLEY, 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 313-446-0450. Fax: 313/446-6777. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. 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 rules to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806. 212-254-0890. For reprints or reprint permission contact: KAREN BROWN TUCKER, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5312, Fax: 312/280-3174.

TO SUBSCRIBE TO THE WORLD'S LEADING
COMMERCIAL INSURANCE PUBLICATION, CALL
800-678-9595

313-446-0450 outside of the United States

Member of Business
Publications Audit of Circulation

BPA
INTERNATIONAL

ABP

Letters

Comments about exam harm regulatory process

To the editor: Apart from factual inaccuracies and unattributed innuendo in the article, "Regulators Examine AIG's Relationship with Reinsurer," in your Feb. 6 issue, there is another serious issue raised by this article.

Your reporter apparently spoke with one or more state regulators or examiners who are familiar with or directly involved with ongoing regular examina-

tions of American International Group subsidiaries.

None of these individuals was willing to speak for the record, apparently, since no names were used. Not surprising, since statements made to outsiders of ongoing confidential examinations are a breach of professional ethics, if not the law.

While I offer no comment on your reporter's willingness to use unattributed comments about such matters, you can be sure that AIG will pursue this issue with the state insurance regulators in question.

State insurance examinations are a regular and ordinary aspect of the regulatory process. All companies are subject to such examination in their state of incorporation. During the course of these examinations, many aspects of an insurer's business are subject to review.

This does not mean that any of these activities are improper or even unusual. For a regulator to discuss an examination with anyone outside the company being examined, its auditors or the insurance department itself, compromises the entire regulatory process for the insurance industry.

We are surprised that one or more such persons has chosen to have such conversations with *Business Insurance*, and we hope your reporters and editors will in the future be more respectful of the insurance regulatory process, and particularly the impropriety of using information that no named individual will stand up and admit to having revealed.

Maurice R. Greenberg

Chairman

American International Group Inc.
New York

Business Insurance welcomes letters to the editor from its readers. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590.

DOES YOUR FACULTATIVE UNDERWRITER LEAVE YOU FEELING LIKE YOU'RE OUT THERE ALL BY YOURSELF?

Calling your facultative underwriter for a quote needn't be a lonely experience. At NAC Re, we pride ourselves on our ability to build lasting, personal relationships. By getting to know you well, it's easier for us to anticipate your needs — and to help you meet *your* clients' needs.

We provide thorough, prompt responses at all times...along with consistent pricing and service in both hard and soft markets. And thanks to our substantial limits — \$50 million for property, and \$7.5 million for casualty — it's easy and efficient to do business with us.

Want to work with a facultative reinsurer who won't leave you high and dry? Call us for a quote. We'll be there for you — every step of the way.

We'll be there when you need us.

NAC Reinsurance Corporation



GREENWICH
(203) 622-5500
FAX: (203) 622-5555

HARTFORD
(203) 293-6200
FAX: (203) 247-3734

CHICAGO
(312) 876-7200
FAX: (312) 876-1399

SAN FRANCISCO
(415) 616-8200
FAX: (415) 616-8275

Costs

Continued from page 1

efforts, arguing that the private sector is far better equipped than government to rein in costs. The new evidence that employer health care plan costs are falling—at a time when the costs of such public programs as Medicare and Medicaid continue to soar—gives additional weight to those arguments.

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

The overriding reason group health care plan costs have reversed course and are now falling: the big shift of employees to lower-cost managed care plans and out of expensive traditional indemnity plans.

Surveyed employers reported that 63% of employees last year were enrolled in managed care plans, up sharply from 52% in 1993. Correspondingly, enrollment in traditional indemnity plans fell to 37% from 48%.

The surge in employee enrollment in managed care plans was especially pronounced in the Northeast, which until recently was a bastion of traditional indemnity plans. Seventy-two percent of employees working for Northeast employers with at least 1,000 employees were enrolled in managed care plans last year, up sharply from 47% in 1993.

With traditional indemnity plans costing on average hundreds of dollars more per employee than the three major types of managed care programs—health maintenance organizations, preferred provider organizations and point-of-service plans—the employee shift to managed care translates into major savings for employers, even though costs rose last year for all types of health care plans.

"We're seeing the enormous impact that enrollment shifts can have on health care plan costs," Mr. Rahill said.

Indeed, at an average cost of \$3,850 per employee in 1994, up 10% from \$3,500 in 1993, traditional indemnity plans cost on average \$464 more per employee than PPOs, \$365 more per employee than HMOs and \$241 more per employee than POS plans.

For employees enrolled in PPOs—the least expensive managed care plan—costs rose 2.1% in 1994 to an average of \$3,386 per employee from \$3,317. HMO costs rose 6.4% to an average of \$3,485 per employee from \$3,276, while POS plan costs increased to \$3,609, up 10.5% from \$3,266.

The relatively high increase in POS plan costs may have been driven by a big increase in enrollment in the Northeast, where health care costs tend to be higher than in other parts of the country, according to Foster Higgins.

The surge in managed care enrollment, especially in the Northeast, is the result of several factors, Mr. Rahill said. Those include:

- Many HMOs have significantly improved and expanded their networks, making them more attractive to employees and employers.

- HMOs have added new product offerings, like POS features, increasing their appeal to employees. Indeed, the percentage of employees enrolled in POS plans more than doubled during the last year, rising to 15% from 7%.

- More employers, convinced that managed care plans are cost-effective, are dropping their traditional—and more expensive—indemnity plans.

- More managed care plans, especially HMOs, are increasing their visibility through aggressive advertising campaigns.

While managed care plans now are the predominant form of cov-

erage in the group market, there still is lots of room—both by type of employer and region of the country—for future growth, Mr. Rahill said.

Small employers, for example, lag behind their larger counterparts in shifting to managed care. Forty-eight percent of employees at organizations with fewer than 500 employees were enrolled in managed care plans, compared with 66% at companies with 500 or more employees.

Geographically, managed care penetration still remains below the national average in the South, where 58% of employees are in managed care plans, and the Mid-

west, where 60% of employees are in managed care.

But in some areas of the country, managed care plans are far and away the predominant form of coverage provided. In the West, for example, 81% of employees are covered in managed care plans, while just 19% of employees are enrolled in traditional indemnity plans.

If managed care enrollment continues to rise, that will mean even greater bargaining leverage for HMOs and PPOs in their negotiations with providers and perhaps further declines in health care costs.

Indeed, many HMOs in 1995 actually are cutting their rates when employer accounts come up for renewal.

"It is a great market out there, with lots of rate decreases," Mr. Rahill said.

Once the high-cost leader, the lower health care costs in the Northeast illustrate the impact surging managed care plan enrollment can have on health care costs.

As enrollment in managed care plans in the Northeast leaped in 1994 to 63% of employees from 52% a year earlier, group health care plan costs fell 9.7% to an average of \$3,851 per employee from \$4,267.

For larger employers in the Northeast—those with at least 500 employees—health care costs averaged roughly \$1,000 less per employee in some types of managed care compared with traditional indemnity plans.

Northeast employers with at least 500 employees said traditional indemnity plan costs averaged \$4,876 per employee in 1994. That compares with HMO costs of \$3,842 per employee, PPO costs of \$3,857 and POS plan costs of \$4,133. According to the survey, total health care plan costs, which include employer and employee premium contributions for medical, dental, prescription drug, mental health, vision and hearing care benefits, varied widely by in-

dusty.

At the high end, total health plan costs for employers in the transportation, communications and utility industries averaged \$4,840 per employee in 1994, up 4.3% from \$4,639 in 1993. Employers in the health care field reported the lowest costs: an average of \$3,222 per employee, down 0.6% from \$3,242 in 1993.

With the great runup in health care costs now apparently over, employers are likely to place more emphasis on other components of the health care delivery system, Mr. Rahill said.

Among other things, employers will be pushing health care plans to provide more information on employee satisfaction as well as on the outcome of the care they provide.

"Do employees come back to work quicker after treatment? How effective are plans' preventive services? There will be new health care targets to measure," he said.

Other survey findings include:

- Among employers with at least 500 employees, traditional indemnity plan costs were highest in the Midwest, where costs averaged \$4,879 per employee in 1994, up 19.8% from \$4,072 in 1993. Traditional indemnity plan costs were lowest in the South, averaging \$3,393, up 10.6% from \$3,068 in 1993.

- Employers in the Western states with at least 500 employees reported the highest PPO costs, with average costs of \$4,053 per employee last year, up 0.8% from \$4,022 in 1993. The lowest PPO costs for large employers were in the South, where costs averaged \$2,930 per employee in 1994, down 12.8% from \$3,359.

- Northeast employers with at least 500 employees had the highest HMO costs last year at \$3,842 per employee, up 10.1% from \$3,489, while the lowest HMO costs for large employers were in the South, with average costs of \$3,367 per employee, up 9.2% from \$3,084.

- The cost of POS plans was highest among Midwest employers with at least 500 employees: an average of \$4,214 per employee in 1994, up 14.6% from \$3,676. The lowest POS plan costs for large employers were in the West, with average costs of \$3,665 per employee, up 11.6% from \$3,284.

- The percentage of employees enrolled in HMOs last year was highest in the West at 41%, up from 31% in 1993, and lowest in the South, where 16% of employees were enrolled, up from 14%.

- PPO enrollment was highest in the South at 30%, down from 36% in 1993, and lowest in the Northeast at 21%, up from 8% in 1993.

- POS enrollment was highest in the Midwest at 19%, up from 5%, and lowest in the West at 10%, down from 11%.

- Traditional indemnity plan enrollment was highest last year in the South at 42%, down from 43% in 1993, and lowest in the West at 20%, down from 28%.

- Group health care plan costs were much higher among employers offering coverage to retirees.

Employers with retiree health care programs said their total health care plan costs averaged \$4,221 per employee in 1994, down 3.7% from \$4,385. That was 30.4% higher than among employers without retiree health care plans, whose costs averaged \$3,238 per employee in 1994, down just slightly from an average of \$3,241 per employee in 1993.

Copies of "The Foster Higgins National Survey of Employer Sponsored Health Plans" are available from Lisa Gilleeny, A. Foster Higgins & Co. Inc., 125 Broad St., New York, N.Y. 10004; 212-574-9025. The cost is \$500 and prepayment is requested.

The reason group health care plan costs have reversed course and are now falling is the large shift of employees into lower-cost managed care plans.

west, where 60% of employees are in managed care.

But in some areas of the country, managed care plans are far and away the predominant form of coverage provided. In the West, for example, 81% of employees are covered in managed care plans, while just 19% of employees are enrolled in traditional indemnity plans.

If managed care enrollment continues to rise, that will mean even greater bargaining leverage for HMOs and PPOs in their negotiations with providers and perhaps further declines in health care costs.

Indeed, many HMOs in 1995 actually are cutting their rates when employer accounts come up for renewal.

"It is a great market out there, with lots of rate decreases," Mr. Rahill said.

Once the high-cost leader, the lower health care costs in the Northeast illustrate the impact surging managed care plan enrollment can have on health care costs.

As enrollment in managed care plans in the Northeast leaped in 1994 to 63% of employees from 52% a year earlier, group health care plan costs fell 9.7% to an average of \$3,851 per employee from \$4,267.

For larger employers in the Northeast—those with at least 500

Youthful PHO market has room to grow

By JOANNE WOJCIK

Physician-hospital organizations are growing rapidly to help health care providers gain market share, improve bargaining power and reduce administrative costs, a new survey shows.

Yet few of the organizations are really consolidating services, integrating information systems, using global billing systems or managing utilization, says the survey by New York-based Ernst & Young L.L.P.

PHOs combine physicians, hospitals and other medical services into a single organization that contracts with either insurers, HMOs or both to provide a full spectrum of health care services for a capitated fee (BI, Aug. 22, 1994).

In studying PHOs nationwide, researchers identified hundreds of such organizations and surmised that many more exist or are being established.

Of the 189 PHOs surveyed, 75%

are less than 25 months old and more than half of those are less than 1 year old.

Most of the PHOs surveyed were created with the following objectives:

- To contract with managed care organizations.
- To collaborate with medical staff and improve relationships with community physicians.
- To share financial risk.
- To enhance quality of care.

Proponents say PHOs put hospitals and physicians in a better position to maintain and expand market share through joint contracting. They feel that such arrangements also permit the development of a trust that can be used to build a more sustained alliance in the future.

But, Ernst & Young found that "many PHOs are not yet adequately prepared to take advantage of the many roles available to them," said Dr. Peter Kongstvedt, a partner and leader of the PHO study group in Washington.

"PHO operations must mature if they are to meet the needs of more sophisticated payers," he said.

The survey also found management resources at most PHOs to be limited. More than 50% have no full-time employees in finance, utilization management, information systems, marketing or provider relations. And though 60% employ a medical director, more than half devote less than 25% of their time to that position.

An earlier survey of the PHO market by Ernst & Young found another cause for concern: lack of regulation. That study, released last fall, found that while the proliferation of PHOs is causing increased concern among regulators, PHOs are relatively unregulated in 48 states.

Copies of the 25-page survey are available for \$95 each by contacting Kim Pitts at 212-773-2643 or by writing Ernst & Young L.L.P., 787 Seventh Ave., New York, N.Y. 10019.

WARNING!

DON'T GIVE UP!

ON THOSE HARD TO PLACE CLIENTS!

**Equipment
Insurance
Managers,
Inc....Specializes in
General Liability Programs for:**

- ◆ STEEL ERECTION
- ◆ CRANES
- ◆ SCAFFOLDING
- ◆ MANUFACTURERS
- ◆ EQUIPMENT RENTALS

For more information, contact:
Elaine Garner
2515 McKinney Ave. • Suite 850
Dallas, TX 75201-7610

**Equipment
Insurance
Managers,
Inc.**

214-954-1122 FAX 214-954-0505

Member of AED, ARA, SIA, SC&RA

Reinsurers

Continued from page 1

sis in 1994, according to Kaj Ahlmann, chairman, president and chief executive officer of the Overland Park, Kan.-based reinsurer.

About 80% of Aachen Re's volume is proportional treaty business, which is very similar to Employers Re's mix of business.

The transaction will give Employers Re new branches in Germany, as well as Atlanta, Dublin, Copenhagen, Paris, Luxembourg, South Africa, Hong Kong, Singapore and Malaysia.

Even with the new business, the General Electric Co. unit will apparently still trail General Reinsurance Corp. Gen Re last year acquired control of Cologne Re through a new holding company jointly owned by Gen Re and Cologne Re's parent, Colonia Konzern A.G. (BI, July 4, 1994). If Gen

Re and Cologne Re's premiums are combined, then Gen Re would be No. 3 in the world, trailing only Munich Reinsurance Co. and Swiss Reinsurance Co. (BI, Aug. 29, 1994).

Employers Re's deal differs from the Gen Re joint venture in that Employers Re is acquiring business outright.

The Aachen Re deal "was not an attempt to catch up with anybody," said Mr. Ahlmann. Employers Re has been seeking acquisitions for a couple of years, he said.

In October, it acquired CIGNA Corp.'s reinsurance business in Japan and South Korea (BI, Nov. 7, 1994).

The Aachen Re transaction will strengthen Employers Re's Far East network tremendously and "it gives us a very, very strong book of business in Germany, which is important to us, as well," Mr. Ahlmann said.

The acquisition of Aachen Re 'was not an attempt to catch up with anybody,' according to Employers Re Chairman Kaj Ahlmann.



It also gets Employers Re into the German life reinsurance market, which it has been trying to do for a number of years, said Mr. Ahlmann. In addition, Aachen Re's Luxembourg and Dublin operations—Lureco S.A. and Irish European Re—have strong financial reinsurance operations, said Mr. Ahlmann.

Commenting on the deal, Michael Smith, an analyst with Lehman Bros. in New York, said Employers Re was "very disap-

pointed when they couldn't get Cologne."

Yet the company obviously still wants access to the European market, he said.

"Aachen Re's not a terrible property to own, either," added Mr. Smith. Although its premium volume is substantially less than Cologne Re's, it is "not exactly a tip to the head waiter either, you know."

"Obviously, Gen Re is considered one of the strongest reinsurers worldwide and the strongest reinsurer in the U.S.," said Joanne Morrissey, a principal with Firemark Consultants Inc. in Morristown, N.J.

"If Employers Re had not pursued this, they would have just continued to lose their share of the market. What it does is not give them a leg up on Gen Re, but allows them to at least continue competing with Gen Re in a large marketplace. They would have lost business if they didn't," she said.

The acquisition also was seen in a larger context by some.

While the deal is structured differently than the Gen Re-Cologne Re deal, "the strategy is the same of gaining access to other markets in a significant way," said Gary Ransom, senior vp with insurance securities analyst Conning & Co. in Hartford, Conn.

"The opportunities for growth in the U.S., while still probably very good for a while are going to end, to slow down at some point or another," he said. These deals, though, give both U.S. reinsurance companies access to the "European doorway to acquire some

more growth," he said.

Furthermore, said Mr. Ransom, "I think probably some of the same forces that have been here in the U.S. that are driving business toward the larger player are at work in the European continent, too. Insurers seeking out reinsurers are still very interested in their security and long-term players."

Alan Levin, managing director at Standard & Poor's Corp. in New York, said, "It's not much of a significant transaction from the Employers Re perspective. It's just a continuation of their strategy to globalize their business, but it does present a continuation of consolidation in the marketplace that we've been witnessing over the last several years with the stronger companies surviving."

Firemark's Ms. Morrissey said that she expects the consolidation to continue for five or 10 years, especially after the problems at Lloyd's of London. "The need for strong, forward-thinking reinsurance companies is much more than it has been in the last decade or two," especially with so much business going international, she added.

"I think all the majors are looking at taking advantage of market conditions, and some of the growth that has been seen on the primary side has taken place outside the U.S., and so I think it's natural to see an extension of that on the reinsurance side as well," said Gloria Vogel, managing director at Ladenburg, Thalmann Inc. in New York.

Other recent reinsurance deals include the acquisition of Constitution Reinsurance Corp. by Exor America Inc. (BI, Dec. 26, 1994) and the acquisition of Re Capital Corp. by Zurich Reinsurance Holdings Inc. (BI, Jan. 16).

"I think you're going to see more of that as we go forward," she said. "I think the level of size to be considered a major player in the market keeps rising and the companies without the capital base are going to lose business to the bigger, higher quality ones." **[B]**

Partners

Continued from page 2

many other states have similar enabling legislation.

Minneapolis initially fought and lost the case before the city's Civil Rights Commission, which ruled the city had violated its own human rights ordinance.

In April 1993, while the case was on appeal, the city reversed its position and authorized domestic partner coverage and coverage for a long list of adult relatives of city employees who reside with the employees.

City employees choose from one of three health maintenance organizations for coverage. The city covers their cost up to the cost of the lowest-priced plan.

The city's benefits department estimates that 10 employees would have taken advantage of the new benefits at an annual cost of about \$24,200 to the city.

James A. Lilly, a Minneapolis resident and a member of a conservative Christian group, the Minnesota Family Council, filed suit later that year challenging the expansion of coverage. The council hired a Fairfax, Va., attorney who often represents similar groups to represent Mr. Lilly.

A Hennepin County, Minn., district court last year barred the city from expanding its list of eligible health plan beneficiaries. It ruled the effort contravened public policy and violated state law.

The 2-1 appellate decision, written by Judge Daniel Foley, rejects Minneapolis' arguments that it can offer the expanded benefits because its actions do not conflict with state law and because its efforts are only a local concern.

To that end, the city argued its home rule authority gives it legislative powers identical to the state's, except when the state explicitly or implicitly curbs those powers. The state benefit statute does not prohibit home rule communities from offering additional benefits to enhance employees' total compensation package, the city argued.

But, the appeals court ruled that the statute expressly limits the list of workers' relatives that a public entity may cover.

On the "local concern" argument, the appeals court ruled that actions taken by the Legislature amending the state benefit statute that have expanded the list of eligible beneficiaries over the last 52 years indicate the list is not just a local concern.

"Further, the city's actions also concern the statewide problem of discrimination," the court ruled.

It noted that the state Senate author of a 1993 human rights act amendment that prohibits discrimination based on sexual orientation pointedly noted that the amendment does not condone gay lifestyles and that it could not lead to mandated domestic partner coverage or to same-sex marriages in the state.

Citing appellate court decisions in other states, the Minnesota appeals court suggests that denying domestic partners coverage is not a discriminatory act based on sexual orientation but rather distinguishes those eligible for coverage based on marriage.

In five decisions over the past decade—three of them since 1992—state appeals courts in California, Colorado, New York and Wisconsin have ruled similarly, according to Andrew Parker, a Minneapolis attorney who represents a seven-county planning agency in the Minneapolis area.

In addition, a Georgia district court last year blocked an attempt by the city of Atlanta to offer domestic partner coverage, ruling the city overstepped its home rule authority. That case went straight to the state Supreme Court, which is expected to rule soon.

In legal opinions for the Minnesota Department of Civil Rights, Mr. Parker concluded that Minneapolis' attempt to offer the expanded coverage violated state law. Mr. Parker is co-chairman of the labor and employment law practice group for Popham, Haik, Schnobrich & Kaufman Ltd. in Minneapolis.

The Minnesota appeals court concludes, referring to a Wisconsin appellate court ruling, that marriage eligibility limitations in health plans could be lifted only by amending state laws that prohibit same-sex marriages.

Professor Strader believes the appeals court majority had an underlying social agenda that it tried to mask by focusing on the state's benefit statute and Minneapolis' home rule authority. That is evident, he said, by the court's rejection of the state attorney general's opinion backing Minneapolis' efforts to expand coverage.

"Right away that tells me the court is up to something not stated in its opinion," he said. "It's making social policy in contravention of the people—the city council."

The city's argument that the proposed expanded benefits represent solely a local concern—an element of employees' total compensation package—over which a home rule-chartered city has authority will be the crux of the city's appeal, said Assistant City Attorney Jim Moore.

But Mr. Lilly's attorney, Jordan Lorence, wonders why the Legislature has occasionally amended state law to expand the benefits that cities may provide if the cities already have the authority to offer additional benefits.

The Legislature has acted like a parent who allows a teen-age child to drive the family car for the night, he said. Just as the teen-ager cannot assume he can take the car every night, the city cannot offer benefits beyond what the Legislature has authorized, he said.

Mr. Lorence also believes the city was assuming obligations under the state's new gay rights law that are radically beyond the law's stated protections for gays in employment, housing and similar situations.

If the appellate decision is overturned, the next logical step would be using the human rights law to force all Minnesota employers that sponsor health plans to offer domestic partner coverage, he said.

Mr. Lorence also noted that seven other states—California, Connecticut, Hawaii, Massachusetts, New Jersey, Vermont and Wisconsin—and the District of Columbia and about 200 public entities nationwide have passed similar anti-discrimination laws that could be used to force employers to offer domestic partner coverage.

"That could be one of the practical results" in Minnesota if the appellate decision is overturned, Mr. Parker agreed. But, Minnesota's gay community first would "have to deal with the legislative history" of the state's anti-discrimination law, he said.

The issue, though, is not whether Minneapolis is obligated to provide the expanded benefits but whether it has the option to offer them, Mr. Moore said.

And, ERISA may prevent any effort to use local or state anti-discrimination laws to force employers to offer domestic partners coverage, said ERISA attorney Neal Schelberg, a partner with Proskauer Rose Goetz & Mendelsohn in New York.

Congress would have to pass legislation banning discrimination based on sexual orientation before employers that sponsor health plans would have to offer coverage to domestic partners, he said.

The U.S. Supreme Court, in a case involving the legality of state surcharges on hospital bills, is reviewing how tenuous a state law's connection to ERISA-qualified plans must be to avoid an ERISA pre-emption (BI, Jan. 23).

James A. Lilly vs. City of Minneapolis & Kellie Jones et al., Minnesota Court of Appeals: No. C6-94-1583.

Pioneer

Continued from page 3

cluding lawsuits naming United Capitol, Lexington and agents who placed the liability coverage; property insurer National Union Fire Insurance Co. of Pittsburgh, Pa., an AIG unit; and boiler and machinery insurer Royal Insurance Co. of America, lawyers familiar with the litigation say.

Lexington settled for an undisclosed sum in 1993, while errors and omissions insurers for the agents—one of whom allegedly misrepresented to Pioneer that its liability program included pollution coverage—settled for \$1.65 million, lawyers say.

Pioneer also settled with National Union and assigned its claim against Royal to the AIG unit, lawyers say.

This left the action against United Capitol as the only unresolved litigation stemming from the accident.

Pioneer filed its breach of contract and bad faith suit against United Capitol in Harris County District Court in 1991, but withdrew its claims on the first day of trial in May 1993.

United Capitol, however, decided to pursue a counterclaim against Pioneer for bringing a groundless bad faith action.

On Dec. 30, 1994, after meeting with lawyers for both sides, Judge Lamar McCorkle entered sanctions against Pioneer.

The judge concluded that the United Capitol policy contained an absolute pollution exclusion and that the chemical company "knew or should have known" that it had no coverage for the chlorine contamination.

Predecessor policies also had contained the exclusion, and broker Johnson & Higgins, which reviewed Pioneer's CGL program, told Pioneer in October 1990 that it had no pollution coverage, the judge found.

Despite this, Pioneer pursued its suit against United Capitol for 22 months, making it liable for sanctions under state civil procedure rules against prosecuting groundless claims, the court concluded.

Rick Callaway, a Houston lawyer representing United Capitol, noted the result is "not a complete economic win" for the insurer. While it recovered \$241,500, United Capitol spent more than \$450,000 in litigation, he said.

However, "never in my experience has an insurance company said, 'We think they are litigating in bad faith and we're going to fight it,'" Mr. Callaway said.

Trey Bergman, a lawyer with Fouts & Moore in Houston, representing Pioneer, described the payment to United Capitol as a "settlement" rather than an award of sanctions.

He also said the chemical company's recoveries in all of the coverage cases have made it whole, "as if all the insurance companies had paid off on the claims." **[B]**

MEWAs

Continued from page 1
dants. The MEWAs were:

- Atlantic Healthcare Benefits Trust, formed in Virginia in 1991 and operated by Mr. Zinner until October 1992, when he sold the plan and a related administration firm.

The indictment doesn't identify the buyer, but Mr. Zinner's lawyer and regulatory sources say it was a company controlled by Hameed "Tony" Ullah, a California- and Arizona-based MEWA operator for whom Mr. Zinner previously worked.

The Atlantic plan was "sponsored" by United Healthcare Assn. of America, purportedly an association of small employers that was actually controlled by Mr. Zinner through "straw" directors and officers, including Mr. Moulton, according to the indictment.

Two other Zinner-controlled companies—National Insurance Consultants Inc. and National Investment Consultants Inc., both of Virginia—acted as third-party administrators, marketing the Atlantic plan through agents and

brokers, prosecutors say.

- American Fidelity Trust, another MEWA set up by Mr. Zinner two weeks after he sold National Investment Consultants and the Atlantic plan.

American Fidelity was "sponsored" by the National Assn. of America's Workers and administered by National Insurance Consultants Inc., a newly formed Delaware corporation.

These companies were all run by Mr. Zinner and initially operated from a Virginia Beach building that he owned and that also housed Trashmore Records Inc., another of his companies, the indictment says.

The two MEWAs solicited and wrote group health business in 26 states, collecting \$12.6 million in premiums between 1991 and 1994, federal prosecutors charge.

Policyholders were mostly small businesses: In Pennsylvania, for example, the Atlantic plan was sold to a screw manufacturing firm, a Ford dealership, a construction contractor, a restaurant and several others, according to a 1991 cease and desist order against the plan.

Both MEWAs were hit with cease and desist orders and tem-

porary restraining orders by regulators in numerous states.

In addition, the Virginia Corporation Commission revoked Mr. Zinner's agent's license in January 1993.

The indictment also alleges in a racketeering count that Messrs. Zinner, Neal and Waldron:

- Falsely told agents, brokers, employers and state regulators that the MEWAs were qualified benefit plans under the Employee Retirement Income Security Act of 1974.

- Falsely represented that the plans were insured and had adequate claims reserves when in fact they were not insured and did not have adequate reserves.

- Lied to actuaries about the plans' finances and ignored actuaries' recommendations for fully funding the plans.

- Used the plans' funds for personal debts; business debts unrelated to the plans' health claims; entertainment expenses; no-interest, no-term "loans"; and increases in personal lines of credit.

- Fraudulently diverted the services of MEWA administration employees for work in Mr. Zinner's band, called the "Southern Legends," and his restaurant, the New England Lobster and Clam House.

Evaded and denied claims.

The indictment also charges that when Mr. Zinner sold National Investment Consultants and the Atlantic plan in 1992, he turned over \$496,017 of the plan's cash and stock to "a third party," which sources identify as Mr. Ullah's United Health Care Benefits Trust.

The "third party" immediately returned about \$453,543 to Mr. Zinner personally, according to the indictment, which alleges that the transaction amounted to embezzlement from the Atlantic plan.

At the time, the Atlantic plan had outstanding unpaid claims of more than \$500,000, the indictment says.

Mr. Ullah—whose own MEWA was hit with cease and desist orders in several states and whose Phoenix office was raided by the FBI and federal labor officials in 1993—could not be reached.

Mr. Zinner's lawyer, Mr. Mez-zaroba, said the payment was

simply compensation for Mr. Zinner's TPA firm and did not include plan assets.

In addition to the racketeering count, the indictment charges Messrs. Zinner, Neal and Waldron with multiple counts of mail fraud, wire fraud and embezzlement.

If convicted, Messrs. Zinner and Waldron face maximum sentences of 20 years in prison and fines up to \$2.75 million.

Mr. Costa, Mr. Neal's lawyer, declined to say whether his plea bargain agreement includes a sentencing recommendation.

Prosecutors are also seeking to seize the three defendants' assets. For Mr. Zinner, this includes his record company and restaurant, real estate in Virginia and Florida, his rock band's equipment, a 24-foot cabin cruiser, two cars and a truck.

Meanwhile, Mr. Moulton, who was president of United Healthcare Assn., is named in only one count of making a false statement in a document required by ERISA.

If convicted, he faces a maximum sentence of five years in prison and a \$250,000 fine. **BI**

THIRD PARTY FIDELITY

**What is it?
Who needs it?
Why do they need it?
How can they get it?**

For complete information on this important coverage, underwritten by Chubb, call or fax The Brownyard Group.



THE BROWNYARD GROUP

21 Maple Avenue, CN9175
Bay Shore, NY 11706-9175
(800) 645-5820 • In NY (516) 666-5050 • FAX: (516) 666-5723

Exxon

Continued from page 3
signed Exxon's alcohol rehabilitation programs."

Mr. O'Neill chronicled Exxon's actions from the time Joseph Hazelwood was sanctioned for alcohol abuse in 1985, to his time in an alcohol rehabilitation facility and after-care program, through his transfer to the Alaskan route in 1987, to the accident in 1989 and finally to the trial last fall.

At all times, Exxon displayed what the plaintiff's lawyer called a reckless attitude that ultimately prompted the plaintiffs to ask jurors for punitive damages of \$5 billion to \$20 billion.

After a four-month trial during which Exxon was painted by the plaintiffs as a callous, haughty corporation, the jury returned a verdict of \$287 million in compensatory damages and \$5 million in punitive damages. Late last month, U.S. District Court Judge H. Russel Holland refused to overturn that verdict against Exxon. Currently, both parties are waiting for the judgment to be officially entered, at which time Exxon is expected to request a rehearing or appeal.

Mr. O'Neill, meanwhile, said the Exxon case exemplifies how corporate culture and attitude can affect legal liability.

"You wonder, 'How do you get such an award?' The answer is Exxon didn't know how to treat its fellow man. They have \$140 billion in annual revenues, they're the 26th-largest company in the world and they don't live in the same world as we do. They failed to realize that honesty and contrition work, while arrogance and disingenuousness do not," Mr. O'Neill said.

He traced Exxon's problem with this specific case to 1985, when the company first investigated Mr. Hazelwood's drinking. During counseling, Mr. Hazelwood was diagnosed as being depressed and susceptible to episodic alcohol abuse.

He went through a 28-day recovery program, but quit his 90-day after-care program because "everyone in the program was pre-occupied with alcohol," Mr. O'Neill noted.

Mr. Hazelwood then went back to work with Exxon. From 1985, until he was transferred to Alaska in 1987, no manager or supervisor asked about his drinking problem or his recovery, according to Mr. O'Neill.

"A ship captain, by the nature of his job, can't go regularly to Alcoholics Anonymous meetings or after-care programs. When he should have been in counseling, he was on board ships partying it up," Mr. O'Neill charged.

By March 1989, the month of the wreck, Mr. Hazelwood was drinking regularly, Mr. O'Neill said. The Exxon chain of command was aware of this, but did nothing, he claimed.

On the day of the accident, Mr. Hazelwood consumed at least three and possibly up to 14 vodka drinks just hours before the tanker pulled out of the Valdez terminal carrying more than 10 million gallons of Alaskan crude, Mr. O'Neill argued in court.

Shipmates allegedly saw that the captain was drunk when the ship left port. And by the time the vessel ran aground, Mr. Hazelwood was not in the pilothouse physically in command, but in the ship's galley, said the lawyer. "With Exxon's attitude toward people like Hazelwood, it was inevitable that a tanker was going to ground."

Immediately after the accident, Exxon shot itself in the foot on several fronts, according to Mr. O'Neill. At trial, he said, jurors

heard a recording of an onsite Exxon public relations official saying something to the effect of, "I don't care if anyone cleans up any oil, just get some suckers out there so it looks like it."

"I doubt the jury was very impressed with that," Mr. O'Neill quipped.

He also showed the jury a number of videotapes of various Exxon executives saying things in depositions about the spill that they themselves contradicted in

The Exxon case exemplifies how corporate culture and attitude can affect legal liability.

trial, said Mr. O'Neill. "When you show Exxon's chairman a video tape of himself and then ask him, 'who is that saying that,' and his response is 'Me,' it pretty much makes your case."

Mr. O'Neill attributed inconsistencies in testimony, in part, to factions within Exxon that had different views on how to proceed with the litigation.

"They lacked a unity of command. They had hawks and doves and lawyers and non-lawyers not in agreement about whether they were right or wrong. Maybe if they had agreed that they were wrong and offered to settle or try the case on a theme of contrition and redemption they would have fared better," Mr. O'Neill said. "Americans like that."

Ultimately, the case proves that corporate culture plays a major role in legal liability, the lawyer said. Juries appreciate companies that show care and concern for employees and victims and resent those that don't, he added.

"In the days after the spill Exxon published an apology in The Wall Street Journal and The New York Times. We asked their chairman about that. He said he didn't know why an apology was necessary or whom it was written by. But he signed it," Mr. O'Neill said. "He never even visited the site or met with the people whose livelihoods were ruined. But he did meet with his marketing people and (White House Chief of Staff) John Sununu." **BI**

Can Business Insurance Be of Service?

- Need to change your address?
- Want to enter/renew your subscription?
- Have a question about your subscription?
- Need a back issue?
- Want our *Directory of Corporate Buyers of Insurance, Benefit Plans and Risk Management?*



Just Call **1-800-678-9595** TOLL-FREE.
Outside of the USA call 313-446-0450 — We'll be happy to help.

Datebook

FEBRUARY

FEB. 19-22. Trustees and Administrators Institute in Orlando, Fla., sponsored by the International Foundation of Employee Benefit Plans; \$625 for IFEBP members, \$715 for non-members. Also **June 25-28** in Stateline, Nev. Registrations Department, International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710.

FEB. 19-22. Professional Insurance Mass-Marketing Assn. 21st Annual Meeting in Indian Wells, Calif.; \$675 for PIMA members, \$825 for non-members. PIMA, 4733 Bethesda Ave., Suite 330, Bethesda, Md. 20814-5228; 301-951-1260.

FEB. 20-22. The Health Care (R)evolution: Second Annual Conference in Orlando, Fla., sponsored by the Central Florida Health Care Coalition; \$295. Central Florida Health Care Coalition, 6000 Lake Ellenor Drive, Suite 251, Orlando, Fla. 32809; 407-859-6032.

FEB. 20-24. Government Risk Management Seminars in San Diego, sponsored by the Public Risk Management Assn.; \$595 for basic certificate program for PRIMA members, \$725 for non-members; \$490 for continuing education program and schools risk management program for PRIMA members, \$620 for non-members. PRIMA, 1815 N. Fort Myer Drive, Suite 1020, Arlington, Va. 22209; 703-528-7701.

FEB. 22-24. Global Risk Management and Insurance Strategies course in New York, sponsored by the Risk & Insurance Management Society Inc.;

\$850 for RIMS members, \$950 for non-members. Also **May 17-19** in Chicago; **Sept. 19-21** in London. Risk & Insurance Management Society, Education Department, 655 Third Ave., New York, N.Y. 10017; 212-286-9292.

FEB. 23-24. Directors & Officers Liability Symposium in San Francisco, sponsored by The Wyatt Co.; \$795. Mary Maze, The Wyatt Co., 303 W. Madison, Suite 2400, Chicago, Ill. 60606; 312-704-2483.

FEB. 26-MARCH 1. Managing Ergonomics in the 1990s conference in Cleveland, sponsored by the Center for Office Technology and the American Automobile Manufacturers Assn.; \$450. Managing Ergonomics Conference Secretariat, 1150 S. Washington St., Suite 210, Alexandria, Va. 22314; 703-683-6334.

FEB. 27-28. Insurance, Excess and Reinsurance Coverage Disputes seminar in New York, sponsored by the Practising Law Institute; \$695. Also **March 23-24** in San Francisco. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 1-800-260-4754.

FEB. 27-28. Managed Vision & Eye Care Congress in San Francisco, sponsored by the Institute for International Research; \$1,195. Conference Administrator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017; 4103; 800-345-8016 or 212-661-8740.

FEB. 27-28. Eastern Claims Conference in New York; \$140. Eastern Claims Conference, P.O. Box 6030, Parsippany, N.J. 07054-0591; or con-

tact Ken Nowak at 212-907-8542.

FEB. 27-28. 401(k) Servicing & Administration forum in New York, sponsored by the Institute for International Research; \$1,295. Conference Administrator, Institute for International Research, 708 Third Ave., 4th Floor, New York, N.Y. 10017; 212-661-8740.

MARCH

MARCH 1-2. 1995 Employee Benefits Conference in New York, sponsored by the Conference Board Inc.; \$885 for Conference Board associates, \$1,095 for non-associates. Also **March 13-14** in San Diego. The Conference Board Inc., P.O. Box 4026, Church Street Station, New York, N.Y. 10261-4026; 212-339-0345.

MARCH 1-3. Techniques of Risk Management course in Atlanta, sponsored by the Risk & Insurance Management Society Inc.; \$700 for RIMS members, \$800 for non-members. Also **June 14-16** in Ottawa, Canada; **Sept. 11-13** in Boston; **Dec. 4-6** in San Francisco. Risk & Insurance Management Society Inc., Education Department, 655 Third Ave., New York, N.Y. 10017; 212-286-9292.

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 cost, if any, to attend 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.

Annual mammograms unnecessary: Report

By SALLY ROBERTS

Health care organizations can substantially reduce expenses and still provide quality care for patients with early-stage breast cancer if they restrict mammography screenings to every two years and to women between age 50 and 69, a recent report contends.

By adopting a particular package of benefits related to breast cancer, health care organizations nationwide could generate savings of \$1 billion to \$3 billion annually, concludes the report, which was funded by Santa Monica, Calif., think tank RAND Corp.

Previous research indicates breast cancer screening can cut mortality 30% among women age 50 to 69, though no statistically significant survival benefit has been shown for women younger than 50 or older than 70.

There is wide debate over the benefit of mammography screening for women younger than 50. The American Cancer Society continues to advocate screening for women ages 40 to 49, while the National Cancer Institute has backed away from its support of routine mammography screening for women ages 40 to 49 because it felt the research results were ambiguous.

In 1993, breast cancer was diagnosed in 182,000 women, and in 1990 it consumed more health care dollars—\$6.5 billion—than any other cancer, according to the RAND report.

To save money and still ensure quality care, the report's author, Dr. Herman Kattlove, recommends a basic benefit package that would cover:

- Biennial mammography screening only for women age 50 to 69.

- A choice between either a mastectomy or breast-conserving surgery with radiation therapy for all women with early-stage breast cancer. The report notes that despite the high cost associated with breast-conserving surgery, such as lumpectomies, patients who choose it often have improved quality of life due to a better body image.

- Adjuvant therapy, which combines chemotherapy and tamoxifen pills, for all patients. The report says the two treatments reduce relative mortality rates by 30% at relatively low costs.

- Follow-up exams for routine surveillance only. Additional testing—including X-rays and mammograms—does not improve survival or quality of life, the report says.

A hypothetical health care organization covering 500,000 people would confront 360 new breast cancer cases each year, the report estimates. By applying the basic benefit package to a health care organization of this size, the report estimates it would annually spend \$2 million to screen women 50 to 69 years old twice a year, saving 73 lives after 10 years.

Specifically, a plan this size would save about \$2.4 million each year by screening biennially instead of annually and save about \$6.8 million by screening only women in this age bracket, the report says.

Copies of the report are available from the author, Dr. Herman Kattlove, at 213-966-3538.

Guidance on back injury treatment

By MEG FLETCHER

WASHINGTON—Clinical practice guidelines from the federal Agency for Health Care Policy & Research provide additional scientific support for a "less is more" approach in treating acute low back injuries.

Acute low back pain, which may last up to three months, can best be treated with non-prescription painkillers and mild exercise followed by conditioning exercises, concluded a panel of about 30 physicians and other experts.

"Past traditional treatment of back problems sent patients to bed, focusing upon disorienting painkillers and many times the use of needless, confusing tests for those experiencing particularly painful symptoms," said Stanley J. Bigos, professor of orthopedic surgery and environmental health at the University of Washington School of Medicine in Seattle, who chaired the panel.

"These guidelines could save Americans considerable anguish, time and much money now spent on unneeded or unproven medical care," said Dr. Philip R. Lee, assistant secretary for health and director of the Public Health Service for the U.S. Department of Health and Human Services.

Low back pain is a major concern for U.S. business. It is second only to the common cold in reasons for visiting primary care doctors, and its annual toll to business—in lost time and medical costs—has been estimated recently at \$30 billion (BI, April 26, 1993). Yet the pains rarely have a serious cause and nine out of 10 patients will recover on their own within a month.

As much as a third of the \$20 billion spent on direct medical costs for back problems in 1990 could have been saved without losing any quality of care, estimated Clifton R. Gaus, administrator of the AHCPR.

Beyond saving money, the

guideline drafters also sought to make diagnosis and treatment more consistent and efficient.

Acute low back problems are defined as pain or discomfort lasting up to three months in the lower back or pain or numbness that moves down the leg, known as sciatica. If pain lasts longer, the problem may be chronic and the guidelines do not apply.

The guidelines recommend a thorough examination by a clinician, which can make special studies and diagnostic tests unnecessary during the first month after symptoms begin, unless there is an indication of possible fracture, tumor, infection or severe nerve involvement.

Previous research indicates that early tests such as X-rays, computerized tomography, magnetic resonance imaging, myelography and bone scans are appropriate only when there are specific clinical findings of a potentially serious underlying condition in the medical history and examination.

However, if the patient continues to be limited by symptoms after four weeks, the guidelines say it may be appropriate to consider using special tests to seek a reason for the slow recovery.

Spinal manipulation can be helpful in relieving pain, especially within the first four weeks.

Surgery may be appropriate when there is a serious spinal condition or the patient has severe, disabling and persistent sciatica. However, surgery benefits only about one in 100 people with acute low back problems.

The panel did not find a sound scientific basis for certain treatment methods, including: spinal traction, transcutaneous electrical nerve stimulation and acupuncture. Also, lumbar corsets are not a good treatment method but may help prevent injury if used by persons who do frequent lifting.

The panel also did not find enough evidence of benefits to justify potential risks of harmful side

effects for several therapies and drugs. These included: extended bed rest—beyond four days—because it can weaken muscles and bones and delay recovery; therapies involving the injection of local anesthetics, corticosteroids or other substances into the back, which could cause rare but serious problems such as nerve damage and hemorrhage.

They also frowned on use of oral steroids, colchicine, antidepressants and phenylbutazones. And they do not recommend several treatments because their insufficiently proven benefits do not justify their costs: heat/diathermy, massage, ultrasound, cutaneous laser treatment and electric stimulation other than transcutaneous electrical nerve stimulation.

For pain relief, the panel recommends acetaminophen, aspirin and non-steroidal anti-inflammatory drugs.

They consider muscle relaxants and opioid analgesics—a stronger type of prescription medicine—to be options for short-term treatment, but said they appear to be no more effective than the other drugs and can cause more side effects.

The guidelines emphasize the importance of low-stress exercise—such as walking, swimming or biking—for maintaining and even improving the patient's activity tolerance. These types of exercise can usually be started gradually during the first two weeks after symptoms begin. After that, the patient can engage in trunk conditioning exercises.

Free copies of "Acute Low Back Problems in Adults: Assessment and Treatment, Quick Reference Guide for Clinicians," are available from the AHCPR Publications Clearinghouse, P.O. Box 8547, Silver Spring, Md. 20907; 800-358-9295. Also available is "Understanding Acute Low Back Problems," a consumer version of the guidelines in English and Spanish.

Bad faith

Continued from page 3

1992 in Monterey County Superior Court.

The dentist, who has also had several other medical malpractice claims filed against him, three or four of which have been settled, refused to settle the case, said Mr. Gordon.

In August 1993, a settlement was reached between Fireman's Fund and Ms. Herman's attorney, contingent upon an arbitrator's finding that Dr. White had acted unreasonably in refusing to settle. Dr. White, however, refused to participate in the arbitration hearing, attorneys say.

In June 1994, an arbitrator found Dr. White had acted unreasonably and the settlement was subsequently paid in October

1994.

Meanwhile, Dr. White sued Fireman's Fund for bad faith in Superior Court in San Francisco. Both sides filed motions for summary judgment on the issue of how the policy's arbitration clause relates to the state business code, which says no insurer of certain health care professionals can enter into a settlement without the policyholder's written consent.

In August, Superior Court Judge William Cahill found in Dr. White's favor.

Judge Cahill issued a decision stating the finding of unreasonableness in the arbitration proceeding was not the equivalent of the policyholder's consent required by the state's business code, said Mr. Gordon. The jury trial then followed, lasting six days.

Budget

Continued from page 3

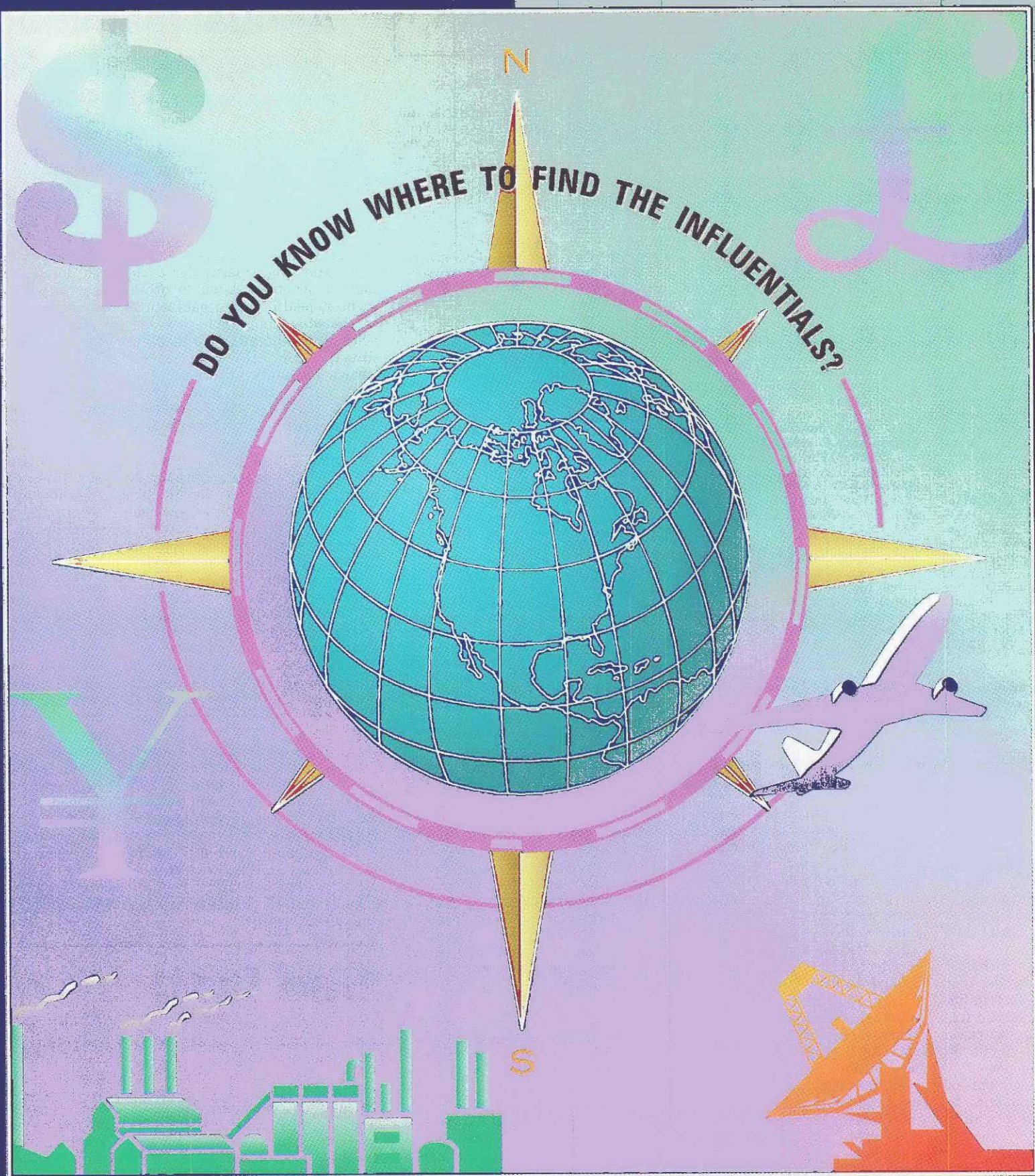
ments, Health Care Financing Administration—as part of the Data Match program—sent letters to thousands of employers to determine if certain individuals—like those under 65—were covered by an employer plan at the time Medicare paid their claims. HCFA later sent letters to insurers, third-party claims administrators and employers demanding repayment of claims that Medicare improperly paid.

All aspects of the Data Match program—information gathering by HCFA and repayment of claims—would be made perma-

nent under the Clinton administration budget proposal.

The Medicare program that shifts health care of employees with end-stage renal disease to employers also may become permanent. Under that program—set to expire in 1998—employer health care plans are—for 18 months—the primary payer of health care bills for employees with ESRD (BI, July 25, 1994).

On another benefit-related item, the budget package also suggests that there will be some type of combined limit on contributions for employees who make salary deferrals to 401(k) plans as well as tax-deductible contributions to individual retirement accounts.



DIRECTORY OF BUYERS

When you want to reach corporate influentials who matter most in purchasing commercial insurance, risk management, employee benefits and related products and services, you'll want to reach for the most comprehensive reference tools from the publishers of *Business Insurance*.

In the U.S.-based edition you'll find more than 17,000 executives from over 2,400 companies. Listings include company address, telephone and fax numbers, plus vital statistics on:

- primary type of business
- sales or assets
- number of employees
- name and title of chief financial officer
- names and titles of executives directly responsible for employee benefits . . . pension/retirement plans . . . personnel . . . risk & insurance management . . . property/casualty insurance . . . international employee benefits and/or risk management.

In the non-U.S. edition you'll find over 3,000 executives in more than 500 companies from 20 countries based outside the United States. In addition to providing address, telephone and fax numbers, listings include:

- primary type of business
- currency of the country
- revenue/sales reported in the currency of the country
- name and title of chief financial officer
- names and titles of executives directly responsible for risk management . . . security . . . benefits and health care . . . and finance.

The twelfth edition of *BI's Directory of U.S.-Based Corporate Buyers* is only \$95*. *BI's new Directory of Corporate Buyers Based Outside the U.S.* is \$175*. You'll get a 15% discount on orders of 5 or more copies. Both Directories are also available on disk for the PC. For information about the BID Software, or to order your printed copies today, call: 313-446-1623.

*Plus tax where applicable.

Business Insurance
a publication of Grain Communications, Inc.

ASK A CASUALTY ACTUARY

Shielding loss reserves from interest-rate swings

Q

What could be done to prevent another Orange County from happening?

A

Many steps could be taken to alert the public and investors about situations that could result in a financially troubled or bankrupt public entity. The Orange County public fund incident suggests that a strengthening of investment

disclosure requirements should be seriously considered as one of those steps.

I do not believe it is enough to merely require disclosure of the existence of options, futures or derivatives in the investment portfolio. Nor is it enough to itemize the existence of intermediate or long-term bonds or Treasury bills or to disclose that some invested funds have been leveraged. If such financial instruments or techniques are in any way a part of the portfolio, then a quantification of how much the total value of the portfolio would change if specific interest rate movements occurred by three months, six months and one year after the statement date should be made.

Examples of specific moves might include but are not limited to the following:

- Interest rates move up by 2.0% above the prevailing level at the evaluation date.

As an example, the Federal Funds rate, as posted daily in the *Wall Street Journal*, was about 4.2% as of July 1, 1994. In this case, it would be disclosed how much the total portfolio would decline if the Federal Funds rate were 6.2% on Oct. 1, 1994, or Dec. 31, 1994, or June 30, 1995. These calculations would assume that the yields affecting the various debt instruments in the portfolio were subject to parallel moves.

That kind of disclosure would have raised a gigantic red flag in the case of Orange County. The existence of that kind of disclosure requirement might have discouraged Orange County officials from ever investing in derivatives or other high-risk instruments of speculation.

- Interest rates increase by 50% above the level at the evaluation date.

This case was included to address the possibility of a high interest rate environment. For example, if the Federal Funds rate were 8% on the statement date, how much would the total portfolio decline in value if the Federal Funds rate were 12% three, six or 12 months later?

Consideration should be given to adding disclosure requirements for investment contingencies such as those described above to the requirements of the Governmental Accounting Standards Board. I would also recommend the addition of an asset/liability matching exhibit, such as the one in the accompanying chart, to financial statements for self-insurance programs.

The first column of figures represents the projected cumulative payout on loss and loss adjustment expense reserves as of July 1, 1994. The second column shows the total self-insurance program assets that will mature on or prior to the given future dates. The third column shows any indicated future cash flow shortfall.

Such an exhibit would serve several purposes:

- First, it would quickly draw attention to potential future cash flow problems. The amounts in the third column represent estimates of the degree to which future loss payments for claims incurred prior to the statement date are expected to exceed the availability

of funds held as current reserves.

- Second, the amounts in the third column raise the question, "What assets may need to be liquidated prior to their maturity dates in order to pay claims and/or claims expenses?"

- Third, the amount in the last row of the third column represents the extent, if any, of deficiency that exists in the amount carried as a loss and loss adjustment expense reserve.

- Fourth, the table would pinpoint potential opportunities the public entity has for safely increasing its average investment yield. Future dates where the amount in Column 2 exceeds that in Column 1 represent situations where funds currently invested in very short-term positions could be shifted to somewhat longer-term positions.

For example, the first line of the chart indicates that approximately \$2 million of assets (\$7 million less \$5 million) that were in very short-term positions as of July 1, 1994, could have been shifted to investments with one-year terms—thereby garnering a higher rate of return. The additional investment income that would be earned most likely would be a substantial multiple of any added costs that a public entity might incur in satisfying the increased disclosure requirements.

It would be quite possible to have a self-insurance program that was adequately funded and that also had near-term cash flow problems. One easy way to accomplish this undesirable feat would be to place nearly all the assets in long-term bonds or Treasury bills. If interest rates rose, the value of such bonds would probably drop severely. If some of these needed to be sold to meet claim payments, they could be sold at a loss.

The amounts in the second column can be assembled by any skilled bookkeeper or accountant. However, the estimates in the first column normally cannot be so readily obtained.

I would recommend that the financial statements include a statement issued by a member of the American Academy of Actuaries to the effect that the estimates in the first column had been derived in accordance with commonly accepted actuarial principles. As an alternative to inclusion of the proposed table, a statement could be included to the effect that there had been an appropriate application of asset/liability matching principles in structuring the portfolio and that the loss and loss adjustment expense reserves were stated at a reasonable level.

The first option would be exercised in those cases where the professional attesting to the financial statement believed either there was a potential shortfall in the loss reserves or that the investment portfolio included a proportion of debt instruments with maturities that stretched out further into the future than the expected payout of the loss reserves. The latter option would be exercised in those instances where the attesting professional was willing to sign off on the appropriateness of both the booked and the loss reserves and the structure of the investment portfolio.

If such disclosure requirements were approved, then it also would be logical to require public entities that invested more than 5% or 10% of their total assets in the debt instruments of another public entity that had disclosures of any significant risk factors in previous financial statements to repeat those disclosures in their current statement.

For example, the Schools Excess Liability Fund, or SELF, had about 48% of its \$90.6 million in assets with the Orange County fund (BI, Jan. 16). With revised requirements, once Orange County had noted in its financial statements that its investment portfolio was subject to significant losses if interest rates climbed, SELF would also need to note this in its subsequent financial statements within its discussion of investment items.

Such an added requirement likely would result in many public entities avoiding the purchase of

Proposed sample asset-liability matching exhibit

(Numbers in millions)

Future Dates	(1) Projected cumulative payout	(2) Total maturing program assets	(3) Indicated future shortfall [If (1)>(2), (1)-(2)]
July 1, 1995	\$5.0	\$7.0	—
July 1, 1996	7.5	8.5	—
July 1, 1997	9.0	9.5	—
July 1, 1998	10.0	9.5	\$0.5
July 1, 1999	10.8	9.5	1.3
July 1, 2000	11.5	9.5	2.0
July 1, 2030	13.5	11.0	2.5

GRAPHIC BY KIM ROME

obligations of other public entities that engaged in higher-risk investment practices. It also would encourage a quick divestiture of existing holdings in the obligations of higher-risk public entities. For that reason, it might be best to defer the effective date of such new requirements into the future a few years to allow time for public entities to adjust their investment practices.

Along with disclosure of investment risks under a revised GASB 10, the disclosure of loss contingencies could be required. For example, some statement could be required that quantified the added liability that would need to be booked if loss reserves were stated at a 90% confidence level.

GASB 10 uses three possible terms to describe loss reserve estimates: probable, reasonably possible and remote. It defines "probable" as "the future event or events are likely to occur." It defines "reasonably possible" as "the chance of the future event or events occurring is more than remote but less than likely," and "remote" means "the chance of the future event or events occurring is slight."

It makes sense to require disclosure of how much greater the liability for losses and loss adjustment expenses would be if "reasonably possible" events were to occur. Loss reserves stated at the 90% confidence level reflect a magnitude that could be that high or higher in one year out of 10. I would categorize that as "reasonably possible," though others may have different opinions.

Rather than require the use of a 90% confidence level or some other specific criteria, a revised GASB 10 might allow for a range of confidence levels, such as 75% to 95%, and only require that the confidence level assumed be clearly stated. **BI**

Would you like advice from an experienced colleague on a risk management, benefit management or actuarial problem? Four quarterly features in the Perspective section of *Business Insurance* can give you some answers.

Ask A Casualty Actuary, Ask A Benefit Actuary, Ask A Benefit Manager and Ask A Risk Manager answer written questions from readers on risk and benefit management issues and actuarial problems.

This month's column on actuarial issues in the casualty field is written by Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore. William J. Miner, an actuary with The Wyatt Co. in Chicago, answers actuarial questions in the benefits field. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers risk management questions. And Dennis J. Nirtaut, managing director of compensation and benefits, worldwide, for Arthur Andersen & Co. in Chicago, answers questions on employee benefit plans.

Address your questions to ASK, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, *Business Insurance* will consider unsigned letters.



Mr. Sherman

Parliament

Continued from page 3

lation at Lloyd's became voluntary regulation or no regulation, and in the lax climate, incompetence and stupidity bred irregularities and fraud. Names and policyholders have been duped."

John L. Finlay, chairman of The Names Defence Assn., which represents 500 members being sued by Lloyd's to pay their losses, also testified to the committee with information that he claimed "proves beyond all reasonable doubt that the regulation of the Lloyd's insurance market during the last 20 years has been, in effect, largely non-existent."

The members also allege that Lloyd's Council members knew that asbestos and pollution losses would be massive in the early 1980s, but kept this information

secret to attract new members and spread the losses.

Research shows that "losses incurred at Lloyd's over the last 20 years have been covered up by creative and misleading accounting practices and have been financed only by the drawing in of ever more new members and ever-increasing new capital," Mr. Finlay charged in a letter to the committee.

The Lloyd's Underwriting Agents' Assn. has admitted to the committee that some of its past members were incompetent and helped create the losses members are suffering. But regulation has improved considerably since Mr. Rowland became chairman in 1993, the LUAA stated. However, the LUAA now believes that the market should eventually be regulated externally to bring back public confidence in Lloyd's (BI, Feb. 6).

During the nearly two-hour questioning of the Lloyd's officials by the committee last week, Mr. Rowland said that he and Mr. Middleton are neutral on whether external regulation is necessary. He added that external regulation probably wouldn't have made a difference in the problems the members are now facing.

Lloyd's serious losses were due to "incompetence... by people who should have known better" but not due to self-regulation, Mr. Rowland testified.

Mr. Middleton agreed that there had been "immense incompetence... on a very wide scale."

Lloyd's now has "the right structure and the right people" to govern the market, Sir Alan Hardcastle, Head of Lloyd's Regulatory Board, told the panel.

Some of the MPs personally attacked Lloyd's executives in the House of Commons committee

room, which was packed with angry, vocal Lloyd's names.

Labour MP Brian Sedgemore, who has attacked Lloyd's in Parliament before, asked Mr. Rowland whether he benefited from brokerage commissions paid to E.W. Payne Cos. Ltd. for placing some of the disastrous London market excess-of-loss business that has proved ruinous for many syndicates. Mr. Rowland acknowledged that as former chairman of broker Sedgwick Group P.L.C. between 1988 and 1993, he knew that Sedgwick subsidiary E.W. Payne placed a substantial volume of LMX business. But, he denied that he received any direct benefit from the LMX business.

Mr. Sedgemore also pointed out that up until 1988, Mr. Rowland was chairman of broker Stewart Wrightson Holdings P.L.C., which owned loss-making members and managing agent Pulbrook Underwriting Management Ltd., which managed one of Lloyd's largest loss-makers, syndicate 90.

And yet, the MP said, Mr. Rowland did not tell members when they joined Pulbrook about the substantial asbestosis losses they would face from previous underwriting years. This deletion amounted to either "culpable negligence" or "dishonesty," charged Mr. Sedgemore.

Noticeably offended by the remarks, Mr. Rowland noted that he had made the same judgments from the same information as other Pulbrook members and also incurred "substantial" losses from syndicate 90.

Mr. Rowland added that he has published all the details of his Lloyd's interests dating back to 1973. He asked Mr. Sedgemore why he would do that if he had something to hide.

The Lloyd's chairman also pointed out that new members weren't dragged into the market in the mid-1980s involuntarily, but entered because it was "fashionable" to be a Lloyd's member. They joined LMX syndicates because league tables told them there were higher rewards on those syndicates. "I don't excuse it. That's how it was," he said.

The committee's hearing last

week also tested the competence of Lloyd's regulator, Sir Alan Hardcastle, who joined Lloyd's two years ago after Brian Garraway died.

Conservative MP Quentin Davies claimed Sir Alan was "ostrich-like" in not reviewing a previous investigation by four nominated council members on allegations of insider trading by past council members. The investigation concluded that there was no evidence to prove that council members knew about the extent of the asbestos crisis in 1982 but failed to pass this information on to members.

Sir Alan and Mr. Rowland told the committee that if new evidence came to light, they would review the situation. The committee asked in many ways whether Lloyd's was solvent or was going to survive its current difficulties.

Though Mr. Rowland said Lloyd's passed the U.K. Department of Trade and Industry's solvency test last year, he dodged answering whether Lloyd's would pass the test this year.

The Council makes no future predictions, said Mr. Rowland. But Lloyd's holds "substantial" assets totaling £19 billion (\$29.64 billion), he said.

Based on analysis by insurer rating company A.M. Best Co., U.S. insurance companies have 6.9 years of life if their reserves for asbestos and pollution claims are not strengthened, Mr. Rowland said. Based on Best's criteria, Lloyd's has the equivalent of 17 years of life, he added.

The "great difficulty" in assessing a market's solvency is measuring assets against liabilities, Mr. Rowland said. Under current U.S. Superfund legislation, there probably isn't an insurance company in the world that is solvent, he said.

Could Lloyd's face a "melt-down" if runoff reinsurer Equitas Ltd. is not up and running by the end of the year? asked Conservative MP Quentin Davies.

If Lloyd's is not properly reserved and calls for money from members that it cannot obtain, "it will affect ongoing trade," Mr. Rowland said. **BI**

Lloyd's moves to meet solvency test

By STACY SHAPIRO

LONDON—Lloyd's of London is again making changes in syndicate accounting rules to meet its annual solvency requirements on Aug. 31.

The changes deal with the market's valuation of liabilities and have been approved by the British Department of Trade and Industry, Lloyd's Chairman David Rowland told members in a letter last week.

In particular, the changes affect pre-1986 liabilities that are expected to be placed into Lloyd's proposed runoff reinsurance company, Equitas Ltd., next year, according to a separate market bulletin.

Syndicates are discouraged from reducing their existing reserves for pre-1986 liabilities, except to pay claims in 1994 that were received by Dec. 31, 1993, according to the market memo. Syndicates also are required to strengthen these reserves if necessary.

Smaller changes also relate to the two solvency tests that syndicates use to satisfy the DTT's minimum solvency requirements. This includes dividing one category of business relating to U.S. non-marine risks into three categories, said Finance Director Bob Hewes.

Mr. Rowland refused to comment on whether these changes were made so that Lloyd's would meet the requirements by Aug. 31 for the market's 1992 results. He would only say that "many of the changes being introduced will be advantageous to the society."

Last year, several accounting changes were made before Lloyd's passed its solvency test. First, the

DTI effectively boosted some syndicates' reserve requirements for U.S. dollar-denominated policies written between 1982 and 1984. But these could be reduced if an actuary agreed (BI, March 7, 1994).

Then, Lloyd's restated its global results to eliminate "double counting," which occurs when a syndicate is reinsured by another syndicate and both have reserved for the same loss. This change alone reduced Lloyd's 1991 global loss by £530 million (\$784.1 million) to £2.05 billion (\$3.03 billion) (BI, May 23, 1994).

The entire market passed the DTT's solvency review last year. But Lloyd's had to mortgage its assets to raise £300 million (\$469.5 million) and earmark £1.34 billion (\$2.1 billion) in the Central Fund because not all of its individual members were solvent and could be counted on to meet liabilities (BI, Sept. 26, 1994).

"In August this year, the initial shortfall will rise once again, as the impact of losses already in the pipeline is felt," Mr. Rowland wrote in the letter. "However, the Council remains confident that the sums required can be covered by a broadly similar range of assets to those used last year."

The purpose of Mr. Rowland's letter was to tell members that the Council has decided to amend members' Premium Trust Deeds next week to require that members cover their unpaid syndicate losses before any other debts.

This would effectively mean that a portion of any court awards won by litigation members would be paid directly to Lloyd's. This mea-

sure would also improve solvency by keeping cash within the market.

Lloyd's backed down over earlier plans to change the deed wording (BI, Oct. 24, 1994), because most members strongly opposed the change. But the Council felt it had to act now, because Gooda Walker Action Group members were in court last week seeking an interim payment of £341 million (\$530.8 million) following their victory last year. And Feltrim Names Assn.'s trial also concluded last week, with a judgment to come soon.

Lloyd's plans to initiate a court action to test the validity of the amended deeds. This step was welcomed by the Assn. of Lloyd's Members, which "is still concerned about the propriety and equity of Lloyd's assuming the status of a preferred creditor."

The Litigating Names' Committee, an umbrella organization representing all names action groups, stated that it "deplores" Lloyd's decision. "One has to begin to question the sincerity of Lloyd's interest in a settlement of the litigation," said the committee's chairman, Michael Deeny.

In his letter, Mr. Rowland warned members who feel that if Lloyd's fails to meet solvency, they will be off the hook in paying policyholder claims. "Cessation of insurance trading would not remove liabilities from the shoulders of Lloyd's members. It would, however, remove the opportunity for future profit. There could also be little doubt that if Lloyd's ceased to trade, arrangements would be made to ensure payments by members to policyholders." **BI**

Looking to reach the executives in the U.S. or in non-U.S. corporations who are responsible for risk management, employee benefits and finance?

Look no farther!

Now, BI's two Directories of Corporate Buyers of Insurance, Benefit Plans and Risk Management Services are available on disk.

Now Available

Directories of Corporate Buyers
... ON DISK ...

from

Business Insurance

call:

1-313-446-1623

ask for the BID Software

In the U.S.-based edition you'll find over 2,700 companies with more than 14,000 executives listed. In the non-U.S. edition, 3,000 executives from more than 500 companies outside the U.S. are listed.

The 1994/95 BID Software costs only \$595 each edition. Buy both and save \$195. Available for the PC only.

P/C outlook weak, rating agencies say

Neither Standard & Poor's Corp. nor A.M. Best Co. are optimistic about the property/casualty industry's prospects this year, but both are more sanguine about those of the life/health industry.

S&P Associate Director Peter Wade said in the current issue of S&P's *Focus* magazine that the industry is expected to show only "fair improvement" this year, reporting a 107% combined ratio vs. an estimated 110% for the catastrophe-battered 1994. "Moreover, the insurance industry's results are expected to remain volatile as catastrophes continue to batter earnings," he said.

Meanwhile, A.M. Best Co. of Oldwick, N.J., estimated the industry will report a 109.4% combined ratio for 1995, slightly better than S&P's 110% estimate. The industry's prognosis "is not very encouraging. It may take only one more run-of-the-mill catastrophe to crush the industry's fragile fundamentals," Senior Vp John H. Snyder wrote in the January issue of *Best's Review*.

The life/health industry presents better prospects. S&P Director Jayan Dhru said in *Focus* that the agency anticipates a "generally stable" rating environment this year, with insurer financial strength continuing to improve largely because of a modest improvement in the real estate market and the marketing of

less capital-intensive products.

Best Senior Vp Larry G. Mayewski and Assistant Vp Michael L. Albanese also said in *BestWeek* that Best expects "the number of insurer upgrades and downgrades in the near term will remain relatively even."

—By Judy Greenwald

ADVERTISER INDEX

Issue of February 13

ADVERTISER	PAGE #
Brownard/Chubb	12
Business Insurance	14
Centre Cat	7
Duncanson & Holt	24
Equipment Insurance Mgrs.	10
NAC Reinsurance Corp.	9
Skandia America Group	6
Stewart Smith Group	4
Wausau Insurance Company	5

INTERNATIONAL

Floods abate, repercussions just beginning

By DON LEWIS KIRK

As flood waters recede, tempers are rising in Northern Europe, where businesses say lack of insurance and inadequate government aid will leave them in the lurch.

Angry Dutch business leaders are assailing a government compensation scheme that covers partial property losses but leaves businesses to bear the brunt of business interruption and evacuation costs.

In Germany, flood losses appeared to be less than damage caused by similar flooding in December 1993.

And in France, at least one insurer is withdrawing from writing the multirisk coverage that covers flood losses.

During the flooding in recent weeks, more than 250,000 people were evacuated in France, the Netherlands and Germany as dikes threatened to burst.

Total property and business interruption losses in the affected

region have been estimated at \$2 billion, though insured losses are expected to be far lower (*BI*, Feb. 6).

Business interruption losses are expected to be high, since the flood has forced many companies to stop production, dismantle machinery and evacuate.

The Netherlands last week established an emergency fund for companies threatened by bankruptcy as a result of the flood.

However, the Dutch government will not cover any business

interruption damages, though it will cover some evacuation-related expenses.

Property losses, including damage to buildings and machinery, will be covered up to 65% above a 2,000 guilder (\$1,162) retention. Companies that were also hit by the 1993 flood would have property damage reimbursed up to 90%.

Alexander Rinnooy Kan, chairman of the Dutch employer organization *Verbond van Nederlandse Ondernemingen*, called the gov-

ernment plan unreasonable, particularly its failure to cover any expenses other than property damage.

In the Netherlands, business interruption losses during the flooding topped 140 million guilders (\$81.3 million) per day, said a Chamber of Commerce spokesman in Gelderland.

Overall business interruption losses are expected to reach 1 billion guilders (\$581 million).

"We expect a production stop of
Continued on page 20

Execs face charges in mine explosion

By KATE TILLEY

PORT MORESBY, Papua New Guinea—The Papua New Guinea government has filed charges against five executives of the Australia-based explosives company Dyno Wesfarmers Ltd. over the deaths of 11 men in the Porgera mine explosion last year.

The executives will appear in the Port Moresby District Court for a hearing that starts tomorrow and will continue throughout the week.

Two explosions and subsequent fires at the gold mine's explosives plant, in the PNG highlands, 270 miles northwest of Port Moresby, shut the mine, one of the world's largest outside South Africa, for five days in August (*BI*, Aug. 15, 1994). Production was limited for about two weeks, said Lionel Dowler, risk manager for MIM Ltd., a Brisbane-based mining company which is a 25% joint venturer in the project, through its subsidiary Highlands Gold Ltd.

PNG's public prosecutor, Panuel Mogish, earlier this month charged that the five executives were negligent in the engineering standards maintained at the mine, an offense under the PNG Mining (Safety) Act 1980, and were responsible for the 11 deaths.

The actions were filed on the last day before a six-month time limit expired.

The charges follow an official PNG Government Department of Mines and Petroleum report alleging that Dyno Wesfarmers' negligence and a lack of professionalism resulted in the Aug. 2 blast. It destroyed an explosives plant near the mine.

Dyno Wesfarmers is a joint venture owned equally by Wesfarmers Ltd. in Perth, Western Australia, and Dyno Industrial A/S, a Norwegian explosives manufacturer.

The mine is operated by Placer Pacific Ltd., a Sydney-based unit of Canadian-based Placer Dome Inc., on behalf of its joint owners, Placer; Renison Goldfields Consolidated Ltd. of Sydney, Australia; MIM's Highlands Gold Ltd.; and the Papua New Guinea government.

Two Australian loss adjusting firms have been assessing the property damage and business interruption claims since the explosions. Business interruption losses were expected to accrue at a rate of \$1.1 million Australian (\$826,430) a day, but a time deductible on the main policy means business interruption losses are largely uninsured.

Murray L. Rowley, a loss adjuster in the Brisbane office of Robins MBS Ltd., a unit of the Swiss firm *Societe Generale de Surveillance*, is retained by Placer's London-based underwriters.

He said the property damage claim is likely to be \$11 million Australian (\$8.3 million), but the business interruption coverage has a 30-day time deductible requiring that the mine be closed or production limited for 30 days before coverage begins. The mine reopened after five days, but it was not back in full production right away. Some business interruption losses may be covered under the Placer policy, but "the lion's share" was uninsured, Mr. Rowley said.

Lawyers for the insurers are re-
Continued on page 20

Growth slowed by tradition

French insurance industry struggles with its direction

By MARIA KIELMAS

AVIGNON, France—God and the government were the dominant themes last month at the third meeting of the French risk management association, *Assn. pour le Management des Risques et des Assurances de l'Entreprise*.

In France, both insurance executives and risk managers face strong economic obstacles and cultural prejudices rooted in religious and political tradition.

In addition, many at the AMRAE conference observed that France's strict government regulation and ownership of the financial system has inhibited the development of a robust French financial system that can compete in an increasingly interdependent world market.

"For dozens of years, the Americans have made it a major concern to expand in different parts of the world," said Patrick Lucas, president of brokerage *Gras Savoye S.A.* in Paris.

Until very recently, French insurers have generally concentrated on local markets. Many at the conference said privately, though, that the largest French insurers have been unable to expand in important markets like the United States because they are fully or primarily government-owned companies, which would violate U.S. regulations.

Weakness in the U.S. market, combined with French real estate losses and a recession in recent years, has French companies worried about their survival and their ability to compete.

Against that backdrop the AMRAE conference was held last month in Avignon's *Palais des Papes*, which is Eu-
Continued on page 19



MARIA KIELMAS

French risk managers gathered in Avignon at the Palais des Papes.

Insurers willing to wait for Indian reforms

By ADRIAN LADBURY

LONDON—Political turmoil in India threatens to derail long-awaited liberalization of the nation's insurance market.

But the many foreign insurers and brokers waiting to enter this potentially vast market do not believe reforms will be shelved for good—and they believe the spoils will be worth the wait.

Prime Minister Narasimha Rao, leader of the ruling Congress Party and architect of India's economic reforms since 1991, is in the midst of a tough electoral campaign.

Mr. Rao's party faces a series of regional elections that began last

week and concludes March 11. Indian analysts say that if the party does as badly as it did in December, when it was soundly beaten in three states and marginally secured the fourth, it may lose next year's general election.

To avoid defeat in 1996, analysts argue that the Prime Minister must tone down or abandon parts of his reform package, which includes reform of India's nationalized, tariff-dominated insurance market.

Opposition parties are united by anger at the growing wealth gap between India's new entrepreneurs and its other classes and the fear of job losses as India's nationalized industries are exposed to competition—of-

ten foreign—some for the first time in many years.

Reformers, including most of India's fast-growing commercial sector, had hoped that the government would introduce proposals for a new insurance law in its Feb. 28 budget. But this now seems highly unlikely. Most observers think changes will come later, though before the end of 1996.

Reform proposals first came in a 1994 report commissioned by the Ministry of Finance (*BI*, March 28, 1994). Key proposals included opening the market to a limited number of private companies, partial decentralization of the state insurers, permitting non-life brokers and allow-

ing foreign insurers access, but only in partnership with an Indian company and with a maximum 40% stake.

The report may not have gone far enough for some—especially foreign—insurers and investors. Despite the caution and delay, though, foreign interest in the Indian market has surged since its publication.

In January, Maurice R. Greenberg, chairman and chief executive officer of American International Group Inc. in New York, called on the Indian government to allow foreign companies unfettered access.

Mr. Greenberg made his comments while in India as part of a U.S. trade mission led by U.S. Commerce Sec-

retary Ronald H. Brown. Despite his reservations about the expected limit on foreign ownership, Mr. Greenberg showed confidence that reform of some kind would arrive with the announcement of a "Protocol of Understanding" between AIG and India's largest industrial conglomerate, The Tata Group.

The two partners intend to launch life and non-life insurance companies once private companies and foreign involvement are allowed. As part of the agreement, Mr. Ratan Tata, chairman of The Tata Group, will join AIG's board of international advisers.

Hot on the heels of Mr. Brown's
Continued on page 20

The Professional Marketplace

RATES AND CLOSING TIME:

Rates: Display classified is \$142.00 per column inch, minimum of one inch. Straight classified is \$12.50 per line, minimum of 5 lines. Count 34 characters per line (include each space and punctuation as a character). Additional \$20.00 charge for all blind box ads. Only those responses which fit into a business size envelope will be forwarded. Responses are forwarded daily.

Closing: Published every Monday. Copy must be in typewritten form by 5:00 Tuesday, 6 days preceding publishing date. No verbal phone copy accepted. Prepayment required for all advertisements. Mail ads to, Cheryl Butler, Classified Advertising, 740 N. Rush St. Chicago, IL. For more information call 312-649-5340. FAX 312-649-7799

HELP WANTED

MAJOR ACCOUNTS PRODUCER/ACCOUNT EXECUTIVE DENVER

National Broker seeking highly motivated Major Accounts Producer/Account Executive with a proven history in business development and effective client account management. Promotion has created this opportunity which includes the management of a unit dedicated to existing book of business. Candidates will need 10 years industry experience, degree with CPCU a plus. Familiarity with the Region is preferred. Excellent compensation package commensurate with experience, performance incentives and attractive benefits.

Please submit resume to:
Director of Human Resources
P.O. Box 17229 • Denver, Colorado 80217-0229

HELP WANTED

HELP WANTED

Liberty Mutual Business Lines Sales Representative

We are looking for an experienced sales professional to sell larger commercial property/casualty accounts. We require 3 yrs. of P & C sales experience, a college degree and an active Property/Casualty license. Salary plus commission and benefit package.

Positions are available in our Novi, MI, Louisville, KY and Cleveland, OH offices.

Please send resumes, indicating geographic preference, to: Virginia Pagliaro, Human Resources Dept., Liberty Mutual Group, One PPG Place, Suite 2700, Pittsburgh, PA 15222.

Liberty Mutual Group is an equal opportunity employer committed to workforce diversity.



HELP WANTED

HELP WANTED

INSURANCE AGENTS

Tired of producing business and not getting paid for it? We will pay up to 75% new and renewal commission for your commercial property and casualty business. Licensed nationally. Contact Larry Cushman at 1-800-833-7090.

WORKERS' COMPENSATION CLAIMS ASSISTANT DIRECTOR

Large Southeastern Third Party Administrator is seeking an Assistant Director to manage their Workers' Compensation Claims office in Baton Rouge, Louisiana. Successful candidate will have ten years experience in Workers' Compensation with excellent supervisory skills. Great benefits! Salary commensurate with experience. If interested, please send resume to PCA Solutions, Inc., Attn: Human Resources Dept., P.O. Box 166007, Altamonte Springs, FL 32716.

BUSINESS OPPORTUNITY

LARGE FLEET TRUCKERS LIABILITY INSURANCE COVERAGE

We are currently appointing producers for our large fleet program. The program offers guaranteed cost and small deductible truckers' liability with our "A" rated admitted carrier. Written in most states, if you can use a program like this direct your inquiries to:

MARKETING MANAGER, KF&B, INC.,
P.O. BOX 29087, GLENDALE, CA.
91209-9087

WANTED

WANTED

Clean corporate shell holding valid and current Pennsylvania life insurance license. Call M. Scott Zegeer (412) 338-1509.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT Central District of California

In re Petitions of Philip J. Singer and Christopher John Hughes,
The Scheme Administrators of ICS Reinsurance Limited and
RMCA Reinsurance Limited (the "Companies")
Case Nos. MI 93-00139 (ER) and MI 93-00140 (ER)

NOTICE IS HEREBY GIVEN that on January 19, 1995, orders were entered by the United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court") in connection with the cases filed with respect to the Companies under section 304 of the Bankruptcy Code (the "Orders").

The Schemes of Arrangement between the Companies and their creditors (the "Schemes"), as approved by the required majority of the Companies creditors on December 10 and December 14, 1993, and sanctioned by orders of the High Court of the Republic of Singapore (the "Singaporean Court") on March 29, 1994, and by the High Court of Justice, Chancery Division, Companies Court, sitting in London England on April 22, 1994, shall be given full force and effect and shall be binding on and enforceable against all Scheme Creditors (as that term is defined in the Schemes) in the United States.

All persons are hereby permanently enjoined and restrained from:

1. commencing or continuing any actions or other legal proceedings, including, without limitation, arbitrations or any judicial, quasi-judicial, administrative or regulatory actions, proceedings or process whatsoever, against the Companies or their property, except as provided in the Schemes; and
2. enforcing any judicial, quasi-judicial, administrative or regulatory assessment or order or judgment or arbitration award, or commencing or continuing any act or any action or other legal proceeding, including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action or proceeding or process whatsoever to create, perfect or enforce any lien, set-off or other claim against the Companies or their property, except as provided in the Schemes; and

3. disposing of or relinquishing, to any persons other than the Scheme Administrators, any property of the Companies or proceeds of such property.

All persons are hereby permanently enjoined from commencing or continuing any action or other legal proceeding, including, without limitation, arbitration or any judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever, against the Scheme Administrators (in their capacities both prior to and after sanction of the Schemes), the Companies, the members of the Informal and Formal Creditors Committees or any of their respective directors, agents, employees, representatives, financial advisors, or attorneys (the "Scheme Parties"), or any of them with respect to any claim or cause of action, in law or in equity, arising out of or relating to any action taken or omitted to be taken by the Scheme Parties in connection with these ancillary cases with respect to the Companies under section 304 of the Bankruptcy Code (the "Section 304 Cases"), or in preparing, disseminating, applying for, implementing or administering the Schemes or these Orders.

The Scheme Administrators are authorized to transfer to the foreign proceeding for distribution pursuant to the Schemes any monies or assets of the Companies located in the United States that the Scheme Administrators have or may hereafter recover;

This Court shall retain jurisdiction with respect to the enforcement, amendment, or modification of these Permanent Injunctions or requests for any additional relief in the Section 304 Cases; and

No action taken by the Scheme Administrators, their successors, agents or representatives, or any of them, or their counsel, in preparing, disseminating, applying for, implementing or otherwise acting in furtherance of the Schemes, these Orders, or such further order for additional relief in the Section 304 Cases as this Court may make, shall be deemed a waiver of the immunity afforded to the Scheme Administrators, their successors, agents or representatives pursuant to 11 U.S.C. § 506.

Any party in interest who has not received a copy of the Orders should contact counsel for the Scheme Administrators in writing at the address listed below.

Buchalter, Nemer, Fields & Younger
601 South Figueroa Street, 24th Floor
Los Angeles, California
Attention: Paul S. Arrow, Esq.

Environmental Claims Examiner

American International Group, Inc., a Fortune 5 international insurance and financial services leader, is seeking an Environmental Claims Examiner responsible for complex hazardous waste claims involving significant coverage questions with potentially large monetary exposure. A minimum of 3 years' environmental claims experience is required.

We offer an excellent compensation and benefits package. For immediate consideration, please send resume with salary requirements, to: Corporate Staffing, American International Group, Dept. MR, 72 Wall Street, 11th Floor, New York, NY 10270. An Equal Opportunity Employer.



**American International
Group, Inc.**

World leaders in insurance and financial services

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT Southern District of New York

In re Petition of Anthony James McMahon and Roger Smith,
as Joint Provisional Liquidators of English & American
Insurance Company Limited (the "Company")

Case No. 93-B-42685 (CB)

NOTICE IS HEREBY GIVEN that on motion by Anthony James McMahon and Roger Smith ("Petitioners"), as Joint Provisional Liquidators of the Company, on January 31, 1995, an Order was entered by the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") in connection with the case filed with respect to the Company under section 304 of the Bankruptcy Code (the "Order"). The Order provides (i) that the Scheme of Arrangement between the Company and its creditors, as approved by the required majorities of creditors of the Company on December 15, 1994, and sanctioned by an order of the High Court of Justice of England on January 25, 1995, shall be given full force and effect and shall be binding on and enforceable against all Scheme Creditors in the United States; (ii) that all persons are permanently enjoined and restrained from taking certain actions against the Company, its property, the Pre-Scheme Parties and the Scheme Parties (as those terms are defined in the Order), all of which actions are fully set forth in the Order; and (iii) other related relief.

Any person or entity who wishes to obtain a copy of the Order should contact counsel for the Petitioners in writing at the address listed below.

Chadbourne & Parke
30 Rockefeller Plaza
New York, New York 10112
Attention: Margaret Groarke, Esq.

PROPERTY & CASUALTY LAWYER

Prestigious financial services company headquartered in Southeast seeks a highly experienced property and casualty insurance expert. Must have E&O plus regulatory and licensing experience. Career opportunity to be a key member of the legal team of an industry leading global public company with superb national and international reputation. Successful candidate will have excellent credentials and a proven track record as a recognized property and casualty specialist.

Submit resumes with salary history in confidence to:

ELAINE P. DINE INC.
11 East 57th Street, Suite 1210
New York, New York 10022
Fax: (212) 755-8486
Attn: Alisa F. Levin, Esq.

REINSURANCE SERVICES

The UniSURE Corporation is a systems and management services firm specializing in reinsurance. Our special competence derives from our detailed knowledge of the reinsurance business, combined with our mastery of information and systems technology.

We seek to staff our services subsidiary with experienced ceded/assumed reinsurance underwriting, claims, legal and accounting personnel (several positions). Applicants must be willing to relocate to Columbus, Ohio.

For confidential consideration, please send resume, daytime phone and salary history to:

**The UniSURE Corporation
Human Resources
40 Fulton Street - 14th Floor
New York, New York 10038**

We are an Equal Opportunity Employer

SPECIALTY AGENTS

A Rated national company seeks admitted or surplus lines programs, with track record.

Send outline to:
East West Connection, Inc.
273 Pascack Rd. Suite 416
Westwood, NJ 07675

Get Results Advertise in the Professional Marketplace

Call
Cheryl Butler
at 312-649-5340

Business Insurance Circulation Breakdown

Commercial Consumers

Administrative:

CEO's, Presidents, and Owners, ...2,528
Vice Presidents, General Managers and Other Administrative Personnel 4,118

Financial:

Chief Financial Officers and Vice Presidents of Finance 2,171
Secretaries, Treasurers, controllers and other Financial Personnel 3,335

Risk/Employee Benefits:

Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations 16,157

Sub-total 28,309

Associations 369
Government, Unions and Educational Institutions 974

Commercial Consumers

Sub-total 29,652

Insurance Agents and Brokers 8,408

Insurance Companies 8,181

Accountants, Actuaries, Attorneys & Consultants 3,611

Managers & Health Care Providers 1,903

Others Allied to the Field 849

TOTAL 52,604

★ Source Business/Occupational breakdown of qualified circulation, May 30, 1994 Issue, as submitted to BPA for June 1994 BPA Publisher's Statement

INTERNATIONAL

France

Continued from page 17

rope's largest Gothic palace. It is now partly converted into a convention center. Avignon was the seat of the papacy between 1309 and 1377, when political problems in Rome obliged the popes to leave.

The French cardinals' later refusal to recognize the re-established papacy in Rome created a schism in the Catholic Church that did not heal until 1417.

Given the setting, conference speakers could not resist referring to God, the church, the popes, schisms and the walls of the palace, "if only they could talk."

"The church invented the first form of life insurance in the seventh century, in the form of indulgences," said Thierry van Santen, AMRAE president and risk manager at Paris-based food company Groupe Danone.

But when other European insurance markets began after the Great Fire of London in 1666, the French church considered all insurance and financial matters as the root of evil for working against Divine Will.

Dennis Kessler, president of the Federation Francaise des Societes d'Assurance, an insurer trade group, entitled his speech "Blessed Be Insurance."

He said he was happy to present "a homily to the annual synod of AMRAE," describing the "grand schism" between risk managers and insurers as "the limits of insurance for (the risk managers), and the limits of toleration for (the insurers)."

Prejudice against insurance is stronger in France than elsewhere because of religious tradition and the demonization of insurance during the French Revolution, he said.

In the Middle Ages, "he who came too close to a risk was akin to dining with the devil with a short spoon," Mr. Kessler explained.

Anyone associated with insurance, money or loans was not allowed to go to confession and thus had to "perish in the flames of hell." This prejudice abated somewhat just before the 1789 Revolution with the establishment of the first life insurers in France.

But the revolutionaries quickly banned insurance, claiming that risk selection worked in favor of those who could pay and worked against equality for all citizens, he said.

The situation did not improve with the advent of Napoleon, whose codes form the basis of the French legal system.

"For insurance to be acceptable, it had to be public, social, codified, regulated and nationalized," Mr. Kessler said.

The result is that insurance and financial instruments do not play the same role in France's economic system as in other countries.

"In France, a deficit is completely normal, balance suspect and profit reprehensible," he said. This suspicion of insurance lingers today in France.

While Mr. Kessler said he hopes insurance will play a greater role in the future, he stressed he does not believe in completely free markets for risk and insurance.

"For all markets to function, they must be regulated. Competition carries progress (with it), but this should not be destructive competition nor should it have any privileges attached," he said.

He added he is "totally dogmatic" about the need to harmonize the rules of competition, referring to the lack of common rules governing insurance in the

A company's insurer should be a privileged business partner, he said.

"It should not be just the provision of ordinary service. It should

competitiveness of the company," he explained.

Recently, however, the cost of insurance has risen disproportionately in the context of the recent recession in France. Property coverage prices increased even though the coverage offered has shrunk. This has not helped businesses to stay competitive.

French economic policies discourage growth, Mr. Lemor said. The country's large public-sector deficit of 300 billion French francs (\$56.58 billion) and huge public-sector debt—one-third of it foreign-financed—of 3 trillion francs (\$565.8 billion) present obstacles to growth.

Generous social security benefits, including allowing for retirement at the age of 55 in some cases, further adds to loads on

business. High interest rates of 6%, a consequence of maintaining high fixed-exchange rates—the so-called policy of *franc fort*—are detrimental to business, Mr. Lemor explained.

French business wants "neither *franc fort* nor *Francefort*," the French name for Frankfurt, the home of Germany's Bundesbank, which has a material influence on interest rates in France, he said.

While in principle the state sets economic rules, companies are facing more risks with the globalization of business and trade accords, Mr. Lemor noted.

In France and internationally, "legislation and regulation is more and more complex and paralyzing, in particular in the environment, security and public health," he said. EJ

French executives say historical and religious influences resulted in insurance and financial instruments that play a different role in France's economic system.

European market.

"Contracts are not harmonized, placements are not harmonized. All these regulatory, legislative, legal and fiscal differences hurt the market," he said.

In a later interview, Mr. Kessler acknowledged it will take political action to ease matters for insurers in France. France has been slow in privatizing state-owned insurers.

In addition, while countries in Asia and Latin America have started private pension plans, no such arrangements exist in France. "We need to move from a God we trust to an insurer we trust," he said.

Francis Lemor, president of Societe Francaise de Transports et Entrepots Frigorifiques et Transports Frigorifiques Europeens, a transportation firm known as STEF-TFE, addressed the traditional French notion that profit is somehow wrong.

"The idea of profit has been largely rehabilitated" over the last 15 years in France since the election of President Francois Mitterrand, Mr. Lemor said.

He suggested that in France, it is more respectable to be a *rentier*—one who lives off rents or non-productive investments—than an entrepreneur. But, economic growth and lasting employment are created by entrepreneurs who take risks, Mr. Lemor said.

be close to the company daily, understand its professional practice, participate in its objectives, notably in loss prevention and the search for optimal solutions, and it has to be concerned about the

In new era, no joie left in vivre for French insurers

By MARIA KIELMAS

AVIGNON, France—With competition increasing and financial markets growing more volatile, the good days are over for French insurers, said one of their leading executives.

In this environment, insurers must have more modest goals and concentrate on risk analysis, correct rating and claims administration, said Jean-Jacques Bonnaud, president of Groupe des Assurances Nationales.

Differing with many in his audience of French risk managers, Mr. Bonnaud said insurers have only a minor role to play in loss control.

Loss control should be the responsibility of policyholders, he said last month at the Assn. pour le Management des Risques et des Assurances de l'Entreprise meeting.

To see how tough times are for French insurers, one need look no further than Mr. Bonnaud's own company. Only three days before his speech, GAN estimated its 1994 losses at 2.5 billion to 3 billion French francs (\$470 million to \$565.8 million). The primary culprits: real estate losses and losses from an aggressive, late-1980s move into the personal accident market.

French insurers for decades were bolstered by

real estate and equity market gains, and business in protected sectors such as life insurance. That has all changed. Now foreign insurers compete for non-life business and banks for life insurance business. And a slumping real estate market has hit particularly hard.

Direct insurers should return to their core role, which is to analyze the risks, rate them correctly and administer the claims, he said.

"This does not mean to accept risks at a low rate on the pretext of capacity availability; it is not to maintain business under-tariffed. It is necessary to know how to renegotiate contracts and to adapt," Mr. Bonnaud said.

Insurers should advise policyholders on loss control, but "the framework within which this advice is given should be well defined," said Mr. Bonnaud. Such services should not be a sales tool, but should complement an insurer's risk analysis and should be paid for by the industrial client.

"The insurer has therefore an important role to play in prevention, but it should not be believed that this will be a central role," he said. "The costs of losses borne by the industrial client are larger than those borne by the insurer. The insurance is only the tip of the iceberg."

He and other speakers emphasized the industrial company risk managers should not expect insurers to solve all their problems.

Insurance Services Guide



CPCU® and IIA candidates
I guarantee you will learn more in less time with The Burnham System — or your money back.
Ray Burnham, CPCU, CLU, ARM
19 Everett Street, Southbridge, MA 01550
Call 1-800-GET-CPCU Now!

THE INSURANCE SERVICES GUIDE IS THE PLACE TO REACH KEY DECISION MAKERS!!!

MAKE A STATEMENT IN THESE UPCOMING ISSUES:

March 20th
Risk Management Services
Directory: Risk Management Consultants

Closing: Tuesday, March 14th

April 3rd
Benefits: Managed Care Market Report
Directory: Prescription Benefit Managers

Closing: Tuesday, March 28th

Placing an ad is easy!
Call Cheryl Butler at
(312) 649-5340
for details.



the technology leader

PYRAMID CLAIMS & RISK MANAGEMENT SOLUTIONS

PYRAMID SYSTEMS

Risk Management
Claims Administration
Policy Administration & Rating
Medical Management
fee schedules, bundling, clinical edits
800 Claims Reporting
Data Conversions
Paperless Office
(Imaging)

PYRAMID TECHNOLOGY

Windows
DOS
LANs
Novell, Banyan, etc.
File Server
dBase, Paradox
Client Server
Oracle, DB2, Sybase
Gupta, etc.

Call Gary Michaels at 203-438-3883 x244

Pyramid Services, Inc. An AON Company

Ridgefield, CT • Pittsburgh • Kansas City • San Francisco • Ann Arbor

INTERNATIONAL

Floods

Continued from page 17

two weeks," said Martin van Wel, director of Hendrix Vlees Druten BV, a meatprocessing plant in Gelderland. "We had to evacuate even though we weren't directly affected by the flood."

Mr. van Wel said support is growing for national catastrophe insurance and more compensation from the government. "We're angry," he said. "We just hope the government sees the light."

Dutch businesses saw one opportunity to obtain flood insurance evaporate as Dutch broker and Lloyd's of London underwriting agent Lugt Sobbe & Co. withdrew a catastrophic risk insurance policy from the market during the flood scare.

The Amsterdam-based brokerage has since re-launched the policy, which covers risk of flood, earthquake, explosion from undiscovered WWII bombs, power surges from lightning, cloud burst and terrorist attack.

"It was impossible to cover the risks occurring last week," said Hans van Ommen, Lugt Stobbe & Co director.

The policy has a 14-day waiting period and wouldn't have provided immediate relief to the many applicants seeking the coverage in recent weeks, explained Vice Director Jan Raap.

Lloyd's syndicates underwrite the policy, which has limits of 250,000 guilders (\$145,250).

Dutch insurers refuse to offer any coverage for natural disasters in the catastrophe-prone country.

In the Rhine River valley, thousands of barges were allowed to

resume ferrying their goods along the waterway last week after a 10-day delay.

Germany's largest inland barge operator, Stinnes A.G., estimates its losses at nearly 1 million DM (\$653,000). Two hundred of its owned barges were idled by the flooding, as well as 400 rented barges. "There is nothing to be done in a situation like this," said a spokesman for the company, which does not have insurance to cover its business interruption losses.

In Cologne, Germany, approximately 50,000 homes and businesses were damaged by flood waters.

City officials placed flood damage losses at 65 million DM (\$42.4 million), compared with 120 million DM (\$78.4 million) in the December 1993 flooding.

"People were better prepared this time," said a spokesman for the city administration. "The water was higher, but people knew what to do to avoid losses."

In one area of Cologne, a new flood wall had been raised in the past year that helped to minimize losses.

The city reports it will have spent an estimated 15 million DM (\$9.8 million) on flood prevention and clean-up measures.

Several Cologne companies just barely escaped large losses.

"Experts expected water to rise to 11 meters," or 36 feet 4 inches, said a spokesman for Ford Motor Co.'s European production facility. "If that had happened the entire place would have been flooded," he said.

The river crested at 35 feet, 3 1/2 inches. If it had reached about a foot higher, Cologne would have

evacuated more than 100,000 people.

In Bavaria, officials announced support for compulsory insurance to cover the risk of flooding. A Bavarian government representative, Erwin Huber, said his region was considering legislation that would compel insurance companies to offer property insurance for buildings in endangered areas. Official reports of flood losses in Bavaria reached 20 million DM (\$13.1 million), compared with 40 million DM (\$26.1 million) in 1993.

Overall, German flood losses will exceed 1.5 billion DM (\$979.5 million), estimated the Berlin-based economic institute, Institut der Deutschen Wirtschaft.

Meanwhile, French mutual insurer Macif Provence Mediterranee is canceling multi-risk nonlife policies of 107 policyholders in the areas hardest hit by the floods. The cancellations will take effect April 1.

During flooding in 1993 (BI, Jan. 3, 1994), Macif provoked a public outcry with a similar cancellation. To prevent a repeat, the company this time is offering to reinstate the coverage of policyholders that take steps to reduce their exposure to flood losses.

Macif complains that it has suffered a disproportionately high number of flood claims from this and earlier flooding because local authorities in the areas where its business is concentrated failed to take steps to minimize flood losses. Macif was hit by large flood claims in 1993, 1992 and 1988.

Correspondent Digby Lerner contributed to this report.

London reinsurers seeking 'trusteed' status from NAIC

By STACY SHAPIRO

LONDON—Several London reinsurers that want to become more attractive to U.S. policyholders are trying to take advantage of a quirk in the National Assn. of Insurance Commissioners' Model Law on Credit for Reinsurance.

In most states, ceding companies can take credit for reinsurance placed with a non-admitted reinsurer, as long as the reinsurer puts up a letter of credit to cover unearned premiums plus outstanding and incurred-but-not-reported liabilities.

But these letters have become an expensive administrative burden, and non-admitted reinsurers are reluctant to provide them for IBNR liabilities, said Harvey Simons, executive vp and chief underwriting officer for CNA International Reinsurance Co. Ltd.

London underwriters also say that requiring them to put up LOCs gives U.S.-licensed reinsurers an unfair advantage on costs.

So several London reinsurers are trying to take advantage of a little noticed provision to avoid having to provide letters of credit.

Under NAIC model law, cedants that buy reinsurance from a non-admitted "trusteed reinsurer" can get full credit without the reinsurer putting up a letter of credit. Foreign reinsurers can become trusteed by establishing a U.S. trust with capital that totals gross U.S. reinsurance assumed liabilities plus \$20 million.

Only a few companies have taken advantage of trusteed status, which has been available for years, said an NAIC spokesman in Kansas City, Mo. Several London companies are now pursuing the option.

"We think it's important from an image point of view" to have trusteed-reinsurer status, said Philip Marcell, chairman and chief executive of Unionamerica Insurance Co. Ltd. It has received

trusteed-reinsurer status in 27 states, including California, Illinois, New York and Texas.

CNA International is now an approved non-admitted trusteed reinsurer in California, Connecticut, Georgia, Illinois, Oklahoma and New York and hopes to achieve recognition in all the states where it writes business.

Sphere Drake Insurance P.L.C. also is pursuing trusteed-reinsurer status in all states and has

Under NAIC model law, non-admitted reinsurers with 'trusteed' status do not need to put up letters of credit.

so far been approved in Hawaii, said Chairman Ian Dean. "We want a level playing field with Lloyd's and North American reinsurers," he said.

The Institute of London Underwriters has the option to acquire trusteed-reinsurer status for all of its 65 members under the NAIC model law on credit for reinsurance, said an ILU spokesman. The model law allows for a group of incorporated or unincorporated reinsurers to put up a single trust fund of \$100 million in one state to receive trusteed-reinsurer status, said the spokesman. "The ILU fits this bill," he said.

To date, the ILU has not put up the money, so some individual members are seeking trusteed reinsurer status on their own. Sphere Drake is an ILU member; Unionamerica and CNA are not.

When the money will be put up "is a matter for members to decide," he said. The ILU is more concerned about satisfying NAIC surplus lines requirements, since more ILU premium is generated from surplus lines than Reinsurance, he added.

India

Continued from page 17

delegation, the International Insurance Council, Washington, went to Delhi and Bombay to assess opportunities for U.S. insurers.

Gordon Cloney, president of the IIC, and H. Edward Hanway, chairman of the IIC and president of the CIGNA Corp.'s international property/casualty division in Philadelphia, led nineteen representatives of U.S. insurers, law firms and banks in meetings with representatives of Indian commerce and industry.

"There is a lot of speculation at the moment but all I can say is two things. First, in terms of the wider economic reforms, all the political parties seem to favor it. Second, it's not a matter of whether it will happen but when and in what form it will take," said Pamela J. Baker, vp and counsel in an international division at Liberty Mutual Insurance Co. of Boston, on her return.

Ms. Baker said Liberty Mutual would probably investigate the possibility of introducing a U.S.-style form of workers compensation coverage. Currently, such programs are unavailable for most Indian workers.

Ajit Narain, chief manager for New India Assurance Co. Ltd., a U.K. unit of General Insurance Corp. of India, is also confident that reform will not be ditched entirely.

He foresees huge opportunities in classes such as life, workers compensation and medical insurance for both foreign and domestic companies because India has no welfare state.

"Competition will be fierce for the infrastructure projects, but in the long term I believe that the foreign companies that succeed in India will be those that go for personal lines

business," he said.

Brokerages are also looking at infrastructure projects as a way to get a foot in the door of the potentially huge Indian market.

A spokesman for the U.S. Commerce Department said that \$7 billion worth of contracts, most of them infrastructure projects, had been signed during the recent trade mission alone. Energy projects top the list and brokerages are courting the many interested U.S. companies.

"We have a number of major clients which are going to develop infrastructure projects. They look to us for advice on the design of (reinsurance) programs and how to use the local markets," said John W. Carter, executive director of the global energy division of Johnson & Higgins Ltd. in London.

J&H also recently signed a joint venture agreement with New India when they launched a cargo insurance program for exporters to India in January. At that time, John W. Gussenhoven, chairman of J&H Ltd., said the New York-based brokerage intends to be one of the first to move directly into India once the restrictions are lifted.

While U.S. interest in India is currently high, many feel that British insurers will be at the front of the queue when reform finally arrives.

"Historically the U.S. insurers never really did much in India. But the British companies were very big in India before nationalization and it was a very important part of their business. There is certainly a lot of British interest and they are probably a lot farther down the road than most of the Americans," said David Vermont, general representative of New India in London.

British insurers were forced to leave when the life industry was nationalized in 1957 and the non-life industry in 1973.

John Robins, group chief executive of Guardian Royal Exchange P.L.C., went on a fact-finding tour of India in January. He is convinced that Guardian should return to India once the law allows them to do so.

"It's impossible to say when. Anything could happen, but I confidently expect liberalization within the next two years. It's only a question of time before we are back and involved again," he said.

Royal Insurance Holdings P.L.C. of London set up in India in 1845. By 1973, it had captured 15% of total Indian market share and is keen to return, a spokesman said. He said company representatives had visited India several times in 1994.

Sun Alliance & London Insurance P.L.C. was the first British company to set up in India in 1825 and has already paved the way for its return.

In November last year, Sun Alliance's loss control company, Hazard Management Ltd. in London, set up Chalamandalam Hazard Management Ltd. as a joint venture with Chalamandalam Investment & Finance Co. Ltd. of Madras, to take advantage of increased demand for risk management and loss control services after reform.

"Currently risk management is not very developed in India. This is because it is a tariff market, it is nationalized and there are very low deductibles. There is therefore very little incentive to manage risks as we do here. The the only real risk management tool is insurance," said David Marwood, managing director of Hazard Management in the United Kingdom.

"With a tariff market, underwriters make very little differentiation between good and poor risks. Once differentiation comes about there will be a rapid change in attitude," he said.

Mine

Continued from page 17

viewing the case to determine whether any action can be taken against Dyno Wesfarmers, Mr. Rowley said.

However MIM Ltd., one of Australia's largest mining companies, has a more extensive business interruption policy. Of MIM's primary layer, which covers up to \$10 million Australian (\$7.5 million), \$2.5 million (\$1.9 million) is placed with London underwriters, led by the F.R. White syndicate, and \$7.5 million (\$5.6 million) is with MIM's Singapore-based captive, Mimsure Insurance Pte. Ltd., which is managed by Sedgwick Asia Pacific Ltd. It retains \$2.5 million Australian.

Mr. Dowler said the claim was very complicated, and the figures were still being compiled.

Peter A. Wyatt, chief executive officer of The Wyatt Group in Brisbane, was retained by MIM broker Sedgwick Ltd. to handle loss adjustment.

Neither Mr. Wyatt nor Mr. Dowler would reveal the amount of MIM's deductible, nor the business interruption loss estimate. But Mr. Dowler said the monetary deductible was "substantial." Mr. Dowler said he hoped MIM's claim could be clarified within months, with the parties reaching "a compromise

figure" to avoid lengthy delays.

Mr. Dowler said there was "a very strong case against Dyno Wesfarmers for recovery. If you're mixing explosives, there are certain safety precautions. If things go bang, then the assumption is, it wasn't done properly," he said.

Mr. Wyatt confirmed that MIM's London underwriters were considering a subrogation action against Dyno Wesfarmers to recover their losses and said that Placer also may have an action.

"If the Dyno Wesfarmers employees are found guilty, that would indicate a civil case is open and shut as far as liability is concerned," Mr. Dowler said.

Brian Martin, chief operating officer for Dyno Wesfarmers, said in a statement that he had become aware of the summonses issued by the PNG government only through press reports.

"Dyno Wesfarmers will contest any summonses and is firmly of the view that in due court the court process will vindicate both the company and its officers," Mr. Martin said.

Mr. Martin said the company was preparing its response to the PNG Mines Department's report and it had "serious and substantive issues" to put before the chief inspector of mines, in response to allegations and statements in the report.

Coalition

Continued from page 1
250,000 employees and dependents covered by the employers' medical plans.

Earlier this month, the group renewed its contract with HealthPartners, which since 1992 has served as the exclusive managed care network for employees enrolled in the coalition's Choice Plus health plan. The Choice Plus plan was custom designed by the group based on specific cost, quality and patient education parameters and featured a common plan design and single plan administrator (BI, July 13, 1992).

Because of the plan's success, the group agreed to contract with HealthPartners through 1997, with the option to extend the deal through 1998.

But, beginning in 1997, the group's Choice Plus plan now wants to offer participants an expanded choice of "care systems" outside the HealthPartners network.

Leaders of the business group say the decision to end its exclusive arrangement with HealthPartners is not a reversal in strategy, but rather an evolution in the employers' desire to create more competition among health plans and providers.

"We never were comfortable with how provider contracts were set up in this market," said Steve Wetzell, executive director of the coalition. "The market is still dominated by large health plans and they are still competing based on the size of their networks."

Indeed, the Twin Cities area is now virtually controlled by four "mega" health networks—HealthPartners, Allina Health System, PreferredOne and Blue Cross & Blue Shield of Minnesota—each of which achieved a hefty market share through recent mergers and consolidations among regional health care providers.

"The current incentive for (those organizations) is to buy up as much of the care system as they can," Mr. Wetzell noted. "How is that related to increasing quality, effectiveness and competition?"

"The perception is, some providers are included and others are not simply because the huge health plans have not gotten them in their networks," said Paula Roe, vp of compensation and benefits for Norwest Corp., a BHCAG member. "We want all providers to have an opportunity to deliver care to our employees and their families based on substantive quality, service and cost information."

In addition, the coalition wants to reward the physicians and hospitals that achieve the highest level of quality and cost effectiveness, she said. That isn't possible, though, under the group's current purchasing model because employers can contract only with large managed care organizations.

Right now, employees enrolled in the Choice Plus plan can receive care from among several "care systems" that are part of a large managed care organization's network, explained Fred Hamacher, vp of benefits and compensation for Dayton Hudson Corp. and chairman of the BHCAG. The employees pay the same contribution regardless of which care system they go to for treatment.

At the same time, all of the care systems are paid the same per member/per month fee, he said. "So what is the incentive for one care system to be more efficient or deliver higher quality, if they are all paid the same fee?"

Moreover, the BHCAG members realized the cost and quality improvement requirements they had set were actually penalizing the more efficient providers. For example, a physician who handled a patient by phone, rather than having the patient visit the office, would not be reimbursed.

'The market is still dominated by large health plans and they are still competing based on the size of their networks,' says Steve Wetzell, the coalition's executive director.

To foster competition at the "care system" level—rather than the managed care organization level—the coalition wants some drastic changes in the relationships between managed care companies, providers and employers. "We want to set up a consumer-driven model where employees can see standard information on price, quality of outcomes and member satisfaction" and base their enrollment decisions on that data, Mr. Wetzell said. "If we do this right, the market will be purely consumer driven, rather than a negotiation between employers and providers."

Under a new purchasing model, the coalition wants to contract directly with so-called "care systems"—groups of physicians, clinics, hospitals and other health care providers—that can be held accountable for the cost and quality of the care they deliver through risk sharing arrangements.

Prior to this year, the care systems in the market did not have the infrastructures in place to enable them to contract directly with purchasers. But that has changed and care systems in the region are now gearing up to do business with the coalition—on its terms.

For example, East Metro Health Organization, a group of 35 independent primary care and specialty medical practices, is discussing partnerships with other providers in order to compete as a care system for BHCAG business, said Dr. John Frederick, chief executive of the organization.

"We're announcing our plans early to give health care providers sufficient time to understand exactly what we are asking for," Mr. Hamacher noted.

Among other things, the employers want the ability to isolate information about the quality and cost characteristics of specific groups of providers participating in a managed care organization's networks.

But, to do that, managed care organizations will have to disassemble the layers of financial and medical management services they provide to doctors and hospitals.

The employers also want the managed care companies to unbundle the claims administration, data analysis, customer service and other non-medical management services they provide to the medical groups and hospitals in their networks.

After separating all those components, the employers should be able to ascertain what hospital and physician groups are providing the best medical care most cost effectively.

"Rather than have a single, large system where all the data is averaged so that the most productive provider disappears in the blend we'd rather have a system

where the consumer can reward the most efficient, highest quality providers," Mr. Halvorson explained.

Care systems that cannot provide all of the medical services patients need will have to subcontract for them with other care systems. The care systems could pur-

chase administrative and other non-medical services from other vendors, including managed care companies.

"This changes the dynamic" between managed care organizations, providers and patients, Mr. Hamacher said. "The managed care companies are no longer dominant."

"The distinction to be drawn between what a (managed care

HMOs

Continued from page 2

After four or five strong months in 1994, investors pulled back due to uncertainty over federal health care reform. But, when reform efforts stalled, HMO stocks rebounded (BI, Nov. 7, 1994).

Then, in December, a study by the Washington-based Group Health Assn. of America projected HMO premiums would fall 1.2% in 1995.

"The market interpreted that to mean HMOs were going to cut premium prices," and because HMOs do not have a similar control over costs, it feared profits would be squeezed, Mr. Mains said.

The result was a massive sell-off. For the week ended Dec. 9, the HMO stocks reported by BI dropped 7.5%.

Early in 1994, Mr. Mains said, the stocks had been in a "holding pattern," while investors waited for fourth-quarter earnings to be released.

"Fourth-quarter earnings in this industry generally tend to be pretty strong to some extent because many HMOs over reserve for medical costs and during the fourth quarter auditors come in and disallow some of the reserves," he said.

Investors were also waiting to hear about enrollment growth in January, which is usually the biggest of the year, because "enrollment growth will drive profitability for '95 and probably beyond."

"The HMO story continues to be a very strong one in terms of people joining HMOs who didn't previously join HMOs and that enrollment strength will drive earnings and ultimately stock prices as well," he said.

He noted HMOs are going into previously under-penetrated products such as Medicare, Medicaid and small groups. HMO penetration still hovers below 20% nationwide.

Mr. Mains observed that Healthsource, which is on his list of recommended stocks, expects its January enrollment to be 42% ahead of last year's.

He said he is also enthusiastic about the stocks because "while premium price increases are going to be very modest this year, I think that cost containment is stronger than ever among the

company) does now and what they will do under this model is the position it holds between the purchasers and the health care consumers and the delivery system," explained George Morrow, an independent consultant with his own firm, Health Ventures Ltd., in Minneapolis.

"Right now, (managed care companies) are in an interface position in terms of the financial and management filter they bring to the transactions. They've added enormously to the incremental process of reforming the delivery of care, but they haven't really managed the care."

For now, at least one large health plan—HealthPartners—is willing to go along with the employers' vision.

"At our first meeting, HealthPartners' CEO had convulsions after hearing our plan," Mr. Hamacher chuckled. "But, by the fourth meeting, he became a total advocate because he believes he can provide the best services."

"We would become the 'facilitator' for health systems to compete among themselves for patients," Mr. Halvorson said. Rather than

HMOs, and so consequently I think the margins will be as good or possibly slightly better than last year."

Dean Witter's Mr. Richter is also optimistic about HMO stocks. Despite a slowdown in premium increases, cost trends "are as favorable if not more favorable today than they've ever been, and enrollment trends have clearly accelerated in conventional and more importantly Medicaid and Medicare (business)."

Bharat Pandya, an analyst with Kemper Securities Inc. in Chicago, is optimistic as well. Most companies know how to manage their medical costs and possibly reduce them even further, he said.

"We believe at least for the short-term future of about two years, the HMOs are very poised for stellar growth," with profits

'At least for the short-term future, the HMOs are very poised for stellar growth,' says Bharat Pandya.

increasing perhaps 15% to 30%, Mr. Pandya said.

Some investors seem to fear that HMO margins will deteriorate as pricing turns more aggressive in 1995, said Ken Laudan, an analyst with Montgomery Securities in San Francisco.

"However," he added, "we think that the notion of declining margins is two to three years premature and there's still a lot of excess waste to be extracted out of the system."

As a result, larger companies that are efficient "should not see any margin deterioration, or any meaningful margin deterioration, in 1995."

Mr. Laudan recommends "big cap" names that have large market share and critical mass in their operating markets as well as good information technology systems to manage costs more efficiently than their smaller competitors.

As examples, he cites United HealthCare, Humana Health Care Plan Inc. of Louisville, Ky., and Healthsource.

assume risk and set practice protocols, managed care companies would provide services such as provider contracting, collecting and reporting performance data, marketing and administrative functions.

It's unclear whether the other big players in the Twin Cities will be as willing as HealthPartners is to assume this new role, especially since claims administration and other non-medical services represent major profit centers for them.

"We've had the most detailed discussions about this with Allina and they have yet to respond," Mr. Wetzell said.

Officials at Allina, a health organization created by the merger of Medica and HealthSpan, would not comment.

Mr. Morrow pointed out that the changes sought by BHCAG don't spell the demise of large health care organizations.

"There are a lot of functions those health plans can and should perform in the future," he said. "But it becomes clear when you disassemble their services, that you can negotiate a better deal" for some of those services. **BI**

"My perception is that (larger chains) are running into some premium growth slowdowns, which has put more pressure on them to acquire new members," said Greg Moerschel, an analyst with Chicago Corp. And, "my sense is the price competition is more acute with larger than smaller (HMOs) because of markets competition."

His picks, which he would not specify, are smaller HMOs that are "still growing by setting up new programs and new plans." These smaller companies operate in less penetrated markets where there is still room to grow with both price and new markets. They are "not bumping into other HMOs and so are able to maintain premium growth," said Mr. Moerschel.

Strong enrollment growth was a factor Mr. Mains cited in recommending United HealthCare's stock. He noted that enrollment was up 18% on a "same store" basis compared to last year and "that translates into 380,000 new members."

In addition, "they continue to have the best information systems in the business and this, I think, will allow them to contain medical costs and maintain margins in a tight pricing environment."

Also on his list is Miami-based Physicians Corp. of America, which he said ranks No. 2 in Florida and No. 3 in Texas. Last year, both its commercial and Medicare enrollment "grew very rapidly after a few years of slower growth. That growth should accelerate in 1995."

"They made some acquisitions in Alabama and Puerto Rico that look attractive and their medical enrollment, which was down in '94, has good prospects for rekindling growth again in 1995," Mr. Mains said.

Mr. Richter also recommends United HealthCare as well as PacificHealth Systems of Cypress, Calif., and Coventry Corp., parent company of Group Health Plan Inc. in St. Louis. All three have strong managements and diversified product offerings and each is among the predominant players in the markets in which it operates, he said.

Mr. Pandya's recommended list of stocks includes United HealthCare and Healthsource as well as Coventry Corp. and FHP International Inc. of Fountain Valley, Calif. **BI**

Home

Continued from page 1
surer (see related story).

Zurich, Home Holdings and Trygg-Hansa SPP Holding A.B. announced the enhancements as part of a definitive agreement last Friday.

The new features of the deal are:

- An excess-of-loss reinsurance program led by Centre Reinsurance Holdings Ltd. that will provide a minimum of \$1 billion of reinsurance protection.

- An external funding mechanism, provided by an unnamed Zurich unit, that will allow The Home to make interest payments on its public debt for two years after close of the agreement.

- An agreement for an unnamed subsidiary of Zurich to guarantee a minimum net fixed return on The Home's investment portfolio at a rate of 7.5% a year for a four-year period.

"I'm convinced that the details of the agreement will bring a lot of enhanced certainty to all the constituencies involved," said Lars-Goran Nilsson, president and chief executive officer of Home Holdings.

The \$1 billion reinsurance program will significantly increase the protection of the policyholders, he said. "That was one of the key things in the Zurich's discussions with regulators."

The \$1 billion reinsurance contract replaces a previous stop-loss reinsurance treaty that was led by Centre Re. The aggregate amount recoverable under the old agreement was \$590 million and the premium charged was \$159 million.

The interest payment guarantees will ensure that The Home continues to generate adequate investment income to meet its liabilities, while the funding mechanism for public debt will offer similar guarantees to Home bondholders, he said.

The enhancements to Zurich's offer should satisfy the seven regulators who need to approve the deal, Mr. Nilsson said.

"We had many meetings with them and we listened very carefully and this is how we responded to those discussions. By making the changes we think we are in very good shape going forward," he said.

The rest of the elements of the original offer made in December remain unchanged: Zurich will purchase all the publicly held shares of Home for \$10 a share and between 4.8 million and all 22.5 million of the shares held by its parent, Trygg-Hansa; a \$170 million loan from Trygg-Hansa to Home Holdings will be restructured; Zurich will assume roughly \$1 billion of The Home's more than \$2 billion in gross written premiums; and The Home will cease underwriting and be placed in run-off.

A new Zurich subsidiary, Risk Enterprise Management Ltd., will manage the run-off.

"REM will provide all of the claims and administrative services

necessary for Home Insurance's clients. To achieve this, it is expected that REM will be staffed to a large extent with Home professionals," said Steven M. Gluckstern, president and CEO of Zurich Centre Investments Ltd., the holding company for Centre Re and other Zurich units.

State insurance regulators would not comment on the new offer late last week.

"Our main concern is that policyholders will be sufficiently covered and we will have to review that," said Robert M. Solitro, deputy insurance commissioner in New Hampshire, where The Home Insurance Co. and The Home Indemnity Co. are domiciled.

A hearing on the new offer will likely take place within a month, he said.

Regulators will now have to estimate whether The Home has sufficient resources and when it will likely have to pay its claims, said James W. Schacht, acting director of the Illinois Insurance Department, which is another of the seven states that will have to sign off on the deal.

"We have to get a better handle on how the claims are going to run-off and when the claims are going to be paid," he said.

The timing of claims are a crucial part of the calculation, agreed Peter Wade, associate director at Standard & Poor's Insurance Rating Services in New York.

"It depends on the claims pattern. I'm sure that Zurich thinks that the \$1 billion in reinsurance will be enough, but should there be an acceleration in claims or if large claims have to be paid early then they could be forced to pay it all out," he said.

Both S&P and A.M. Best Co. of Oldwick, N.J., are reviewing the

new offer.

The Home bondholders who had opposed the initial Zurich deal are also reviewing the offer, said Lawrence Kill, a senior partner at Anderson Kill Olick & Oshinsky in New York, who represents the bondholders.

"We are looking for meaningful protection for the bondholders. If that is provided then that would be wonderful, but if it is not then we are prepared to take aggressive action," he said.

The bondholders have previously threatened to force The Home to repurchase of the notes at a premium above par (*BI*, Jan. 16).

The enhanced offer does not alter the offer of \$10 a share to The Home's public shareholders. Last month a class action suit was filed by public shareholders alleging that Home Holdings' directors are breaching their fiduciary duty by accepting the Zurich offer over the \$10.50 a share offer made by the Byrne group.

Last Friday, Home executives explained the deal in face-to-face meetings with New York brokerage executives. Brokers have been concerned about the security of The Home ever since the company was downgraded last November. Earlier this month, for example, Sedgwick James Inc. removed The Home from its list of secure insurance companies.

The Zurich proposal for The Home is not as good for the company as the Fund American-led proposal, which would have injected more money into the insurer, according to Mr. Byrne, who added that it beats having no deal at all.

"We will not know whether the \$1 billion will be enough to pay all the claims for about another 15 years, but my feeling is, yes, it will be enough," he said. **BI**

Former Home suitor moves on

After being jilted at the altar, John J. Byrne's investment firm has decided to go it alone.

Mr. Byrne said last week that he plans to form a new property/casualty insurer to be domiciled in New Hampshire.

Mr. Byrne has applied to the New Hampshire authorities for a license for a company to be called White Mountain Insurance, which would probably be based in Hanover, N.H.

The company will have an initial capitalization of \$25 million provided by Mr. Byrne's Fund American Enterprises Holding Inc., "but we could put over \$100 million in if we need to in the future," Mr. Byrne said.

White Mountain will write commercial property/casualty business, as well as homeowners and personal automobile insurance, he said.

Initially it will offer coverage in New England through independent agents, but some coverage will probably be extended to other areas of the United States.

Mr. Byrne will own the company. Its chairman will be Fund American's executive vp, treasurer and secretary, Tom Kemp. Morgan Davis, formerly of Fireman Fund Insurance Co., will be president and CEO.

The move follows Fund American's failed bid for Home Holdings Inc., which was accepted but later rejected in favor of an offer from Zurich Insurance Group.

Mr. Byrne said he would take a second look at The Home if the regulators do not approve the Zurich offer, but in the meantime he plans to proceed with White Mountain.

—By Gavin Souter

Rubell Helm officials sentenced in insurance scheme

LOS ANGELES—A federal judge has sentenced two former officials of a now-defunct Irvine, Calif., insurance agency for their roles in a scheme that bilked policyholders out of millions of dollars.

Michael A. Rubell, the former chairman of Rubell Helm Insurance Services Inc., was sentenced to 2½ years in prison to be followed by three years of supervised release.

Kathleen Stewart, formerly Kathleen Helm, who was once an executive vp of the company, received three years' probation, including six months of home detention.

The sentences were handed down

Jan. 23 in Orange County, Calif.

Mr. Rubell pleaded guilty in August 1991 to charges of mail fraud, embezzlement and tax evasion in a scam that left thousands of employees in a variety of industries in California, Texas, Louisiana and Florida without health and life insurance (*BI*, Aug. 26, 1991; March 20, 1989).

The next year, Ms. Stewart pleaded guilty to charges of embezzlement and tax evasion.

In making their pleas, the two agreed to testify for the government.

In 1993, a Los Angeles County grand jury indicted James B. Helm, Rubell Helm's former president and

chief executive officer, and two other company officers (*BI*, July 19, 1993).

Mr. Helm was sentenced to 48 months in federal prison; Scott K. Clawson, another company official, was sentenced to three years' probation with six months' home detention; and Douglas Taylor received 24 months in prison.

Authorities have said as much as \$10 million was embezzled by company officials from a multimillion-dollar pool of group insurance premiums during the company's five years in business. The company was shut down in 1989.

—By Joanne Wojcik

Updates

A.M. Best now rating HMOs

Continued from page 2

"Benefit managers are most concerned with access and quality of service when it comes to HMOs," said John Hickey, a partner with consultant Kwasha Lipton in Fort Lee, N.J. "Unlike with a property/casualty insurer, the employer isn't stuck with unpaid liabilities if an HMO fails. They just find another health care plan. Still, people are hungry for information, so this will be of some use."

At least two other companies—Weiss Research Inc. in West Palm Beach, Fla., and Demotech Inc. of Columbus, Ohio—already provide HMO ratings.

Ice cream settlement insured

MARSHALL, Minn.—Schwan's Sales Enterprises Inc. says it is insured for the cost of a tentative settlement that would resolve claims filed by thousands of customers over the ice cream manufacturer's sale of salmonella-tainted products last year.

Health officials have confirmed that about 600 people in more than two dozen states were made ill by the products, and they suspect that thousands more may have been affected (*BI*, Oct. 24, 1994).

More than 100,000 customers will be notified of the accord, but Schwan's is unsure how many will participate and what its ultimate cost will be, the spokesman said. Liberty Mutual Insurance Co. writes general liability insurance for Schwan's and will cover the settlement, he said.

Individual settlements generally will range from \$80 to \$4,800. But, seriously injured claimants will be able to recover \$75,000, which also will cover their legal fees, the spokesman said.

Thousands of claimants who previously settled with Schwan's, except minors, would be ineligible to participate in the new agreement (*BI*, Nov. 21, 1994). Minors' total recovery, though, could not exceed the limits established under the new settlement.

The settlement also would restrict plaintiffs' attorneys' fees to one-sixth of their clients' recovery, the Schwan's spokesman said.

Plaintiffs would have until July 1 to respond to the offer. Final court approval is expected May 9.

NAM seeks regulation reviews

WASHINGTON—The National Assn. of Manufacturers is pressuring Congress to strengthen the risk assessment portion of a bill drawn from the House Republicans' "Contract with America."

Two House committees passed nearly identical bills last week that would require federal agencies to assess whether the benefits outweigh the costs of implementing certain regulations. Under a version of H.R. 9, the "Job Creation and Wage Enhancement Act," approved by the House Science Committee last Wednesday, regulations that cost the economy more than \$25 million would be subject to cost/benefit analysis before they could be implemented. The bill would affect agencies dealing with health, safety and environmental rules. The House Commerce Committee later passed an almost identical bill.

Briefly noted

In the latest phase of the nation's largest consolidated asbestos litigation, a Maryland state court jury Friday found 27 asbestos makers liable for exposing shipyard workers to asbestos products, but only assessed punitive damages against Westinghouse Electric Corp., the Habisson-Walker unit of Dresser Industries Inc., and Rapid-American Corp. . . . **A Feb. 10 earthquake** registering 6.4 on the Richter scale caused widespread damage in the industrial city of Pereira, Colombia. It was the second quake to hit Colombia in a month. . . . officials of **Orange County, Calif.**, have offered to repay participants in the county's failed investment pool 77% of their money immediately, with an opportunity to recoup the rest over 15 years through a combination of notes and liens against proceeds from litigation stemming from the county's bankruptcy (*BI*, Dec. 26, 1994). The settlement must be approved by a U.S. Bankruptcy Court judge and 80% of pool participants. . . . Zurich Insurance Group injected £50 million (\$77.8 million) into its **Zurich Re (U.K.) Ltd.** unit, bringing its share capital to £150 million (\$233.5 million). . . . Lowndes Lambert Group Holdings P.L.C. will pay up to £10 million (\$15.6 million) for U.K. protection and indemnity brokerage **Godfrey Merritt Robertson**. . . . **Andrew L. Rogal** was promoted to president and chief operating officer from executive vp at Hilb, Rogal & Hamilton Co., succeeding Robert H. Hilb, who is still chairman and CEO of the Glen Allen, Va.-based brokerage. . . . Saying it expects continued "lackluster" performance within **Aetna Life & Casualty Co.**'s property/casualty operations, Standard & Poor's Corp. placed the company's A+ claims-paying ability rating on CreditWatch with negative implications. . . . The Texas Insurance Department has issued a cease and desist order against **American Fire & Marine Insurance Co. Ltd.**, charging it with unauthorized and/or fraudulent insurance sales in the state. Also named are Marine Marketing Services Inc. of Hillsdale, N.J., an American Fire producer, and Douglas McDonough, a Marine Marketing principal. American Fire, purportedly based in Liberia and Panama, has attracted regulatory scrutiny in several states (*BI*, Jan. 23; May 9, 1994). . . . Swiss Reinsurance Co. and Winterthur Insurance Co. have agreed to a price of 303 million Swiss francs (\$232.8 million) for the **three Swiss Re insurance units** that Winterthur agreed to buy in 1994 (*BI*, Oct. 3, 1994; Oct. 31, 1994). . . . Illinois Gov. Jim Edgar is expected to sign a bill he received last week that would repeal the **Structural Work Act**, which allows injured workers to sue outside of the workers comp system for certain work-related injuries. . . . A bill introduced in the Vermont Legislature aims to give the state oversight of the activities of the **National Assn. of Insurance Commissioners** and regulation of fees imposed by the NAIC. The bill also seeks to provide incentives for other states to adopt reciprocal laws to protect Vermont-domiciled insurance companies (*BI*, Jan. 30).

Ticker

Euthanasia in the P/C industry

Stronger players slowly putting weaker companies out of business

By MYRON M. PICOULT

Special to Business Insurance

FOR THE MOST PART, property/casualty stocks were in the doghouse throughout 1994.

Part of the problem was the spike in interest rates and the fact that these stocks, for better or worse, were viewed as bond surrogates. Another factor that has weighed on the group's stock market performance has been the quality of corporate reporting, which in general is poor and continues to slip.

But, the fundamental problem has been the lack of any meaningful turn in industry pricing, which basically peaked in 1987. Current prices appear a little above the depressed prices that prevailed prior to the 1985-1987 price run-up. Hence, we are about to embark on the eighth year of the traditional three-year cycle.

In general, investors have been frustrated by the lack of any turn in the "cycle." Neither a spate of severe hurricane losses, a substantial earthquake loss nor the tumble in the stock and bond markets that removed the fluff from portfolio values seems to have had any impact on the bulk of industry managers. On top of this, there seems an almost endless stream of capital waiting in the wings to take over and make over some of the major player wannabees.

The circus that surrounded the capital infusion into Home Holdings Inc. underscores the point. The rationale behind the Home Holdings deal is somewhat obtuse, even as compared to CNA Insurance Cos.' proposed acquisition of Continental Corp. The latter has all the trappings of a Chemical Bank/Manufacturers Hanover combination where 1 + 1 is ultimately likely to equal only 0.8! Put all this in a pot and it is easy to see why the group merits little respect from investors.

Many insurance stock investors would like to see the lights turned out on several of the non-performing wannabees, the belief being that this would help extract the industry from its pricing morass. On the flip

side, we sense that many industry people would prefer to keep the lights burning, or at worst dim them slowly!

Some industry gurus believe the concomitant demise of several subpar insurers could severely strain the capacity of the guaranty pools, particularly vis-a-vis commercial covers. Strictly defined small-business policies, however, probably would make the cut. There would clearly be disruption in the marketplace, and price increases would probably begin to take hold. All this would

We are involved in a migratory cycle in which the strong insurers are cherry-picking good business away from the weaker players.

likely induce changes in regulation, which could encompass some federal intervention.

Some property/casualty insurers have balance sheet problems that are just made worse by corporate inaction. Others have an expense problem because the business flow is insufficient to permit their factories to run efficiently. Unfortunately, many insurers do not have the capital cushion to permit the writedowns necessary to downsize their factories. Some underwriters are in the unfortunate position of having both a balance sheet and an expense problem.

During 1994, there were several deals consummated and several proposals. The finalized deals include Primerica's acquisition of Travelers, and the capital infusions by American International Group Inc. into Alexander & Alexander Services Inc. and 20th Century Insurance Co. The first week of December saw the announcement of CNA's proposed acquisition of Continental, followed by a group of investors led by the legendary Jack Byrne investing in Home Holdings. Home ultimately scrubbed the Byrne proposal in favor of a "higher" offer

from Zurich American, which was spiked with "pixie dust" (see story, page 1)

These transactions clearly put pressure on weaker underwriters that have toyed with the thought of consolidation. Eventually, all the rational slots will be filled and the parade will have passed by many of the wannabees.

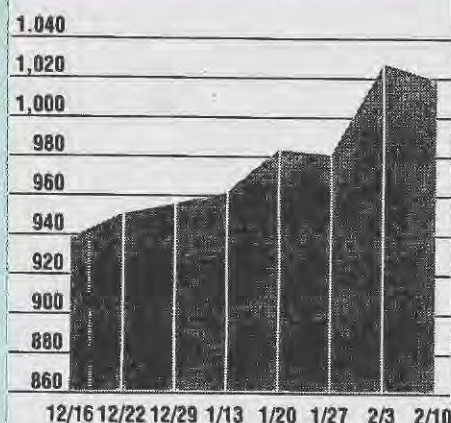
It would be fallacious to ignore the common thread running through these transactions. All the key players belong to a cult: they are all successful, entrepreneurial, informed managers who have specific performance targets. Each has sensed an opportunity at an attractive price. In essence, these managers will take the best parts of their respective investments and discard or shut down the weak segments. In their own way, they are shutting the lights out slowly. Euthanasia has come to the insurance business.

We do not expect all of the above to materially affect industry pricing. The dynamics of the business have changed and we are unlikely to see a typical "cycle." We are involved in a migratory cycle in which the strong insurers are cherry-picking good business away from the weaker players, a scenario we expect to persist for a while. This is not a bad environment for the stronger companies. Depending on the line, there is some pricing leverage for the stronger underwriters; the weaker insurers are less fortunate with respect to pricing flexibility. Their main concern remains retaining their existing book of business. Dr. Kevorkian has begun making house calls in the insurance industry.



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

BI Insurance Index



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

Catastrophe insurance option call spreads

As of Feb. 10					
Call spread	Price bid/ask	Rate on line %	Call spread	Price bid/ask	Rate on line %
Eastern September 1995			Western Annual 1995		
45/65	5.8/6.1	29/30.5	20/30	0.5/3	5/30
50/70	5.3/5.5	26.5/27.5	30/40	0.3/1.8	3/18
60/80	4/5.5	20/27.5	30/50	0.5/2.5	2.5/12.5
100c	8.5/12	8.5/12	50/70	0.6/1.8	3/9
150c	4/5.5	8/11	60/80	0.3/3.5	1.5/17.5
Total volume: 76			Total open interest: 4,951		

For quotes, call the CBOT trading floor at 312-341-3342. For general information, call 312-435-3674.
Source: Chicago Board of Trade

British Issues

Feb. 9		Price	P/E*	Div.*	Yield	1 week
Companies		pence		pence	%	high-low
Comml Union	518	16.5	31.0	6.0	518-493	
Genl Accident	540	10.8	34.4	6.4	540-515	
Gdn Royal Exch	181	11.6	9.5	5.2	181-175	
Independent	269	8.8	10.4	3.9	269-269	
Royal	286	12.4	9.4	3.3	286-274	
Sun Alliance	316	14.2	18.4	5.8	316-302	
Brokers						
Bradstock	97	10.9	7.1	7.3	98-97	
Fenchurch	155	10.8	10.0	6.5	155-150	
CE Heath	234	8.3	20.0	8.5	237-234	
JIB Group	120	10.5	9.4	7.8	120-120	
Lloyd Thompson	149	10.4	9.8	6.6	149-148	
Lowndes Lmbt	169	10.6	9.4	5.6	169-147	
Nelson Hurst	174	17.1	7.0	4.0	174-174	
PWS Holdings	17	N/M	0.8	4.7	22-17	
Sedgwick Grp	154	17.1	7.5	4.9	154-150	
Steel Bri Jones	118	N/M	11.3	9.6	118-118	
Willis Corroon	143	13.2	8.3	5.8	143-140	

Source: Philip Olsen, London

* Latest actual year

BI Industry Stock Report FEB. 6, 1995, THROUGH FEB. 10, 1995

BROKERS

	Price	Weekly % change	Year to date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
Accordia Inc.	NYS	33.75	3.85	0.75	34.00	24.63	171	0.58	1.66	16	13.24
Alexander & Alexander	NYS	21.75	5.45	17.57	22.50	14.00	667	0.55	2.53	-167	6.08
E.W. Blanch Holdings Inc.	NYS	20.50	-2.96	-0.61	23.00	15.75	6	0.32	1.56	-	4.55
Gallagher Arthur J. & Co.	NYS	34.63	1.47	8.20	34.75	28.13	175	0.84	2.43	-	6.48
Hill, Rogal & Hamilton	NYS	11.25	-4.26	-7.22	13.38	11.00	243	0.48	4.27	-	4.72
Marsh & McLennan	NYS	81.63	0.46	3.00	88.75	71.25	1758	2.80	3.43	16	19.40
Poe & Brown	NDQ	21.75	6.10	0.00	22.75	17.00	84	0.12	0.55	14	4.49
BROKERS AVERAGE			1.4	3.1				2.3	-17		

INSURERS/REINSURERS

	Price	Weekly % change	Year to date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
ACE Ltd.	NYS	25.63	3.54	9.63	28.88	20.75	876	0.42	1.64	-	22.45
Acceptance Insurance Cos.	NYS	16.00	0.00	6.67	18.00	11.13	133	0.00	0.00	-	9.83
AEGON N.V.	NYS	65.75	1.94	3.54	66.13	49.38	19	2.29	3.48	-	43.84
Aetna Life & Casualty	NYS	53.13	5.20	12.73	65.75	42.25	6495	2.76	5.20	13	57.21
Allied Group Inc.	NDQ	28.00	9.80	13.13	31.00	22.00	592	0.58	2.07	-	23.43
Allmerica Prop. & Casualty	NYS	19.38	-3.13	14.81	20.13	14.25	773	0.04	0.21	12	19.45
Allstate Corp.	NYS	26.50	3.41	11.59	27.38	22.63	4203	0.72	2.72	20	19.60
American General	NYS	30.13	-0.82	6.64	31.38	24.88	4249	1.16	3.85	12	20.39
American Heritage Life Ins.	NYS	19.00	2.01	0.00	19.50	16.50	84	0.64	3.34	11	12.42
American Indemnity/Fin'l	NDQ	11.75	3.30	16.05	14.25	10.00	25	0.21	1.79	3	15.92
American International	NYS	104.00	-1.77	6.12	106.88	81.75	7494	0.42	0.40	16	49.75
American Re Corp.	NYS	33.63	5.49	4.26	35.75	23.50	624	0.00	0.00	17	16.85
Aon Corp.	NYS	34.13	1.11	6.64	35.75	29.25	778	1.26	3.69	11	21.96
Argonaut Group	NDQ	30.50	0.83	7.96	31.50	26.25	587	1.12	3.67	10	29.80
AVEMCO Corp.	NYS	15.13	2.54	-1.63	17.38	13.38	53	0.44	2.91	13	6.30
Baldwin & Lyons Inc.	NDQ	16.75	0.00	13.56	17.63	13.75	48	0.33	1.97	12	13.56
Berkley W.R. Corp.	NDQ	37.38	-0.33	-0.33	42.00	32.50	199	0.43	1.15	23	36.47
Berkshire Hathaway Inc.	NYS	23800.00	-2.06	16.67	25200.00	15150.00	2	0.00	0.00	30	9157.79
Capital RE Corporation	NYS	24.00	-3.03	-12.33	27.38	18.50	41	0.20	0.83	9	21.48
Capsure Holdings Corp.	NYS	13.00	-0.95	-11.11	16.13	12.13	66	0.00	0.00	13	13.72
Chubb Corp.	NYS	79.25	-1.09	2.42	82.63	68.63	3136	1.81	2.28	13	48.40
CIGNA Corp.	NYS	70.63	3.10	11.00	74.00	57.00	1746	3.04	4.30	9	80.98
CNA Financial Corp.	NYS	70.00	1.08	7.90	80.00	60.00	198	0.00	0.00	184	73.83
Continental Corp.	NYS	19.38	0.65	1.97	28.00	12.00	1765	0.75	3.87	-3	29.69
EMC Insurance Group Inc.	NDQ	9.75	2.63	2.63	10.75	8.50	7	0.52	5.33	-	10.77
Emphesys Financial Gr. Inc.	NYS	37.88	10.58	19.29	38.50	21.25	1119	0.30	0.79	-	N.A.
EXEL Ltd.	NYS	41.63	2.46	5.38	45.13	36.00	3358	1.23	2.95	16	31.62
Fremont General Corp.	NYS	21.13	-2.87	-9.63	26.00	20.88	157	0.19	0.90	7	22.90
Frontier Insurance Group	NYS	23.00	-3.16	5.14	37.50	16.75	161	0.44	1.91	19	14.94
Gainsco Inc.	ASE	8.63	0.00	4.55	9.41	7.62	140	0.04	0.43	12	3.79
General RE Corp.	NYS	129.13	-1.05	4.55	133.00	101.75	3351	1.91	1.48	16	57.17
Guaranty National Corp.	NYS	17.25	4.55	-6.12	18.50	14.00	51	0.50	2.90	11	11.84
Harleysville Group	NDQ	24.13	1.58	-0.52	28.50	19.75	137	0.65	2.69	17	20.18
Hartford Steam Boiler	NYS	42.88	-0.87	7.52	52.88	35.88	195	2.14	4.99	17	14.62
HCC Insurance Holdings	NDQ	24.75	0.00	17.86	25.00	15.00	56	0.00	0.00	-	10.75
Home Holdings Inc.	NYS	9.25	7.25	-1.33	18.25	3.00	204	0.00	0.00	-3	22.38
ITT (Hartford Group)	NYS	95.00	-0.52	7.19	96.63	77.00	4282	1.94	2.04	12	49.95
Kemper Corp.	NYS	44.00	-5.88	16.17	65.00	35.75	5335	0.92	2.09	17	26.68
Lincoln National	NYS	39.13	6.10	11.79	43.88	34.25	5838	1.64	4.19	14	31.98
Market Corp.	NDQ	43.50	5.14	4.82	44.50	37.50	138	0.00	0.00	-	25.15
Mid Ocean Ltd.	NDQ	28.44	3.41	4.36	30.50	22.25	667	0.00	0.00	-	20.24
Mutual Risk Mgmt. Ltd.	NYS	26.00	0.97	-0.95	29.00	21.13	314	0.29	1.12	15	9.11

Top advancing issues: US Facilities Corp., NAC Re Corp., Emphesys Financial Group Inc. and Navigators Group. Leading decliners: Kemper Corp., NAC Re Corp. and U.S. Healthcare. Most active issue: Travelers Corp. The BI Index fell 0.8%; the Dow Jones 30 Industrials fell 0.03%; the S&P 500 increased 0.6% and the NYSE Composite gained 0.3%.

HEALTH MAINTENANCE ORGANIZATIONS

	Price	Weekly % change	Year to date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
FHP International	NDQ	27.25	0.00	5.83	31.00	20.25	1880	0.00	0.00	15	12.22
Humana Inc.	NYS	24.50	-3.45	8.29	25.75	15.75	5883	0.00	0.00	25	6.04
Pacificare Health Sys.	NDQ	69.75	-3.13	7.10	79.50	44.25	637	0.00	0.00	25	14.21
Safeguard Health Enter.	NDQ	8.63	-1.43	-6.76	15.50	8.25	2	0.00	0.00	20	6.16
Sierra Health Services	NYS	30.13	-0.82	-4.74	33.50	21.25	482	0.00	0.00	18	6.04
United Healthcare Corp.	NYS	48.38	-2.03	7.20	55.38	37.25	11197	0.03	0.06	32	6.57
U.S. Healthcare	NDQ	44.75	-4.41	8.48	49.00	33.75	14046	0.62	1.39	19	5.04
Wellpoint Health Networks	NYS	29.38	5.38	0.86	37.00	24.25	805	0.00	0.00	14	12.73
HMOs AVERAGE			-1.2	3.3				0.2	19		
ALL COMPANIES AVERAGE			0.4	4.2				2.3	11		

System design: Nordby International Inc.

It's a risky world...



but Duncanson & Holt has it covered.

We create innovative reinsurance products to cover the challenges of an ever-changing world. As North America's largest accident and health reinsurer, we offer a wide range of treaty and facultative products including:

Special Risk/Personal Accident	Specific & Aggregate Stop Loss
Occupational Accident	Long Term Disability
Excess Portfolio Medical	Long Term Care

We're known for financial strength and sound management, with over \$500 million in annualized premium and a per occurrence capacity of \$100 million.

In a world of risk, Duncanson & Holt is the reinsurance partner you can trust.



Duncanson & Holt Group

Atlanta, Chicago, Dallas, Hartford, London, New York, Philadelphia,
Portland (Me), San Francisco, Seattle, Singapore, Toronto