

# Business Insurance

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

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## Norwood-Dingell patient bill would raise employer costs: CBO

WASHINGTON—Enactment of the House-passed Bipartisan Managed Care Improvement Act—which would allow lawsuits against managed care health plans and, in some cases, employers that sponsor them—would boost employers' premium costs by more than 4%, according to a Congressional Budget Office study.

The survey is expected to be released later this month, but some details were contained in Feb. 10 letters sent to congressional leaders by CBO Director Dan L. Crippen.

See Updates on next page

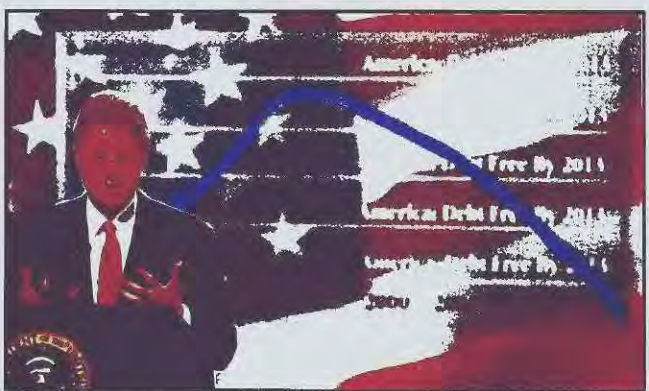


PHOTO: NEWSMAKERS  
Pension and health care provisions are among many benefit measures in President Clinton's proposed budget.

## Benefits in budget

Proposals may raise costs

By JERRY GEISEL

WASHINGTON—Employers would face higher pension and COBRA costs under provisions tucked into the Clinton administration's proposed federal budget for fiscal 2001.

The pension provision would require employers to offer faster vesting schedules for both defined benefit and defined contribution plans.

The COBRA provisions would give beneficiaries tax subsidies to partially offset premiums, which could encourage more individuals to opt for the health care continuation benefits and thus increase employer costs. The budget also calls for requiring employers that terminate retiree health plans to offer continuation coverage for retired workers until they become eligible for Medicare at age 65.

The package also includes a slew of provisions previously advanced by the administration that were not acted upon by lawmakers. Those include:

- Adding a limited prescription drug benefit to the Medicare program, a change that would cut employers' retiree health care plan costs.
- Allowing employees who retire before 65 to purchase Medicare coverage.
- Giving employees credit toward meeting pension plan vesting and participation requirements while on unpaid family or medical leave.
- Making it more costly for employers to qualify for a safe harbor that would exempt them from running non-discrimination tests on 401(k) plans.
- Requiring employers to offer an additional joint and survivor option in their defined benefit plans.
- Allowing employees moving between the non-profit and private sectors to transfer funds between 401(k) and 403(b) plans.

Other employee-benefit related provisions in the package include restoring the tax-favored status of employer-paid graduate education plans and requiring employers, under certain limited circumstances, to automatically roll over

See Budget on page 27

## Suit asks brokers to return contingent commissions

By ROBERTO CENICEROS

CARMEL, Calif.—In an effort to compel brokers to disclose contingent commissions they earn, a law firm known for battling commercial insurers on behalf of policyholders is suing the world's three largest brokers.

The suit is not supported, however, by the Risk & Insurance Management Society Inc., the largest organization of commercial insurance policyholders.

Under provisions of a controversial California law, New York-based Anderson, Kill & Olick P.C.

was able to file the suit without any policyholders actually named as plaintiffs. The firm's suit seeks to make disclosure of contingent commissions mandatory rather than voluntary and force the return of millions of dollars in commissions received without the knowledge of policyholders.

The suit, filed Dec. 23 in Monterey County Superior Court in California, names Aon Corp., Marsh Inc., Willis Group Ltd., their units, and other companies the brokers have acquired or merged with. The plaintiff is a California attorney associated with Anderson, Kill.

The suit arises from some brokers' practice of collecting contingent commissions from insurers with which they place business. These fees, which may be paid to the broker without a policyholder's knowledge, can be rewards for the volume of business placed with an insurer, as well as compensation for services the broker performs on the insurer's behalf. The commissions may also be dependent on a policyholder's loss experience.

The Risk & Insurance Management Society in 1998 focused attention on the issue, with a debate at

See Suit on page 31

## Liggett turns to insurers for tobacco suit costs

By DOUGLAS McLEOD

WILMINGTON, Del.—Cigarette maker Liggett Group Inc. faces a tough legal battle as it tries to surmount tobacco exclusions in its liability policies and force insurers to cover defense and settlement costs in tobacco litigation.

In the first such action filed by a tobacco company against its insurers, Liggett is trying to sidestep exclusions of bodily injury and property damage claims by asserting coverage under the personal and advertising injury sections of its

policies, where the tobacco exclusions arguably don't apply, insurance lawyers say.

Several companies facing pollution liabilities have used a similar tactic, arguing that their liability

policies' personal injury sections—applying to such offenses as trespass—provide coverage even when the policies' absolute pollution exclusions bar bodily injury and property damage claims.

The tactic hasn't succeeded often in pollution cases, though, and Liggett faces at least as tough a challenge in applying it to tobacco litigation, insurance lawyers contend.

"This looks like a very tough row to hoe," said Robert R. Reeder, a lawyer with Cozen & O'Connor in

See Tobacco on page 29



## Survey cites record claims

# D&O rates may be firming

By SALLY ROBERTS

Firmer rates may lie ahead for buyers of directors and officers liability coverage.

Average indemnity payments for shareholder directors and officers liability claims hit an all-time high in 1999, against the backdrop of continued premium declines in the overall D&O marketplace, a new survey says.

That dichotomy, coupled with potential Y2K-related claims that still could materialize by the end of the first quarter, suggest that a change in the market may be in store, the survey says.

Evidence of a changing D&O market already is occur-

ring, according to the Tillinghast-Towers Perrin D&O report. Although D&O premiums continue to decline, the decrease is not as substantial as in years past. D&O premiums for generally equivalent coverage were down 7% in 1999, compared with reductions of 13% in 1998 and 15% in 1997 (BI, April 19, 1999).

In addition to lower premiums, a significant segment of the market also enjoyed higher limits, lower deductibles and enhanced wording on their D&O policies in 1999, the survey notes.

At the same time, however, the average shareholder D&O claim's cost increased 21.1%

See D&O on page 29

| Industries' D&O needs vary            |                  |
|---------------------------------------|------------------|
| ■ median limits                       | ■ median premium |
| <b>Utilities</b>                      |                  |
| ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲                      | \$75,000,000     |
| ▲▲▲▲▲▲▲▲▲▲                            | \$372,688        |
| <b>Durable goods manufacturing</b>    |                  |
| ▲▲▲▲▲▲▲▲▲▲                            | \$35,000,000     |
| ▲▲▲▲▲▲▲▲▲▲                            | \$213,000        |
| <b>Non-durable good manufacturing</b> |                  |
| ●●●●●●●●●●                            | \$25,000,000     |
| ●●●●●●●●                              | \$192,000        |
| <b>Health care</b>                    |                  |
| ◆◆◆◆◆◆◆◆◆◆                            | \$10,000,000     |
| ◆◆◆◆◆◆◆◆                              | \$46,500         |
| <b>High technology</b>                |                  |
| ◆◆◆◆◆◆◆◆◆◆                            | \$6,500,000      |
| ◆◆◆◆◆◆◆◆                              | \$95,683         |

Source: Tillinghast-Towers Perrin

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NEWSPAPER

## Updates

## Bill would hike premiums: CBO

Continued from previous page

He wrote that neither the CBO nor the Joint Committee on Taxation have completed studies on the budgetary effects of competing reform measures, but their impact could still be estimated.

The House bill, sponsored by Reps. Charles Norwood, R-Ga. and John Dingell, D-Mich., and backed by the White House, would increase employer premium costs by 4.1%—or more than three times the increase projected under a narrower, Senate-passed bill, according to the CBO. The Senate bill, the Patients' Bill of Rights Act, does not contain any expanded liability, though it would guarantee the right of independent external review of coverage disputes. The CBO estimates the Senate bill would increase employer premium costs by 1.3%.

A House/Senate conference committee named to iron out differences between the two bills has not yet met.

Employer and insurer groups hailed the CBO estimates as proof that the House bill would be unnecessarily expensive and could cause some employers to drop coverage. "This new data is chilling. With health care costs on the rise, and 43 million Americans lacking health insurance, now is not the time for Congress to pass legislation that its own budget office estimates will only make things worse," said Samuel L. Maurey, president of the Washington-based Business Roundtable, in a prepared statement.

## Insurer suing over 'Millionaire'

LONDON—Underwriters at Lloyd's of London are seeking to rescind their policy covering payouts on the popular ABC television quiz show, "Who Wants To Be A Millionaire," claiming the questions are too easy for contestants.

Goshawk Syndicate Management Ltd., a subsidiary of integrated Lloyd's insurance vehicle Goshawk Insurance Holdings P.L.C., late last month filed suit in the High Court of Justice in London against the show's creator, Buena Vista Entertainment Inc., a unit of The Walt Disney Co. of Burbank, Calif.

The insurance policy, underwritten by Goshawk and a number of other insurers, is for a certain number of episodes of the U.S. program only. The coverage is triggered when contestants win prizes of \$500,000 or \$1 million. The policy provides aggregate limits of \$5 million, with a \$1.5 million deductible. Through 51 shows, there have been two \$1,000,000 winners and three \$500,000 winners.

Goshawk would not say how much, if any, of the losses it has paid. The suit alleges that in December, Goshawk asked ABC to make "significant changes" to its method of selecting contestants and to the degree of difficulty of the quiz questions used, but that its request has been ignored. Goshawk claims the network weeds out less-able candidates and asks multiple-choice questions that are too easy.

Goshawk would not comment further, other than to say its maximum exposure under the disputed insurance policy would have been approximately £750,000 (\$1.2 million), of which a substantial part would be ceded under its normal reinsurance arrangements.

The TV quiz program originated in England, where no contestant has yet won the top prize.

## Tax haven disclosure sought

WASHINGTON—U.S. companies would be required to report on their income tax returns all payments made to entities located in "tax havens," under a proposal included in the Clinton administration's fiscal year 2001 federal budget.

As part of the proposal, the Treasury Department would develop a list of countries it considers tax havens. The criteria used to develop this list would include whether a jurisdiction imposes little or no taxation on income and has strict confidentiality rules and/or ineffective information exchange practices. Several major captive insurance domiciles would fit such criteria.

Payments would not have to be reported in tax havens that, among other things, have effective agreements in force with the United States providing for the exchange of tax information.

While the proposal, if enacted, would not increase taxes, it would create an added administrative burden for businesses operating in tax havens, said Tom Jones, a partner with McDermott, Will & Emery in Chicago.

Meanwhile, the budget also contains provisions, similar to those the administration had previously proposed, that would affect property/casualty insurers. For example, the administration has proposed that insurers reduce deductions for reserves by 25% of income earned on tax-exempt bonds. The current so-called proration standard, set under a 1986 law, is 15%.

The administration recommends that a 40% excise tax be imposed on buyers of structured settlements, a proposal intended to reduce the profitability of settlement resales. The administration made a similar proposal last year, but Congress did not act on it.

## Residual comp market profits

DOWNERS GROVE, Ill.—For the fifth year in a row, workers compensation residual markets in 1998 posted an underwriting profit, according to a new study from the Alliance of American Insurers.

Specifically, the total underwriting profit increased to \$248 million in calendar-year 1998, up 3.3% from the previous year.

"Over the past five years, the residual markets have been reduced in size considerably" and now have less than 10% of market share in all states where they operate, said Roger Kenney, the Alliance's associate vp of research and the author of the study.

More than half the jurisdictions have specific residual market fa-

Continued on page 30

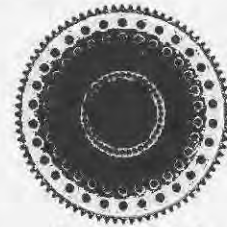
## Nichols aims to avoid the need for NARAB

By MARK A. HOFMANN

WASHINGTON—The president of the National Assn. of Insurance Commissioners wants the organization to be ready to move if producer-licensing reform efforts fail to meet their three-year deadline.

George Nichols III, who is Kentucky's insurance commissioner as well as the NAIC's president, held out the possibility that the Insurance Regulatory Information Network could, in effect, act as the proposed National Assn. of Registered Agents and Brokers and impose uniform licensing standards upon states if necessary.

The recently passed financial services modernization act, S. 900, calls for the creation of NARAB as a national clearinghouse for producer licensing unless at least 29 jurisdictions enact reformed licensing standards by late 2002.



Commercial Insurance Legislative Summit

S. 900 is popularly known as the Gramm-Leach-Bliley Act, after its chief sponsors—Senate Banking Committee Chairman Phil Gramm, R-Texas; House Banking Committee Chairman Jim Leach, R-Iowa; and House Commerce Committee Chairman Thomas Bliley, R-Va. The act, which lifts Depression-era bans on the convergence of banking,

insurance and securities, was welcomed by most—but not all—producers, underwriters and risk managers.

See Nichols on page 6

## P&amp;I clubs need flexibility to stay competitive: S&amp;P

By EDWIN UNSWORTH

LONDON—The world's major protection and indemnity mutuals must become more flexible in offering coverage if they want to continue to dominate the market for third-party liability marine insurance, according to Standard & Poor's Corp.

The 2000 edition of S&P's Marine Market Report, published last Friday, warns that the International Group of P&I Clubs, whose 14 member mutuals collectively insure 95% of the world's ship-

ping tonnage for third-party liability, are facing poorer operating performances and underwriting results.

S&P notes that the clubs have until 2009 to achieve greater flexibility; at that time, their 10-year exemption from European Commission antitrust rules is due to expire. The current exemption lets the clubs operate the International Group Agreement, which frees them from being fully competitive on rates.

Rowena Potter, a director of S&P Insurance Ratings in Lon-

don, said, "The imperative is to create a more flexible, profitable and world-beating International Group that can survive the vagaries of a volatile market."

In some cases, this means more-flexible products to fight off competition from other insurers, Ms. Potter said.

This may involve merging or consolidating protection and indemnity clubs, as has already been happening, or forging links with other companies to gain economies of scale. Ms. Potter

See P&I clubs on page 30

## Aon, M&amp;M profits down

## Brokers see revenue gains

By SALLY ROBERTS

Special charges took a bite out of 1999 profits for the world's two largest insurance brokers in 1999, though their revenue growth remained strong.

Each of the three-largest publicly held brokers surveyed by *Business Insurance* recorded increases in brokerage revenues in 1999. Marsh & McLennan Cos. Inc. led the pack, with a 32.3% rise in revenues to \$6.47 billion for the year. Brokerage revenues do not reflect investment income or revenues from non-brokerage operations.

Special charges totaling \$337 million taken in the second and fourth quarters, however, damp-

ened Marsh & McLennan's 1999 earnings, which fell 8.8% to \$726.0 million.

Among the three brokers, only Itasca, Ill.-based Arthur J. Gallagher & Co. scored increases in both revenues and profits in 1999, reporting a 6.8% rise in brokerage revenues to \$577.6 million and a 16.5% rise in profits to \$67.8 million.

With the full disclosure of its fourth-quarter and year-end 1999 results last week, Aon Corp. shed more light on its previously announced pretax charge and lower-than-expected earnings.

The Chicago-based insurance brokerage giant recorded a \$150

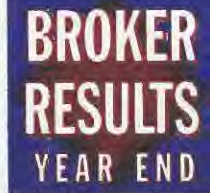
million pretax charge against its fourth-quarter earnings, which slid 90.6% to \$13 million. Overall, Aon's net income dropped by 34.9%, to \$352 million, for all of 1999.

Brokerage revenues at Aon increased 9.2% to \$4.8 billion for the year; of that amount, 5% came from organic growth.

Corporatwide revenues, which includes investment income and revenues from Aon's underwriting operations, increased 8.9% to \$7.07 billion.

Regarding the special charge, Aon revealed that \$78 million will

See Brokers on page 28



## Inside

• The resolve of the National Assn. of Insurance Commissioners to promote uniform standards and prevent the creation of the National Assn. of Registered Agents and Brokers will help state regulators keep up with changes in the insurance industry, this week's editorial says. **PAGE 8**

• Three Louisiana retirement funds have charged, in separate lawsuits, that the city of New Orleans owes them millions of dollars in payments due under state laws that the city has ignored. **PAGE 12**

• Chinese regulators are gearing up for the changes in the country's insurance market that will follow its imminent accession to the World Trade Organization. **PAGE 23**

• Risk managers of Fortune 1000 companies that are accustomed to knocks on the door from the likes of Marsh Inc. and Aon Group Inc. soon also will be hearing from Willis Group Ltd. **PAGE 28**

## Departments

|                                |    |
|--------------------------------|----|
| Advertiser Index .....         | 27 |
| Ask a Casualty Actuary .....   | 17 |
| Classifieds .....              | 26 |
| Commentary .....               | 29 |
| For the Record .....           | 27 |
| Global Briefs .....            | 23 |
| Insurance Services Guide ..... | 24 |
| International .....            | 23 |
| Letters .....                  | 8  |
| Ticker .....                   | 31 |

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# Office romances may court trouble

By JUDY GREENWALD

When Mary Jones opens her e-mail this morning to find the Valentine's Day greeting from her boyfriend—and supervisor—John Smith, it may be with their employer's awareness of the romance, but it is unlikely to be with its approval.

Employers are keenly aware that relationships between fellow employees, particularly those between supervisors and subordinates, have at least the potential to create serious problems for the employer.

In addition to liability exposures from sexual harassment claims and charges of a hostile work environment, a workplace romance can distract employees, hurt morale, reduce productivity and even lead to violence.

Concerns about invading individuals' privacy—as well as the recognition that, human nature being what it is, people are going to get involved with their co-workers no matter what their companies dictate—lead some employers to throw up their hands in despair.

"Most employers that I talk to don't want to touch it with a 10-foot pole," said William Granaham, senior consultant with Milliman & Robertson Inc. in Wakefield, Mass.

"A lot of companies are trying to remain hands off" because of privacy concerns, including an aversion to policing what may be going on inside people's bedrooms, said Ann Long-

more, employment practices liability leader at Willis in New York.

Although it may be unrealistic to expect that employers'

potential liability can be entirely eliminated, there are still ways companies can at least mitigate their risk when dealing with an ongoing romance or one that has turned sour, say experts. These include a strongly stated anti-sexual-harassment policy and adequate management training.

The problems caused by office romances are widespread. According to a 1998 survey of 617 organizations by the Alexandria, Va.-based Society for Human Resource Management, 24% of the employer respon-

dents have had a sexual harassment claim filed against them as a result of a workplace romance.

The issue is further complicated by today's work environment, where people often spend weekends and evenings at work, leaving them little opportunity to form relationships elsewhere.

"There are people with 10-, 11-, sometimes 13-hour days," said Joseph Gibbons, a senior consultant with Towers Perrin in New York. "People have no choice but to find their relationships, probably, mostly at work. Who has time to go to a bar?"

The fact remains that many office romances, just like romances that occur outside the workplace, will fail, yet the two employees often must continue working together.

See Romance on next page



Workplace romances can cause heartburn for employers.

# Balancing work, life a challenge

## Culture change needed to ease stress on workers, say benefit professionals

By REGIS COCCIA

NEW ORLEANS—Helping employees balance their professional and personal lives is not only good policy, it's also smart business, according to work/life professionals.

Public companies face pressure from in-

national Inc.

Striking a work/life balance requires a clear understanding and communication of the goal as well as a commitment from top management to change corporate culture, Mr. Kraemer said.

Deborah King, a speaker representing labor perspectives, also pointed to a link between satisfying both workers and shareholders.

"In the labor movement, there's a realization that unless our companies are profitable, we can't make the kinds of changes we need to make. Unless we have a strong economy, we can't make the kinds of changes we need to make," she said.

As a result, labor unions are shifting to a problem-solving approach, said Ms. King, who is executive director of the employee training and job security program in New York for the 1199 National Health & Human Service Employees Union.

Ms. King and Mr. Kraemer made their comments during a panel discussion held earlier this month at the Alliance of Work/Life Professionals' Fourth Annual

Conference in New Orleans.

The conference, whose theme was "Transformation: Institutional, Personal, Cultural," featured sessions on various work/life issues, ranging from public policy to examples of successful employer programs.

To change corporate attitudes on the value of work/life programs, benefit professionals must win the support of senior managers, who often can't relate to the challenges facing today's workers, Mr. Kraemer said. An older manager, for example, may never have had to arrange care for a dependent child.

"Work/life isn't an intellectual exercise if your spouse works and you're raising children and your child gets sick," Mr. Kraemer noted. People are becoming more comfortable talking about their personal needs at work, which is bringing work/life issues to attention, he said.

But, he added, "we have to be able to balance to get the work done." Doing so calls for working smarter, he said.

See Balance on page 12



**Alliance of  
WORK/LIFE  
Professionals**

Conference coverage continues on page 12

vestors to provide a return, but to attain that goal, those employers must be able to attract workers and keep them productive.

"Most of this really does come down to common sense," contends Harry M. Jansen Kraemer Jr., chairman and chief executive officer of Deerfield, Ill.-based Baxter Inter-

# Brokers not seeing hard turn in market

By GAVIN SOUTER

NEW YORK—Policyholders may be hearing a lot about increases in property/casualty rates, but few are actually paying more for their coverage, a broker executive says.

"We don't see it," said J. Patrick Gallagher Jr., president and chief executive officer of Arthur J. Gallagher & Co. in Itasca, Ill.



Mr. Gallagher

Underwriters may say that they are getting 10% increases, but the market remains very competitive, he said.

"We see an awful lot of trading of business," Mr. Gallagher said at The Insurance Distribution

Summit, held in New York earlier this month and sponsored by Baltimore-based investment bank Legg Mason Wood Walker Inc.

Other brokerage executives speaking at the meeting said that, while they had seen some increases in rates, they all agreed with Mr. Gallagher that a general market turn as severe as the hard market of the mid-1980s is unlikely.

"We are not planning, nor do we believe that we are looking at, anything like a 1984 or 1985," Mr. Gallagher said.

Underwriters are especially reluctant to impose rate increases when they are trying to win new business, he said.

Some property/casualty rates, however, are rising, said Kenneth Pinkston, vice chairman of Willis North America Inc. in Nashville, Tenn.

For example, he said, workers compensation rates in California are increasing, often by 50% to 60%.

"It's almost like 1984," Mr. Pinkston said of the workers comp line in that state.

Some property rates are also in  
See Turn on page 30

# Policies protect ski resorts' earnings Cover when income heads downhill

By SALLY ROBERTS

VAIL, Colo.—Vail Resorts Inc. expects that a new, customized insurance policy will help the ski area operator offset lower-than-expected revenues during the current ski season.

Called a "reduced skier day insurance policy," the coverage is triggered when the number of skier days—defined as one skier skiing one day—falls below pre-set targets, subject to deductibles and limits.

Eric Resnick is vp-strategic planning and investor relations for Vail Resorts, said that the effects of Y2K fears on the U.S. travel industry prompted Vail to purchase the coverage for the first time. Vail Resorts operates the Vail, Breckenridge, Keystone and Beaver Creek ski areas in Colorado.

The number of skier days at Vail Resorts' four ski areas during the period from an October 1999 opening through Jan. 12 is down 9% compared with the same period of the prior season, Mr. Resnick said.

He noted that Vail Resorts expects to recover between \$4.5 million and \$5 million for the quarter from the reduced skier day insurance coverage, but he declined to give specifics about the policy. Vail Resorts' broker, Aon Risk Services Inc. of Colorado, also declined to talk

about the product.

Taking the anticipated insurance recoveries into account, Vail anticipates that revenues for its fiscal second quarter, which ended Jan. 31, will be in the range of \$145 million to \$160 million, compared with \$155 million for the fiscal



PHOTO: VAIL RESORTS INC

Uncrowded slopes are causing some ski resorts to buy insurance to protect earnings.

second quarter of the 1998/1999 ski season, Mr. Resnick said. Earnings before income tax, depreciation and amortization will be in the range of \$45 million to \$50 million for the quarter, compared with \$50 million a year earlier, he said.

Vail Resorts is not alone in purchasing coverage for the risk of fewer-than-expected skier days for the 1999-2000 season.

"With all the poor snow in the last few years, it was an easy decision to make," said a spokeswoman for Crested Butte Mountain Resort in Crested Butte, Colo. She noted that the lack of snow caused the ski resort to open five days late this season and that business had been slow until several snowstorms hit the area in January. Crested Butte purchased a business interruption policy placed by Acorcia Inc. that is triggered by a predetermined number of skier days, the spokeswoman said.

To date, the number of skier days is down 20%, compared with last year at this time. That shortfall will be hard to make up during the rest of the season, the spokeswoman said. If Crested Butte files a claim, it will be in April, when the resort closes for the season.

The spokeswoman declined to provide additional details about Crested Butte's insurance policy.

# Romance

Continued from previous page

"There's a presumption that sexual harassment will arise out of these relationships if permitted by the employer, and that's not an unfounded presumption," said Jim Kuns, a consultant with the Los Angeles-based Employers Group, a non-profit human resource organization. "When relationships go sour, then people's emotions take over and they start to do things."

Walnut Creek, Calif.-based employee relations consultant Ethan Winning said, in one instance involving a client, a woman began to stalk her ex-boyfriend and co-worker, hanging outside his apartment and calling him in the early morning hours.

The ex-boyfriend obtained a restraining order against the woman, but when his employer proved unwilling to terminate her, he sued the company and eventually came away with a settlement of about \$500,000, said Mr. Winning.

In another case, he said, a woman employed by a client threw a computer monitor through a plate-glass window at her ex-significant other following their breakup. "We had to fire her, of course, because of the damage she did."

Relationships between supervisors and their subordinates are a particular concern, said Anne Chubbuck, human resources director at North Hills, Calif.-based Moore Industries-International Inc., an electronics instrumentation manufacturer. "That's where sexual harassment can really come into play."

These relationships do not necessarily affect just the two people involved. If bias is shown toward the subordinate, "it can affect everybody in the entire department," said Ms. Chubbuck.

"The overriding, No. 1 problem is the perception of other employ-

ees of favoritism," especially when there is a reporting relationship between the two participants, which can lead to charges of a hostile work environment, said Mr. Winning.

Relatively few employers have corporate policies that address the issue of workplace romance, though, say experts. According to the SHRM survey, for instance, only 13% of companies have written policies on workplace romance, though 14% said they have unwritten or "understood" policies.

Peter Foster, a Boston-based senior vp with Marsh Inc., said he has encountered several companies "that will not draft anything in writing to prevent this because they fear it will create more problems by putting their policy in writing." They worry such a policy will make employees more aware they can file a claim against the employer, he said.

It was in the 1970s and 1980s, when many employers dropped their no-dating provisions, that "the whole sexual harassment arena really began opening up," according to Willis' Ms. Longmore.

It can be awkward for an employer to tell employees how to conduct their personal lives.

If the employer tries to prevent these relationships, employees will only do it on the sly, which "presents more problems than if everybody is pretty open about it," said Mr. Granham of Milliman & Robertson.

Furthermore, "generally speaking, there haven't been enough precedents set out there for many employers to feel as if they have a right to dictate one way or the other" how employees should conduct themselves on this issue, he said.

The SHRM survey found that even among those employers that do have written or widely understood policies addressing romance, only 7% explicitly prohibit them. Most only attempt to discourage

them.

"I think that reflects the employer's understanding that it's basically impossible to eliminate them completely," said a SHRM spokeswoman. "When people come to work, you can't just leave your personal nature at the door. You're going to... become attached to people and form relationships."

A good policy can mitigate problems, say experts, who recommend companies have a strong anti-harassment policy in place.

**'There's a presumption that sexual harassment will arise out of these relationships if permitted by the employer, and that's not an unfounded presumption,' says Jim Kuns.**

This should be a general, gender-neutral policy that companies can distribute and post prominently, said Ms. Longmore. In addition, employees should be trained about the ramifications of dating fellow employees and a reporting structure established.

Ms. Longmore recommended that policies not call for the lower-ranking employee in the relationship to automatically be the one to transfer out of a department. In most cases, she explained, this person is likely to be a woman, and the policy could be perceived as anti-female.

Some companies also have turned to so-called "love contracts," which stipulate that if a workplace relationship does end badly, the employer will not be liable for any sexual harassment charges (BI, Oct. 12, 1993).

"The whole intent is the company realizes the relationship is going on but wants to be protected should anything go wrong," Marsh's Mr. Foster said of such contracts.

Relatively few companies, however, are using them, said Towers Perrin's Mr. Gibbons. "It's overkill," he said.

Another, perhaps less restrictive, approach is for companies to introduce e-mail and voice mail policies under which all employees sign waivers that clearly say employers are entitled to access these communications, said Mr. Foster.

This way, employers may be able to catch any problems that develop in their beginning stages "and

subordinates are strictly against company policy, said Ms. Chubbuck.

The parties will usually not admit to the relationship, she said. "But even if we feel that they're being discreet and they're not admitting it to us, we do our best to educate them as to the ramifications of dating," she said.

Mr. Kuns said: "The best policy, in my opinion, is to make sure that employees conduct themselves in a businesslike manner at all times at work and their activities are work related... and the fact that people fall in love with one another or have relationships is of no real—or should be of no real—concern to the employer."

If a problem develops and someone behaves inappropriately, the employer should attack the problem at that point, he said.

John Sarno, executive director of the Verona-based Employers Assn. of New Jersey, agreed. "I think most companies believe that good management training tends to be enough to help the new manager figure out what's right and wrong in the workplace," he said.

Good management, sound supervision, discretion and an environment where people "can at least talk about it" if a problematic situation arises are what's called for, Mr. Sarno said.

Mr. Sarno said that just last week, he had a call from the managing partner at a law firm concerned about a romance between two attorneys in his office. The two people were "creating a palpable sense of unease in the office," he said.

"People were reluctant to approach them, feeling uncomfortable that they were somehow interfering or interrupting them and it was actually having a chilling effect on the overall operation of the office," he said.

"We counseled the managing attorney simply to approach them and talk to them maturely and to help them be more sensitive to how their conduct has an impact on their co-workers. You don't need a policy to do any of that," said Mr. Sarno.

"There's a lot of romance in the workplace, and I don't think you're going to regulate it out of existence," he said. "But what you can do is to help people think about the consequences and to act in a way that is not averse to either their co-workers or their employers." **BI**

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## Judge certifies class in suit over N.J. dump

WOODBURY, N.J.—A New Jersey judge has certified a class-action lawsuit that seeks to compel polluters of a toxic dump to provide thousands of individuals with medical monitoring for suspected illnesses.

The ruling last month by Judge John Holston of Gloucester County Superior Court allows the class, estimated at upwards of 2,000 New Jersey residents, to proceed to trial.

"We want to have a trial as soon as possible," said Harris Pogust, the plaintiffs' attorney and a partner with the law firm of Sherman, Silverstein, Kohl, Rose & Podolsky in Pennsauken, N.J.

The suit, originally filed in 1996, alleges that numerous defendants—including Rohm & Haas Co. Inc., Owens Illinois Inc. and Firestone Tire & Rubber Co.—disposed of toxic wastes into a privately owned dump in the town of Pitman, N.J. Chemicals seeped from the landfill and polluted local streams and a lake used by residents for recreation, the complaint states. Chemicals in the landfill included lead, mercury, benzene and vinyl chloride, according to the complaint.

The suit seeks to have the defendants create a fund that would allow people who lived within two miles of the dump for a minimum of one year from 1958 onward, and others who used the polluted waterways, to receive testing to detect any diseases associated with the chemicals found.

A fund is needed, "so that those people can go to their doctors and get tested at the earliest time," Mr. Pogust said.

An attorney for defendant Owens Illinois did not return telephone calls seeking comment.

—By Michael Prince



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# Nichols

Continued from page 2

In an address to the first Commercial Insurance Legislative Summit in Washington last week, Mr. Nichols made clear that the NAIC wants to promote licensing uniformity. And streamlining the licensing process has long been a goal of the Council of Insurance Agents and Brokers, which, along with

**Clearly, 'there is no head-in-the-sand thinking going on at the NAIC' on the subject of uniformity, says the CIAB's Joel Wood.**

American Insurance Assn. and the Reinsurance Assn. of America, sponsored the summit. Producers involved in interstate business have long complained of the cost and time involved in meeting the requirements of multiple state licenses.

Mr. Nichols called on his listeners to push for licensing reform at the state level. He held out the possibility, though, that IRIN could potentially act as NARAB. IRIN is a non-profit affiliate of NAIC whose goals include promoting uniformity and consistency in state insurance regulation. The NARAB provision gives the NAIC the power to preempt state licensing laws if the deadline isn't met.

Mr. Nichols did not spell out exactly how the IRIN regime would

work, but his words drew an appreciative response from his audience.

"There is a clear indication there is no head-in-the-sand thinking going on at the NAIC on meeting the challenges not only of NARAB and the new law but also of uniform standards in the marketplace," said Joel Wood, senior vp-government affairs for the CIAB.

"They're are some vagaries about whether to invest IRIN with preemptory authority. But it's clear that the NAIC is saying, if the reciprocity and uniformity threshold of NARAB is not met within the time frame, they are prepared to create a preemptory regime within the context of NARAB," said Mr. Wood.

"It serves two purposes; it will ratchet up the pressure on the states and local industry groups to remove competitive barriers to agent and broker licensing, and secondly, it is evidence of a willingness on the part of the NAIC to move beyond being a voluntary trade association with no power beyond moral suasion," said Mr. Wood.

Mr. Wood added that the first time IRIN pre-empts a state law, should that ever come to pass, will be "watershed event" that would have ramifications beyond agent/broker licensing to the marketplace in general.

In his remarks, Mr. Nichols also called for "national treatment of insurance companies" by regulators through something similar to a national charter for individual companies. He said he hopes to have resolution on the matter ready for the NAIC's meeting next month. **BI**

# E-commerce tenets proposed

## Principles aim to ensure competition, flexible regulation

By MARK A. HOFMANN

WASHINGTON—Three major commercial insurance trade groups hope that the dozen principles they unveiled last week will help legislators and policymakers define the government's role in e-commerce in a way that encourages competition and promotes efficient regulation.

The principles became public at the first Commercial Insurance Legislative Summit in Washington last week. All three Washington-based insurance trade associations that participated in the summit—the Council of Insurance Agents & Brokers, the American Insurance Assn. and the Reinsurance Assn. of America—endorsed the principles.

According to the groups, the "first requirement" of governmental policy toward e-commerce

should be to "do no harm." To achieve that end, the organizations are calling upon the government to attempt to meet three broad objectives:

- Protect the integrity of the system.
- Promote competition by providing open markets.
- Ensure regulatory efficiency and support efforts to maximize system efficiency.

Among the 12 principles the commercial industry wants recognized are assurances that: electronic signatures and documents will have the same legal standing as their written counterparts; electronic storage will be recognized as an acceptable alternative to the storage of written documents; business-to-business e-commerce transactions—including commercial insurance transactions—will be unregulated; and taxes on all goods and services

will be technologically neutral.

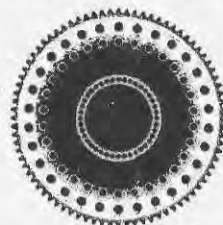
The principles, which aim to promote broad flexibility in conducting and regulating e-commerce, drew the praise of a lawmaker who spoke on e-commerce before the group.

Rep. Bob Goodlatte, R-Va., called the guidelines an "outstanding list."

The insurance industry must have a way to do business online in an efficient manner, with a standard and uniform means of dealing with electronic signatures, including their verification, said Rep. Goodlatte.

Both Rep. Goodlatte and another lawmaker who spoke to the summit—Sen. Spencer Abraham, R-Mich.—noted that the states have adopted a patchwork of laws concerning e-signatures.

"There has to be a movement toward consistency," said Rep. Goodlatte. Policymakers and legislators need to ensure that businesses don't find it "more burdensome, rather than less burdensome" to conduct business online, he said. **BI**



Commercial Insurance Legislative Summit

# Class-action reform urged

WASHINGTON—The Senate majority leader hopes to get at least one vote on class-action lawsuit reform during the current session of Congress.

Senate Majority Leader Trent Lott, R-Miss., also predicted that a managed care reform bill will pass during this congressional session, but he reiterated his preference for a narrower measure approved by the Senate last summer over a House-passed and White House-backed bill that would expose managed care plans and, in some cases, their employer sponsors, to new liability (*BI*, Oct. 11, 1999).

Sen. Lott made his remarks during an appearance before the first Commercial Insurance Legislative Summit in Washington last week. The summit was a joint project of three Washington-based insurance trade asso-

ciations: the Council of Insurance Agents and Brokers, the American Insurance Assn. and the Reinsurance Assn. of America.

The CIAB has held its own legislative conference in February for several years, while the AIA and RAA have not previously held such conferences on their own.

Sen. Lott made clear that he did not oppose all class-action lawsuits, but he asked for "a little reasonableness."

Sen. Lott said he intended to get "at least one vote" on S. 353, a bipartisan class-action reform bill, this session. The measure would, under many circumstances, permit the removal from state to federal district courts those class-action suits that involve parties from more than one state. The measure, which was introduced by Sen. Charles Grassley, R-Iowa,

would also require that sanctions be levied against parties that file frivolous lawsuits, and that contingency fees be "reasonable."

A similar measure has already won House approval.

Sen. Lott admitted that there's no guarantee the Senate will approve the legislation.

"Will it pass? I don't know. Is it worth the effort? You bet," he said.

Turning to managed care reform, the Senate majority leader said he believed Congress will pass a patients' bill of rights that would guarantee the right of external review of disputed coverage decisions. Both the bill passed by the Senate and its House counterpart, which won approval in early October, contain such a right. But the Senate bill would create no new avenues for litigation, whereas the House measure would.

Sen. Lott endorsed the idea of guaranteed review, "so you get a result, not a lawsuit."

—By Mark A. Hofmann



Commercial Insurance Legislative Summit

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## Opinions

## NAIC's reform plan welcome

**W**E ARE ENCOURAGED BY the resolve of state regulators to streamline and improve the existing system of insurance regulation in the face of its threatened replacement by a federal alternative.

The move by members of the National Assn. of Insurance Commissioners represents a candid admission that the current system is flawed and must be overhauled if state regulators are to keep pace with rapid changes in the insurance industry—and not be replaced.

Although it is far from certain that federal oversight would be preferable to the existing system of state regulation, it is plain that the current system is in desperate need of change.

As we reported last week, under the leadership of its new president, George Nichols III, the NAIC is drafting a resolution of intent to re-evaluate its members' role and approach to regulation. Some of the proposals the NAIC membership is considering include the promotion of uniform standards for: handling policy form and rate filings, market conduct evaluations and enforcement, the sharing of information among regulatory authorities, and the oversight of electronic insurance transactions.

In addition to the proposed adoption of uniform regulatory standards, the NAIC also is exploring mechanisms, such as interstate compacts, to achieve these goals.

Perhaps the most ambitious of the group's proposals is one that would allow the operation of a clearinghouse for producer licensing by state regulators rather than by the proposed National Assn. of Registered Agents and Brokers. Under the recently passed financial services modernization act, the NARAB would be created at the federal level unless at least 29 jurisdictions enact reformed licensing standards by 2002.

As we report in this issue, Mr. Nichols has suggested that the Insurance Regulatory Information Network, a non-profit affiliate of the NAIC, could act as the NARAB, with the same ability to impose uniform licensing standards upon states, if necessary.

These initiatives are welcome steps toward making the state regulatory system more effective and less of an impediment to agents, brokers, insurers and reinsurers. The burdens they face from an unwieldy and inefficient regulatory system spread across the states result in higher costs and less flexibility for corporate insurance buyers.

But in order for these proposals to become reality



and achieve their aim of blocking greater regulatory intervention by federal officials, they must clear many hurdles. After convincing a majority of state regulators to support such streamlining and uniformity, these measures would have to pass muster in state legislatures.

As with some insurance regulators, all legislators are elected officials, whose political agenda may not always parallel the aims—no matter how reasonable they may be—of the NAIC. Winning the support of state lawmakers for its bold reform efforts is the weakest link in the NAIC's plan to overhaul and improve state legislation. Generating that support may ultimately prove an insurmountable challenge.

Nevertheless, it is a challenge the NAIC must undertake if it is to remain relevant to the fast-changing industry it oversees and the consumers it serves.

Even if state regulation succeeds in beating back the most immediate threat to its primacy—the creation of the NARAB—it cannot rest on its laurels.

Financial modernization reform is only one change called for by dramatic developments in the insurance industry. There exist greater and more-numerous challenges, including e-commerce, globalization, competition and consolidation, to name a few.

If state regulation of insurance is to continue to develop along with its industry—and it must, to avoid being rendered irrelevant—it has to be ready to take on such challenges.

## Letters

## Structured settlements not a con game

To the editor: I read the Perspective portion of your Jan. 31 issue and have a quick observation about Jim Terlizzi's article, "Exposing Structured Settlement 'Scams.'"

It appears that he might have received some free advertising from your publication. His extreme comparison of structured settlements to an illegal game of three-card monte is a bit strong and maybe a little biased. I notice that he

artfully avoids mentioning the thousands of plaintiffs who settled with insurance carriers for lump-sum payments and one, two or a few years later had nothing to show for it. I am sure that more than one family saw much of their "windfall" disappear in places like Las Vegas or Atlantic City.

He also doesn't mention the value of structured settlements when dealing with minors. Is he ignorant of the injured children who ended up with nothing when they turned 21 because their parents spent the settlement before they had the chance to realize any benefits from it? Sure, some courts take care of that issue now, but many parents have access to the funds before the minor turns 21.

Has Mr. Terlizzi done any study regarding what his clients have done with the lump sum he has given them (less his 18% to 20%!)?

Hopefully, he is concerned about this issue and offers investment counseling as part of his fee. Sure, there are pros and cons regarding structured settlements, but most attorneys have easy access to simple tables that show the value of any proposed settlement.

I do agree that the insurance company or insured (if the case is within a self-insured retention) can sometimes settle a claim for a lower dollar cost with a structured settlement, but I don't agree that structured settlements are the equivalent of a game of three-card monte.

They are good settlement tools for both the insured/carrier and the plaintiff, if used properly.

**David Lasseter**  
Vp of Insurance  
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# Balance

Continued from page 3

"Everybody tells us what we need to do, but nobody talks about what we need to stop doing," he suggested. "We're not very disciplined. We don't prioritize" to focus on the most important tasks, he said.

When employers do achieve equilibrium, "that's balance, that's flexibility, that's commitment, but more than anything, it's leadership," Mr. Kraemer said.

Offering benefits that support work/life balance provides an additional dividend to employers, Mr. Kraemer pointed out: it's a strong tool for attracting and retaining workers.

"It's the right economic thing to do. Work/life balance is a significant competitive advantage," he said.

Achieving such balance, for most employers, requires changing corporate culture, other speakers said.

In the current culture, "CEOs are prisoners—they're out of a job if they don't produce," said Riane Eisler, a social scientist and author of several books on cultural change who participated on the panel.

Ms. King said that a new kind of revolution is needed: workers and management must become partners—instead of adversaries—in discussing issues workers care about. "We've found better suggestions in a democratic workplace from our workers" than when a consulting firm tells them from the top down what is needed for institutional change, she said.

"We need to change the rules of the game," said Ms. Eisler. "One of our problems is visibility. We need to make caregiving visible" to cultivate an appreciation of its importance, she said.

Change in the workplace will not happen overnight or without resistance, summed up Faith Wohl, who moderated the panel discussion. Ms. Wohl, president of the Child Care Action Campaign in New York, said: "You can't be a leader without generating conflict. Conflict is what you have to endure in order for better things to happen." **BI**

# Adapting programs to varied settings

By REGIS COCCIA

NEW ORLEANS—Creating work/life benefits for non-corporate settings, such as government agencies and academic institutions, presents challenges that corporate benefit planners don't face.

In a workshop earlier this month during the Alliance of



## Alliance of WORK/LIFE Professionals

Work/Family Professionals' Fourth Annual Conference in New Orleans, benefit professionals discussed the differences between corporate and non-corporate environments.

Academic institutions, non-profit organizations and government entities are not bottom-line oriented and therefore must identify other means of measuring work/life objectives, the workshop's leaders pointed out.

The idea that "balancing work and life will increase the economy and profitability of your organization" is of little relevance to government entities, noted Kathy Wolf, work/life program manager for the U.S. Department of Justice in Washington.

Ms. Wolf oversees work/life benefits for 120,000 employees nationwide in the Justice Department, which also includes the Federal Bureau of Investigation, the Drug Enforcement Administration and the U.S. Marshals Service.

"The corporate mantra emphasizing reducing expenses and increasing profitability is useless in the federal work environment," Ms. Wolf said.

Because government budget processes create incentives to acquire resources rather than increase efficiency with existing ones, "a federal manager is not particularly interested in coming in under budget," she said. "Success is often measured by how much you spend."

The operative phrase for public entities, therefore, is "different, not disadvantaged," Ms. Wolf said.

At the Department of Justice, Ms. Wolf said, the objective for evaluating the success of work/life programs shifted to enhancing quality and job performance, improving employee morale and reducing absenteeism.

"If you don't have a bottom line to turn to, you can't quantify" the results of work/life pro-

grams, agreed Marilyn Kraut, manager of quality of work/life programs at the University of Pennsylvania in Philadelphia.

Ms. Kraut and Ms. Wolf coordinated the workshop and initiated audience discussion.

Distinguishing factors of non-corporate work environments include the following elements, according to Ms. Kraut and Ms. Wolf:

- Success cannot be measured against a profit margin or stock value.

- Decision-making authority may be widely distributed among groups with different goals. Consensus within the organization, therefore, may be difficult to achieve.

- The organization's "customer" is difficult to identify, making customer satisfaction and employee commitment hard to determine.

- Key employees are not usually determined based on management ability. Many organizations, for example, may be headed by political appointees or well-known figures.

- Long-term organizational planning is difficult due to recurring turnover of appointed administrators.

In government agencies, "many political appointees are there for 18 to 24 months and to punch a ticket for the adminis-

tration," Ms. Wolf said.

- Employee turnover is low. While most corporate employers use work/life programs to attract and retain workers, employee retention is not as big of an issue in most non-corporate organizations.

In addition, many top executives in non-corporate settings often have little experience that helps them understand work/life issues that today's younger employees face, Ms. Wolf said.

"If they haven't experienced it, they don't have a clue. That makes it harder to get their support," she said.

Ms. Kraut added that the presence of younger workers often generates awareness of work/life issues in the office environment. "In the corporate setting, you get a lot of influx of younger workers, and that influences support for work/life initiatives," she said.

In many government agencies, however, the workforce comprises more older employees, said Ms. Wolf, who added that 46% of the Department of Justice's workforce are baby boomers.

"There are special opportunities we can utilize in our environment that aren't available in the private sector," Ms. Kraut said. "You have to be creative to work around the challenges."

# Funds ask New Orleans to pay up

By MICHAEL BRADFORD

NEW ORLEANS—Three Louisiana retirement funds have charged, in separate lawsuits, that the city of New Orleans owes them millions of dollars in payments due under state laws that the city has ignored.

The state retirement funds have not specified the amounts they are seeking, but plaintiffs attorneys estimate the total figure is at least \$77 million. And if all of the funds win their claims, the city would be forced to pay millions more annually under the laws.

The Louisiana Clerks of Court Retirement Fund won its suit against the city in December. As of last week, Judge Janice Clark of the 19th Judicial Court in East Baton Rouge Parish had not ruled on how much the city owes.

The judgment should total between \$18 million and \$20 million, said Alan Breithaupt, a plaintiffs attorney with the Monroe, La., law firm Brown, Erskine, Burkett & Breithaupt who represented the fund. "We have obtained a judgment as to liability, but there was no decision as to damages. I have no idea when that might come."

The other suits, both in Orleans Parish Civil Court in New Orleans, were filed by the Louisiana Sheriffs Pension & Relief Fund and the Louisiana Assessors' Retirement Fund. The suit by the sheriffs' fund was filed last year, while the assessors filed their action in 1994 and the clerks of court first lodged their complaint in 1995.

If the assessors' fund wins its claim, it could cost the city around \$40 million in back payments, according to Mr. Breithaupt, who also represents that fund. He said the estimates for payments to the two funds do not include interest and penalties.

The amount sought by the sher-

iffs is expected to reach around \$19 million, before interest and penalties, according to plaintiffs attorney Anthony Gelderman of the New Orleans law firm of Tarca & Gelderman, who is representing the sheriffs' fund.

The lawsuits charge that the city has ignored its obligation under state laws to pay the funds varying amounts from property taxes charged by a number of city entities. In some cases, the laws mandated the payments from as far back as 1961.

collected the taxes and didn't give us the part they were supposed to. Whether it was intentional or otherwise doesn't matter."

The head of a New Orleans research and government watchdog group said rulings in favor of the plaintiffs could cost the city millions of dollars per year and could entice other funds in Louisiana to follow suit.

"I wouldn't be surprised if others don't wise up to the gig," if the city is forced to make back payments, said Victor Franckiewicz, president

To begin with, Mr. Franckiewicz said, it is unusual for a state to have "so many stand-alone retirement funds for each group of officials and employees." Other states generally have large funds with "subsystems" of funds that are not independent entities but that fall under the central management of the large funds, he said.

In Louisiana, "the method of funding these retirement funds (with property taxes) is nonsensical," Mr. Franckiewicz remarked. "The idea that a retirement fund gets a percentage of the take of the local property tax makes no sense. There is no relation between the property tax and the needs of retirees."

If property tax millage is increased to help pay the amounts that must be raked off for the retirement funds, he said, "all these retirees are better off, but they've done nothing to earn it."

But Mr. Klausner said that "the sheriffs and deputies do their work to protect the citizens, and the Legislature has decided that the cities and parishes that receive those services have to pay their share."

There have been lawsuits in other states in which local entities have been forced to make back payments to retirement funds, according to Mr. Klausner. His firm represents about 70 state and local retirement funds throughout the United States.

Mr. Klausner referred to a case in which the city of Miami was found to have ignored some of its obligations to fund its retirement system about 15 years ago. The city wound up paying around \$20 million in back payments, interest and penalties.

"The courts take these cases very seriously," Mr. Klausner said. "In Louisiana, they place a great premium on employers to properly fund their pension systems." **BI**

## 'The idea that a retirement fund gets a percentage of the take of the local property tax makes no sense,' according to Victor Franckiewicz.

The New Orleans city attorney's office, which is representing the city, did not return telephone calls seeking comment on the case. A spokeswoman for New Orleans Mayor Marc Morial said the mayor's office would not comment on the funds' claims.

Mr. Gelderman said the city has not indicated in pleadings why it chose not to make the payments. City attorneys, he said, have verbally "made some vague assertions that (the legislation) is unconstitutional, but I don't think that will hold water."

Robert Klausner, a plaintiffs attorney who also represents the sheriffs' fund, said the city apparently ignored its legal responsibility.

"It certainly appears that way," said Mr. Klausner, whose firm is Klausner Professional Associates in Plantation, Fla. "We know they

and chief executive officer of the Bureau of Governmental Research in New Orleans.

Other retirement funds, such as those for state registrars of voters and district attorneys, also are entitled to a percentage of New Orleans' property tax under the law.

Using figures for assessments on property taxes due this year, Mr. Franckiewicz projected that a ruling against the city would mean New Orleans would have to pay around \$7.1 million a year into state retirement funds.

Louisiana's laws and the structure of the retirement funds provide fertile ground for the development of other lawsuits like those filed by the funds, Mr. Franckiewicz said.

To other states, the circumstances that led to the suits probably seem "not only unusual but totally bizarre," he said.

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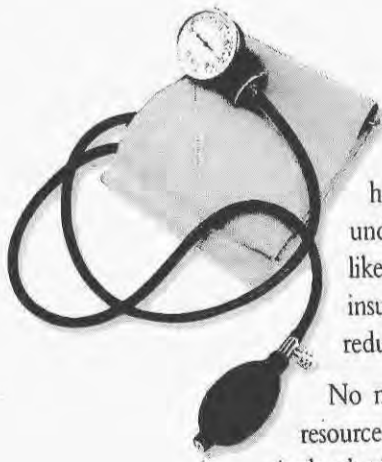
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# ASK A CASUALTY ACTUARY

**Q**

**What are the chances that a major solar storm will cause serious disruptions of power, telecommunications and satellites in the next year?**

**A**

The chances are uncomfortably high. If the forecasts of government scientists are accurate, the chances of such disruptions occurring during the year 2000 are on the order of 50% to 99%, depending on your

definition of "serious." The chances of such activity during 2001 are about half of those for 2000.

The 11-year sunspot cycle is expected to peak this summer, and the potential for major disruptions is largely confined to the two- to three-year period of each peak. In this case, the period would roughly run from July 1999 until June 2001.

The National Oceanic and Atmospheric Administration issued a press release on Nov. 9, 1999, in which its administrator, D. James Baker, said: "When solar maximum occurs, the sun bursts at its seams with explosive power, and, as it churns, there is potential for electrical power outages, radio problems, and the disabling of satellites. This can disrupt communications, including broadcast transmissions and pagers."

During the peak of the last cycle, in 1989, all of Quebec lost power for several days when a geomagnetic storm overloaded power lines.

It would be a mistake, however, to assess the seriousness of solar effects on the basis of past cycles. Since 1989, there has been a tremendous proliferation of high-technology devices that are vulnerable to the adverse effects of solar storms.

**Because of the proliferation of vulnerable high-tech devices, it is a mistake to assess the seriousness of solar effects based on past cycles.**

Foremost among those devices are satellites, which have become the backbone of some cellular phone systems, communications networks and the global positioning system, or GPS, which is widely used for navigation. In addition, "more than 900 new satellites, valued at \$30 billion, will be launched by 2003," according to NOAA.

The devices at risk are not limited to satellites, however. They also include both cell phones and pagers, as well as a broad spectrum of intricate and delicate equipment.

My sense is that the risk management community needs to become more aware and active in anticipating the kinds of difficulties that could result from the effects of solar storms on high-tech equipment. In addition, risk managers must take proactive measures to mitigate potential losses and interruptions.

Except for specialized situations, the biggest concern would appear to be extended power outages. Obviously, the downing of one of our nation's regional power grids—or any significant portion thereof—could result in significant business interruption losses.

The National Aeronautics and Space Administration and other government agencies have been so concerned about the adverse effects of solar outbursts that NASA has launched a special satellite to provide warnings of incoming solar disturbances. Such warnings allow the powering down, wherever possible, of power systems, making them better able to handle large geomagnetic fluxes. In addition, satellites can be reoriented to achieve maximum shielding. In other words, we may expect to go through some brownout periods.

On a more mundane level, risk managers might do well to ensure that most vital computers are equipped with higher-quality surge protectors that also provide "line conditioning." Such steps should protect computers and other electronic devices from damage during the rapid surge of power that occurs when full service is restored.

It may well be that one of the features

**It is virtually inevitable that we will face notable difficulties and disruptions during the next two years from sunstorms.**

separating more-expensive electronic devices from cheaper ones is the presence of shielding or surge protection. Awareness of this important difference might result in wiser, albeit more expensive, purchases during this high-risk period.

There is the real possibility that numerous satellites could be disabled, perhaps permanently. This would suggest that businesses should have contingency plans for dealing with the extended loss of any part of their operations that is dependent on satellites.

The frequency of solar disturbances has varied dramatically over each 11-year cycle. For example, the number of sunspots has typically hit a low of around 10 during the past eight cycles and a high in the range of 150 or more.

Based on past cycle patterns, about 50% of all the "extreme" and "severe" problems would be expected to occur during 2000, with about 30% occurring in 2001. Using this assumption and NOAA forecasts, we can estimate the chances of various types of occurrences during this year.

NOAA has created space-weather scales, similar to the scale used to gauge the severity of earthquakes. There are separate scales for geomagnetic storms, solar radiation storms and radio blackouts.

For example, a G5 geomagnetic storm is characterized as "extreme." Such a storm would likely result in the collapse of grid systems and serious problems with the tracking and continued operation of satellites. The NOAA predicts that there will be four days in the current sunspot cycle in which solar storms will reach this level of intensity. The probability of this happening at least once during the year 2000 is about 86%.

A G4 geomagnetic storm is labeled as "severe" and is expected to result in the collapse of portions of power grids and noticeable voltage-stability problems. The NOAA expects that 100 such storms will occur during the current cycle. It is virtually certain that one or more of these storms will occur this year.

An S5 solar radiation storm is considered "extreme." Such a storm would subject

passengers in high-flying commercial jets to high levels of radiation, and could result in the loss of some satellites, permanent damage to satellite solar panels and extreme difficulties in navigation operations. The odds are about one in four that an S5 storm will occur this year.

An S4, or "severe" solar radiation storm, could result in a blackout of high-frequency radio communications and increased navigational errors over several days. Three such storms are expected per cycle, and the probability of an S4 storm during 2000 is about 78%.

An R5 radio blackout could result in a radio blackout of the entire sunlit side of the Earth for several hours. Chances of an R5 in 2000 are about 30%.

About eight R4 radio blackouts are expected per cycle. During such an event, low-frequency navigation signals that are used by maritime and aviation systems would experience outages on the sunlit side of the Earth for several hours. The probability of one or more R4 radio blackouts during 2000 is about 98%.

Given the various probabilities, it is virtually inevitable that we will face notable difficulties and disruptions during the next two years from sunstorms. We have completed a more-extensive analysis of this issue. If you are interested in receiving a free copy, e-mail us at [rshermnc@aol.com](mailto:rshermnc@aol.com). For more information about solar storms, visit the NOAA Web site, [www.sec.noaa.gov](http://www.sec.noaa.gov).

It appears that solar-related disruptions are a significant contingency that has been generally overlooked in the midst of all the efforts and concern directed toward the Year 2000 bug.

To make matters worse, people got sick and tired of hearing about Y2K. Consequently, they are more likely to dismiss out of hand any phenomenon that might result in effects reminiscent of those predicted by the millennium doomsayers. If we react to this risk in that way, we may find ourselves unprepared to deal with some major property and business interruption losses. **BI**

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*Chicago, answers questions for benefit managers. Christopher E. Mandel, director of risk management at Tricon Global Restaurants Inc. in Louisville, Ky., answers questions on risk management issues. William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits issues.*

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# Strategic rollout crucial to flexible benefits

## To succeed, programs need planning, management support

By REGIS COCCIA

NEW ORLEANS—Thorough planning, communication and management support are crucial to implementing successful flexible benefit programs, a panel of work/life professionals said.

Presenting their experiences at the Alliance of Work/Life Professionals' annual conference in New Orleans earlier this month, the speakers offered "hard lessons" on implementing flexibility in the workplace.

"It's essential that you have a strategic rollout of your program," advised Marcia Ellis, manager of human resources and work/life programs at Sikorsky Aircraft Corp. in Stratford, Conn.

In 1996, Sikorsky sought to expand its flexible benefit programs, which include telecommuting, part-time arrangements and job sharing. While a handful of workers at the helicopter manufacturer had been using these benefits since the mid-1990s, Sikorsky wanted to make them available companywide, she said.

Flexible work arrangements "aren't about women's issues any-

more," Ms. Ellis said. "We needed more than a couple of people carrying the banner. We needed the senior management to buy in, or it wasn't going to fly."

Sikorsky employs about 4,000 workers, of which 82% are men, Ms. Ellis said. Many supervisors and even some workers ques-

"You will not have culture change occur unless you address old work paradigms. You have to address fears and old beliefs," she said.

Sikorsky's initiative documented the process employees must use to request a flex arrangement, a formal proposal that outlines how the worker can meet the company's business needs, she said. The employer also developed booklets to help employees draft and supervisors to evaluate the proposals. Management

training also was mandated, in the form of four-hour seminars during a 10-month rollout. Sikorsky then offered the program to its workers, Ms. Ellis explained.

One mistake was a lack of consistency in employee briefings, she said. But the length of the rollout helped keep employees and managers talking about flex arrangements, Ms. Ellis noted.

Successfully implementing a flex program requires coordination, suggested Kim Coughlin, manager of work/life initiatives for The Hartford Financial Ser-

vices Group in Hartford, Conn. "Take it a step at a time. Do it the right way," she said. "Don't just do it; plan it."

The Hartford's flex programs include telecommuting and compressed workweeks, and different issues arise for each type of arrangement. For example, telecommuting raises questions of at-home safety and whether certain company files can be removed from the office, she said. "Make sure every piece of the job process can be transferred to the home," Ms. Coughlin cautioned.

Corporate policies and systems also must be accounted for when offering flexible benefits, she said. "Don't contradict yourself as an HR organization. Address internal issues," such as policies on paid time off and attendance, she said. For example, Ms. Coughlin found that a company payroll system could not accommodate alternate-week work schedules, making it difficult to administer such a benefit.

Ironically, employers sometimes insist on rigid adherence to policies on "flexible" benefits, she said. Combining flex arrangements, however, such as part-time hours and telecommuting, can be easier than strictly using one or

the other. "Flex arrangements are important to our people, but flexibility is even more important," Ms. Coughlin said.

Communicating with workers on flexible arrangements also is important, noted Anne Lang, director of human resources-United States for Arthur Andersen L.L.C. in Chicago.

Through an Andersen Web site the professional services company's 27,000 U.S. employees can access the company's flexible benefit programs, request a flex arrangement and even track the status of their request in the evaluation process, Ms. Lang explained.

Andersen's flexible offerings include flex time, "telework," compressed workweeks, partial workloads and hybrid programs that combine elements of different arrangements.

Another feature of the site is an overview of the financial impact of flex benefits on the employee's compensation and status for other benefits, she said. "It helps workers plan" which benefits best fit their needs, Ms. Lang said.

The session was moderated by Ed Houghton, manager of employee relations and work/life at Pitney Bowes Inc. in Stamford, Conn. **BI**



Alliance of  
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Professionals

tioned whether such a program could succeed, she said.

Managers fear "the floodgate syndrome," in which droves of workers jump at the opportunity to telecommute or reduce their hours, she said. But the program's success soon dispelled that myth, she said.

When the program started, 48 Sikorsky employees worked from home. That number rose to 150 the year after it was implemented and, since 1998, 250 to 300 now telecommute—about 8% of Sikorsky's workforce, Ms. Ellis said.

# Employers share goals in all walks of work/life

By REGIS COCCIA

NEW ORLEANS—Employers whose businesses may be completely dissimilar face common challenges in meeting employees' work/life needs, a panel of benefit professionals said.

At the Alliance of Work/Life Professionals' Fourth Annual Conference earlier this month in New Orleans, panelists presented both pilot projects and established programs to help people balance their personal and professional lives.

Even at employers as different from one another as Ernst & Young L.L.P. and the U.S. Air Force, working parents struggle with issues such as child care—no matter whether they're on a weekend business trip or stationed halfway around the world.

The Defense Department offers child care for armed forces personnel at military installations throughout the United States, Europe and the Pacific, said Beverly Schmalzried, director of family programming for the U.S. Air Force in Arlington, Md.

The Air Force's approach is based on a philosophy in which parents share in the cost, based on total family income, she said.

"We're concerned about quality, but we're also concerned about cost," Ms. Schmalzried said. "You can have quality and affordability in a child care organization."

Care is provided by homes that are carefully screened and monitored—and subject to monthly, unannounced inspections, Ms. Schmalzried said. The programs are generally staffed by spouses of military personnel, who receive training on the job, she explained.

A successful program the Air Force launched and that Ms. Schmalzried said private-sector employers also can offer cost-effectively is lending child care equipment to families. "We loan families everything they need to offer quality child care," from books to toys to safety latches to play equipment, she said.

In addition to providing full-time child care to families in which both parents work, the Air Force offers child care and youth services for more-traditional families, she said.

Among those programs are short-term specialty summer camps for several activities, including developing computer skills, cooking, tennis, golf and horseback riding. Another program provides partial college funding for teens who perform community service.

For parents who need to work non-traditional hours, finding child care services can be difficult, noted Melissa Sherrill, director of work/family programs at Children's Choice Learning Centers Inc. in Dallas. "There's a growing trend for service-based industries to work longer hours, and they often have no place to put children," she said.

Children's Choice provides employer-sponsored, onsite or near-site care centers that are staffed 24 hours a day, seven days a week. Parents contribute to the cost, but only for the hours they use the center, Ms. Sherrill said.

The centers are staffed by experienced caregivers, educators and health care professionals and offer developmental programs for children ranging from infants to 12-year-olds. Children's Choice also offers "get well centers" within the facilities for children with mild illnesses, such as colds, chicken pox or ear infections.

"We want to be a family center and provide as many services as we can, so parents can come home and be parents," Ms. Sherrill said.

The workplace often is not an accommodating place for mothers who nurse, noted Patricia Kelly, chief executive officer of Limerick Inc., a work/family services company based in Burbank, Calif.

Limerick's services include counseling working parents on caring for a baby and choosing a pediatrician, as well as providing support for working mothers who are breastfeeding.

"Our goal is 'help ease the transition back to work,' but we recognize not everyone wants to do that, and we support that choice also," Ms. Kelly said.

Limerick's Corporate Lactation Program offers extensive prenatal and postnatal training, weekly phone calls during maternity leave, 24-hour consulting by a health care profes-

sional and tools to help nursing mothers at work. For example, Limerick arranges lactation sites with employers, provides mentoring and even can arrange to ship milk for nursing mothers whose jobs require travel, Ms. Kelly said.

A five-year study Limerick conducted of 462 women who have participated in the lactation program showed 34.2% stayed at their jobs, 50% returned to work within 2½ months, and 66% of babies were breastfed for a total of five months, she said. Many women also reported their babies stayed healthy during their first year, reducing the number of days mothers spent out of the office, she added.

"Our study proved that mothers do have a choice. They can go back to work. We know the program is effective," she said.

And corporate executives have cited the lactation program as a recruiting tool, she noted. "It's an indication of how family-friendly a company is."

Employee retention was a problem that Ernst & Young L.L.P. sought to address with a work/life balance program, said Denny Marcel, a member of the Office for Retention team at Ernst & Young in New York.

The professional services firm created the Office for Retention in 1996 after a study showed a high rate of turnover among its women employees, he said.

Ernst & Young developed prototype programs to help workers balance work/life issues. These prototypes included networking opportunities, mentoring and life balance for employees in the company's consulting operations and tax and audit practice, he said.

After each prototype was in place for 12 to 18 months, the project leaders of each area met to share best practices.

The project led Ernst & Young to form what it calls a "life balance matrix," a database of the best work/life practices throughout the firm, such as flexible work arrangements. "We challenged assumptions" about the way work had to be done, Mr. Marcel said.

Ernst & Young's overall goal is to be the employer of choice among all professional services firms, Mr. Marcel explained.

The company determined that each loss of an Ernst & Young professional costs the firm 150% of that employee's annual salary.

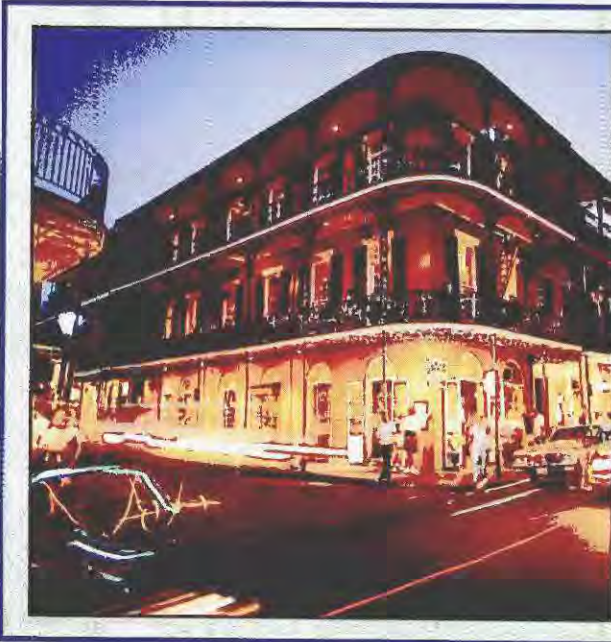
"When you empower people to develop their own solutions, that will spill over into their client service," he said.

PNC Bank Corp. of Pittsburgh found it faced a similar need to offer flexible work arrangements to retain employees, said Heather Buehler, vp and manager of work/life strategies.

After implementing a pilot program in 1998 with workers in PNC's management information systems department, the financial institution is now successfully using flex arrangements as a recruiting tool and a benefit, Ms. Buehler said.

One of PNC's flex arrangements is a reduced schedule in which employees work three or four full days per week with prorated salary but full benefits. A study the bank conducted found that many of those employees received the company's highest productivity rating and nearly 24% were promoted, she said. Of those workers opting for a reduced schedule, only 9% planned to return to full-time status, but 100% were more satisfied with their work/family balance, Ms. Buehler said.

Amy Gage, a columnist at the St. Paul Pioneer Press in St. Paul, Minn., moderated the panel. **BI**

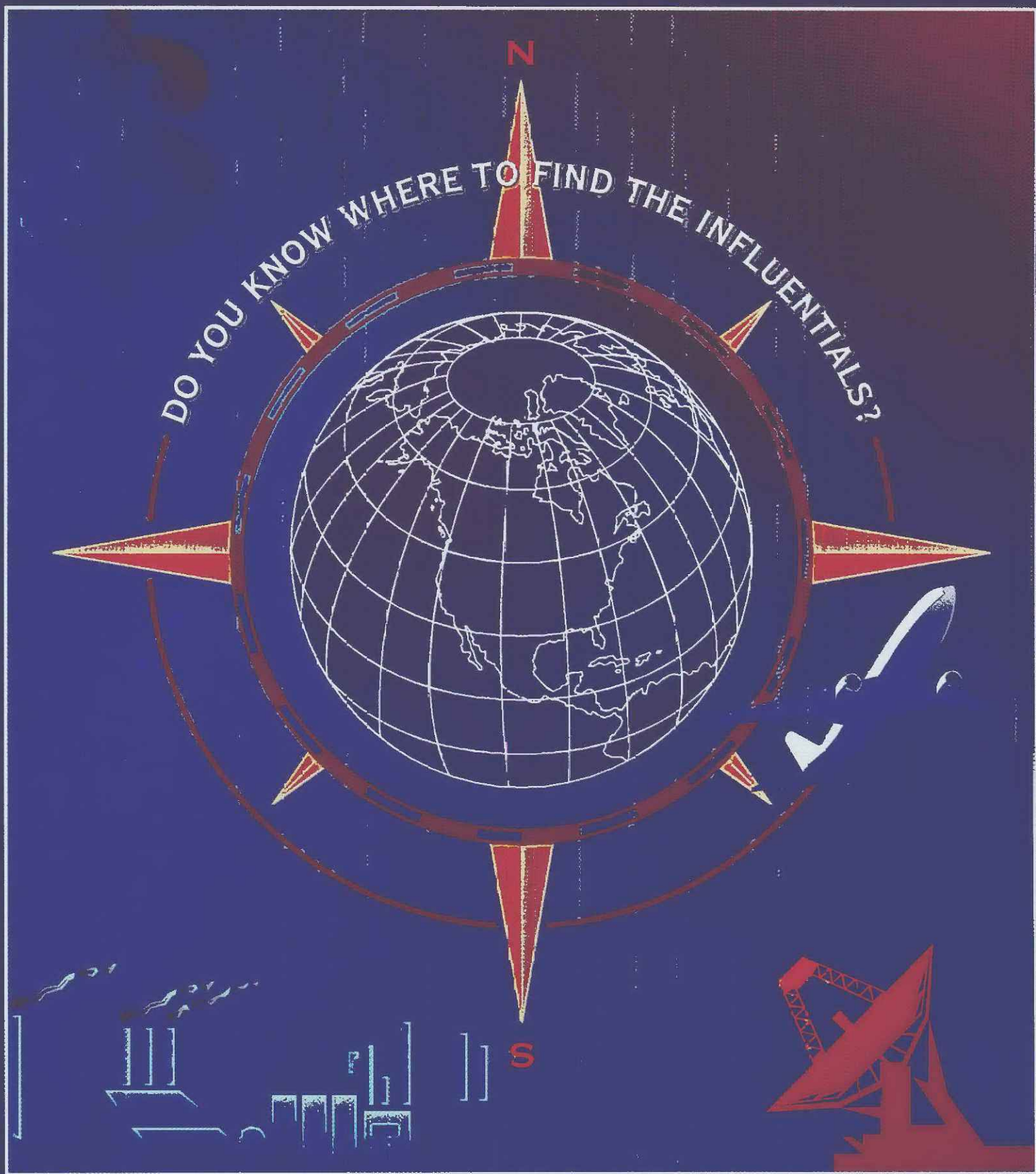


## AWLP visits the Big Easy

NEW ORLEANS—Approximately 600 benefit professionals attended the Alliance of Work/Life Professionals' Fourth Annual Conference, held Feb. 3-4 in New Orleans. The conference theme was "Transformation: Institutional, Personal, Cultural."

The Alexandria, Va.-based AWLP promotes the integration of work and family. Its members include human resources and work/life managers, consultants, and child care and elder care providers.

Next year's conference will be held Feb. 7-9 at Disney's Coronado Springs Resort in Orlando, Fla. For information, contact the AWLP, 515 King St., Suite 420, Alexandria, Va. 22314, 800-874-9383; www.awlp.org.



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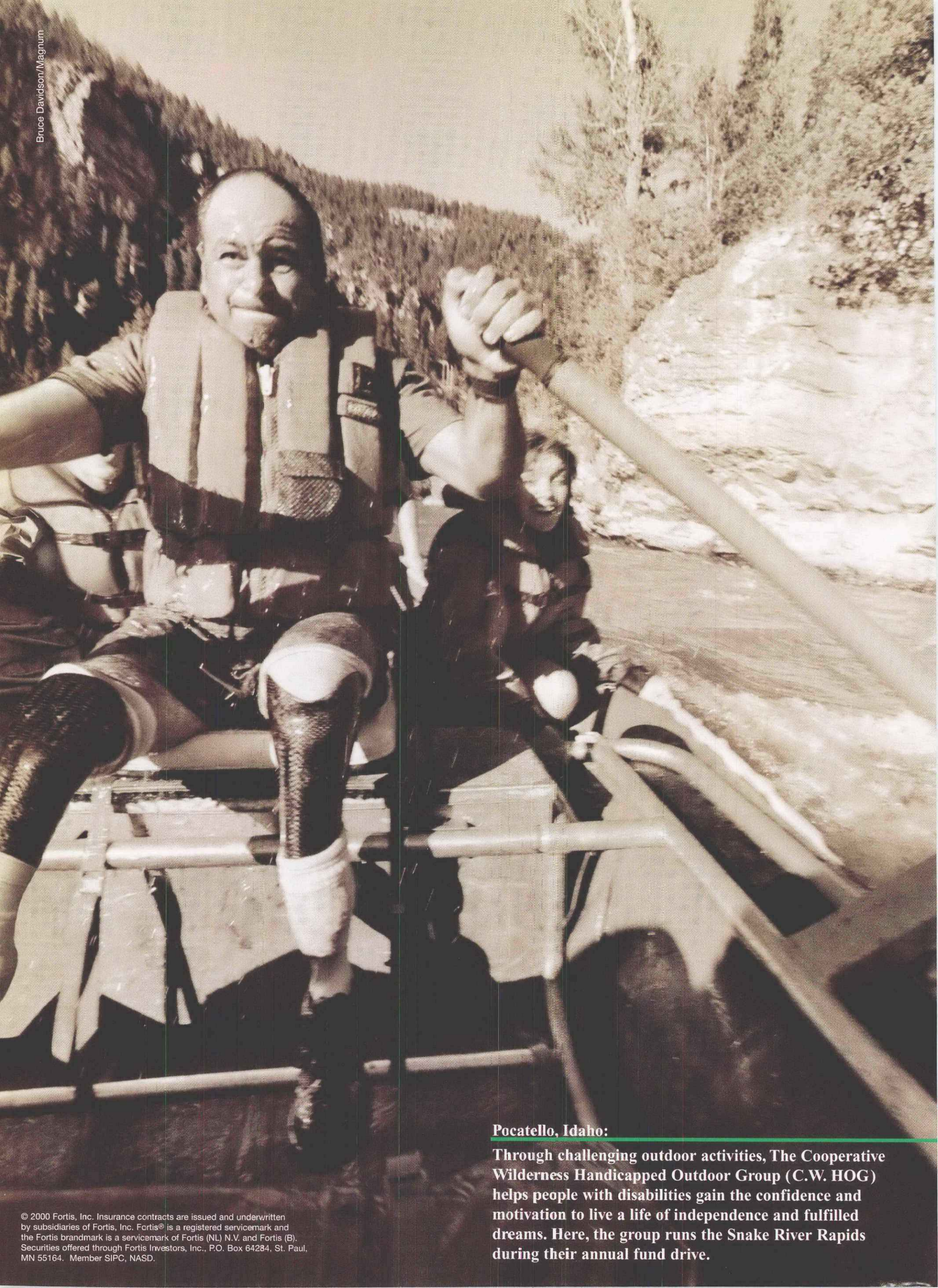
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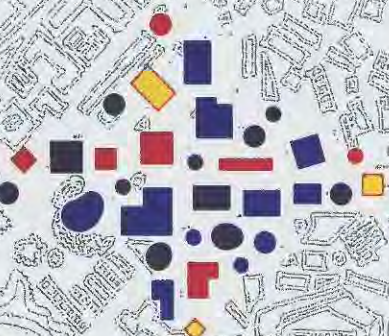


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## INTERNATIONAL

## Global Briefs

The European Commission reiterated last week that insurance companies throughout the European Union are under the supervision of a single regulator, which frees them to transact business in other E.U. countries without establishing non-domestic branches. The statement was made in a new policy document on the insurance sector, which the European Commission acknowledged "is still often plagued by disguised national protectionist obstacles." . . .XTML Ltd., a Manchester, England-based specialist in business Internet solutions, has launched an e-commerce insurance product for business called Ensure. The coverage, developed with a group of insurance companies and Lloyd's of London brokers Houlders Insurance Services Ltd., offers U.K. businesses comprehensive e-commerce insurance for business interruption, viruses and hacking. . . .Assurances Generales de France S.A. has said that its Chilean subsidiary, CGS Vida, is investing some \$60 million in a plan to expand its life business. CGS intends to expand beyond domestic life annuity business into group and individual life insurance, with the aim of becoming one of the top-10 players in the Chilean life market. . . .Chubb Insurance Co. of Europe S.A. has launched MasterPackage Global Reach, a comprehensive insurance solution for U.K. companies involved in exports and foreign direct investment. Aimed at companies with revenues in excess of £25 million (\$40.4 million), it offers a range of protection for both domestic and worldwide exposures. . . .Alan Fleming has been named deputy chairman of the United Kingdom's Assn. of Insurance & Risk Managers. Mr. Fleming, who is head of insurance and risk management at Railtrack P.L.C., replaces Paul Hopkins, who stepped down as AIRMIC's deputy chairman due to changes in his position as head of risk management with the British Broadcasting Corp. . . .Stephen Sklaroff has been named deputy director-general and head of public and international affairs at the Assn. of British Insurers. Mr. Sklaroff, who is currently a director in the U.K. Department of Trade and Industry's energy group, will take up the post on Feb. 28. . . .At a meeting earlier this month, the Council of Lloyd's of London reappointed Max Taylor as chairman for 2000. Sax Riley and Paul Archard were appointed deputy chairmen. For Mr. Riley, it was a reappointment to this post. For Mr. Archard, managing director of PXRE Managing Agency Ltd., it was his first appointment as deputy chairman, although he was already a working member of the Council. . . .The London Processing Centre, a subsidiary of the International Underwriting Assn. of London that provides a central service for policy processing and the settlement of premiums and claims, has developed a client service charter. The charter, which outlines standards of service and response time, promises faster, more-efficient and cost-effective service to clients. Targets include processing all settlement accounting documents and all policy wording submissions within five working days; processing credit control registration within one working day; distributing terms of trade reports by e-mail to clients within two working days of the start of each month; and promoting the use of the LPC Irrevocable Payment Scheme, whereby premiums and claims in all major currencies are cleared centrally and simultaneously. . . .Lloyd's of London marine Syndicate 457 has increased its underwriting capacity to £85.6 million (\$138.4 million) from £41.4 million (\$66.5 million) for the 2000 year of account. The syndicate's active underwriter, Mark Watkins, said he anticipates a similar capacity increase next year.

## Regulatory crackdown anticipates WTO membership

## Changes seen in China

By GAVIN SOUTER

BEIJING—Insurance regulators in China are gearing up for the vast changes in the country's insurance market that will follow its imminent accession to the World Trade Organization, observers say.

A recent crackdown on foreign insurers and brokerages in China and a meeting with foreign insurance regulators and executives last month are all signs of regulatory changes in China, the observers say.

"The Expert Meeting on Insurance Regulation and Supervision in China" was organized by the China Insurance Regulatory Commission to discuss international regulatory trends, said Kevin Cronin, president and chief executive officer of the International Insurance Council, who attended the meeting in Beijing.

"The meeting was a sign that they are preparing for the change," Mr. Cronin said. At the meeting, international regulators

made presentations on topics such as solvency management, how to deal with insurers in financial difficulties, insurance law, and future cooperation between China and member countries of the Organization for Economic Cooperation and Development.

If China joins the WTO as expected, possibly this year, it will have to make substantial changes to its insurance regulations, particularly those regulations governing access to the market by foreign insurers, Mr. Cronin said.

In the same way that Mexican regulators had to end barriers to foreign access to Mexico in the years following the implementation of the North American Free Trade Agreement in 1994, Chinese regulators will have to remove many of the restrictions on foreign insurers, he said.

Currently, a handful of foreign insurers have limited licenses to sell insurance in a few areas of the country.

After China's accession to the WTO, the

regulators will likely, among other things, have to give foreign insurers access to all areas of China within three years, permit 100% foreign ownership of domestic insurers within two years and end within two years 20% compulsory reinsurance cessions to a Chinese state-owned reinsurer for companies that are fully foreign-owned, Mr. Cronin said.

"So, there will be a huge change," he said.

See China on next page



## Japan, other markets opening

By GAVIN SOUTER

NEW YORK—Several newly opened markets around the world are creating opportunities for international brokers, a leading brokerage executive says.

In particular, regulatory changes in Japan have given brokers a greater role in the country's market.

Previously, corporate policyholders in Japan used brokers only for risks outside the country, but Japanese policyholders are now also turning to brokers for help with domestic insurance coverage, said John T. Sinnott, chairman and chief executive officer of Marsh Inc. in New York.

As a result of the change, Marsh last year picked up two major Japanese clients, and it expects to win more this year, Mr. Sinnott said.

Other areas of the world also offer new opportunities for insurance brokers, he said.

Europe, Latin America and other areas in Asia are all presenting new regions for growth, the CEO said.

And although the soft market is hindering growth opportunities in the United States in many sectors, there are still opportunities in specialty insurance, Mr. Sinnott said.

Marsh has been active in Japan since 1955, but its business opportunities were

limited by regulatory restrictions on insurance brokerage in the country, explained Mr. Sinnott. His remarks were made at the Insurance Distribution Summit, which was sponsored by Baltimore-based investment bank Legg Mason Wood Walker Inc. in New York earlier this month.

Marsh's Japanese business was, therefore, largely limited to handling the international exposures of Japanese companies, Mr. Sinnott said.

As a result of regulatory changes implemented over the past several years, however, brokers can offer traditional brokerage services for Japanese risks, he said.

See Markets on next page

## Document details Lloyd's growth plans

By EDWIN UNSWORTH

LONDON—Lloyd's of London intends to take a variety of steps aimed at making the market more efficient, more attractive to policyholders and brokers, and with a broader global insurance franchise, says a new outline of market strategies.

Published last week by the Lloyd's Market Board, the document, "Priorities for Growth 2000-2003," concentrates largely on how Lloyd's intends to meet its goals by making better use of new business processing technology.

By next month, for example, Lloyd's plans to have in place a low-cost central connection between the market and WISE, an electronic commerce system that links insurers, reinsurers, brokers and captives in more than 20 countries (*BI*, Aug. 30, 1999). According to the document, Lloyd's shares WISE's objective of having the majority of its administrative transactions performed electronically by December 2002.

According to the document, Lloyd's also plans by year end to combine the Lloyd's Policy Signing Office and the Lloyd's Claims Office into a single entity for providing processing and clearing services in the market. This combined entity eventually will operate as a wholly owned subsidiary of Lloyd's and contract with market participants for the services it provides, the document states.

Lloyd's also plans to work closely with the International Underwriting Assn., the umbrella organization for international insurance companies in the London

See Growth on next page

## E.U. puts muscle into back-injury prevention push

By CAROLYN ALDRED

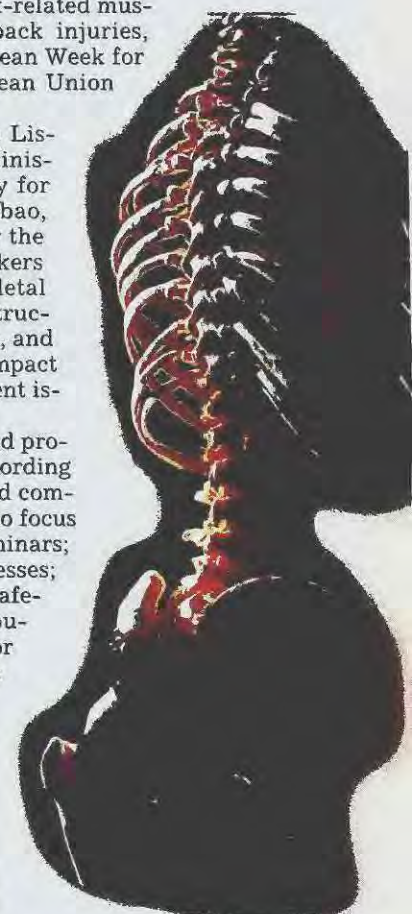
BILBAO, Spain—Prevention of work-related musculoskeletal disorders, particularly back injuries, will be the theme for this year's European Week for Safety and Health at Work in European Union countries, scheduled for October.

The theme, announced last week in Lisbon, Portugal, was chosen by the administrative board of the European Agency for Safety & Health at Work, based in Bilbao, Spain. The selection was prompted by the "large and increasing number of workers affected by work-related musculoskeletal disorders across all sectors, from construction sites to hospital wards and offices, and because of their significant economic impact on enterprises," according to a statement issued by the agency.

The effort aims to raise awareness and promote action at the workplace level, according to the agency. Individual countries and companies can choose their own activities to focus on the problem, including training seminars; workshops; meetings for small businesses; special risk-assessment activities and safety audits in the workplace; the distribution of information; and good-neighbor plans, in which large organizations help smaller organizations.

As part of the program, the agency is providing 50% co-funding for a limited number of projects throughout the European Union. The projects must focus on the prevention of musculoskeletal disorders, must include workforce participation and

See Back on next page



## Markets

Continued from previous page

Recently, Nissan Motor Co. Ltd. and Yokogawa Electric Corp., both of Tokyo, appointed Marsh to advise them on all their global risks, including those in Japan, Mr. Sinnott said.

"This was a real breakthrough, and we were pleased to be selected by both companies. We expect more

of this type of business to come later in 2000 and beyond," he said.

Other areas of Asia also offer growth potential for insurance brokers and insurers, Mr. Sinnott said.

"For the most part, Asia's insurance markets, and the concept of risk management, are not well developed. Thus, the growth potential is high," he said.

Latin America also offers possibilities for growth, Mr. Sinnott said.

Again, regulatory changes have opened up the markets there, and the privatization of formerly state-owned businesses is creating more opportunities to brokers with operations in the region, he said.

"As the new companies move out from under the shelter of government ownership, they have growing, more-complex risk and insurance requirements. Recently, for example, we helped a large mining company in Brazil arrange an inte-

grated package that combines traditional property/casualty risks with non-traditional financial exposures, such as currency fluctuations," Mr. Sinnott said.

In Europe, opportunities are emerging out of deregulation, the trend toward pan-European insurance activity, and the common currency, he said.

Also, the breakdown of insurance cartels in some countries is opening avenues of competition, Mr. Sinnott

said.

"European clients also are now more receptive to innovative products and risk management concepts," he said.

In North America, growth opportunities are hampered by the soft market, he said. Specialty insurance, benefits services and middle-market clients, however, still offer opportunities for brokerages to grow their business, Mr. Sinnott said. **BI**

## China

Continued from previous page

Already, the CIRC is making changes to bring domestic and foreign insurers and brokers into compliance with its existing regulations.

Last year, it suspended the activities of several foreign brokerages in China, alleging trading irregularities, including the operation of unlicensed businesses (*BI*, June 7, 1999). The regulator also sent a letter to all insurers, agents and brokers, stating it would enforce existing laws that previously had been flouted by many domestic and foreign organizations.

Then, late last year, American International Assurance Co. Ltd., a Chinese unit of American International Group Inc., stopped writing life insurance policies marketed to employees of companies after it was instructed by the CIRC that its policies were considered group life coverage, which the AIA was not licensed to sell (*BI*, Jan. 10).

AIG asserted that the previous regulator, the People's Bank of China, had approved the sale of the policies.

The move by the CIRC was emblematic of the new regulatory regime in China, said Simon Hu, managing director of A.M. Best Co.'s recently opened Hong Kong office.

"They are trying to get a firm grip on market conduct and market discipline before China joins the WTO," he said.

There is particular concern about life insurance, Mr. Hu said, because life insurers can have tremendous impact on the liquidity of financial markets through their investments in long-term assets.

The CIRC "means business," and the crackdown on insurance regulations will continue, he said.

The CIRC is tightening its control of the insurance market in China, agreed Stuart Valentine, an attorney

**The CIRC is 'trying to get a firm grip on market conduct and market discipline,' says Simon Hu of A.M. Best Co.**

at Clifford Chance in Hong Kong. "And that is something that everybody acknowledges is needed," he said.

Previously, the application of insurance regulations was inconsistent and, in some cases, contradictory, Mr. Valentine said.

For example, local regulations in Shanghai permit some foreign insurers to establish branches that sell property/casualty and life insurance, despite the fact that such sales are forbidden under China's 1995 insurance law, he said.

The regulations will change rapidly, however, as the CIRC sets out the rules through new approval documents for insurers, Mr. Valentine said. **BI**

## Back

Continued from previous page

must not be for profit. In addition, the results from the projects must be made publicly available.

The EASHW was set up in 1996 "to encourage improvements in the working environment by providing the Community bodies, the member states and those involved in health and safety at work with the technical, scientific and economic information of use in the field of safety and health at work," according to its statement of purpose.

The agency is managed by a director and has an administrative board made up of representatives from governments, employers and workers from the 15 member states and representatives of the European Commission.

In the United Kingdom, Back Care Week is scheduled for Oct. 16 through 22, according to the U.K. Health and Safety Executive.

Musculoskeletal disorders cost the U.K. economy about £5 billion

(\$7.99 billion) annually, with more than 119 million days lost from work each year, according to the HSE.

The HSE has teamed up with several organizations—the London-based National Back Pain Assn.; the Trades Union Congress; the Confederation of British Industry; the Departments of Health, Social Security, and Education and Employment; and the Health Education Board for Scotland—to encourage employers and workers to address work-related illnesses and injuries, according to an HSE statement.

"Back pain and musculoskeletal disorders affect more people than any other industrial injury or disease. The week is an opportunity for people to sign up and take action to eliminate health and safety problems in their workplace," said Peter Rimmer, the HSE's director of information.

Meanwhile, in an initiative separate from the EASHW's funding of projects, the U.K. government's Department of Health and the

HSE have jointly provided £700,000 (\$1.1 million) to fund pilot projects by British organizations to reduce back pain in the workplace.

Among the 19 British organizations chosen from the 330 applicants for funding are Courthaulds Textiles Ltd. in Nottingham, which was awarded a grant of £25,000 (\$39,930) to study the prevention of back problems in the textile industry; Rolls Royce P.L.C. in Bristol, which was given £43,440 (\$69,382) to investigate the cost-effectiveness of providing early-intervention physical therapy for employees of small and medium-sized companies who suffer back or neck pain; SITA(GB) Ltd. in Bracknell, Berkshire, which was awarded £50,000 (\$79,860) to examine manual handling and associated back-pain issues in the waste management industry; and Pearl Assurance P.L.C. in Peterborough, which was awarded £23,500 (\$37,534) to look at the best way to communicate back-care issues. **BI**

## Growth

Continued from previous page

market, to "reform radically" standards for business processing and customer service throughout the London market.

Cutting expenses and raising contributions from corporate members will be other objectives of the marketplace, the Lloyd's document states.

Lloyd's proposes reducing market expenses to one-sixth of their 1998 level by 2003, the document states. This will be achieved largely by outsourcing more support functions—such as property management services, catering, systems development and internal audits—and by cutting staff at the Corporation of Lloyd's, which operates the market, to 500 people by 2001 from 1,600 in 1999.

The market also plans to impose higher charges on new corporate in-

vestors beginning in 2001, doubling the normal rate payable by corporate members in the first three years of operating.

The proposals "will considerably accelerate the evolution of the Lloyd's market," Lloyd's Chairman Max Taylor said in a statement accompanying the document.

The plan recognizes that today "every insurance business has a choice—to trade within the Lloyd's market or outside it," he noted, adding that now "customers have more choice than ever."

Moreover, Lloyd's wants to attract the best of this business, Mr. Taylor said in the statement.

Ways of doing this, he said, include holding on to and improving the Lloyd's franchise, improving its collective financial security and expanding its international trading licenses.

Lloyd's has secured or applied for new trading licenses in South America, China and Central and Eastern

Europe. Lloyd's Asia will be established this month in Singapore and will later be expanded with the opening of an office in China by December. New trading arrangements in Australia will be implemented by May 2000, and by July, Lloyd's aims to secure a license to operate in the Czech Republic.

This year, Lloyd's also plans to undertake a new promotion campaign for its captive domicile status, targeted at risk managers and intermediaries in the United States and the United Kingdom.

The document on Lloyd's strategy also calls for amendments to be made to the 1982 Lloyd's Act after the next U.K. general election to end the current ban on Lloyd's brokers also owning managing agencies in the market.

Lloyd's has already unveiled plans to widen the scope of brokers able to place business in the market. **BI**

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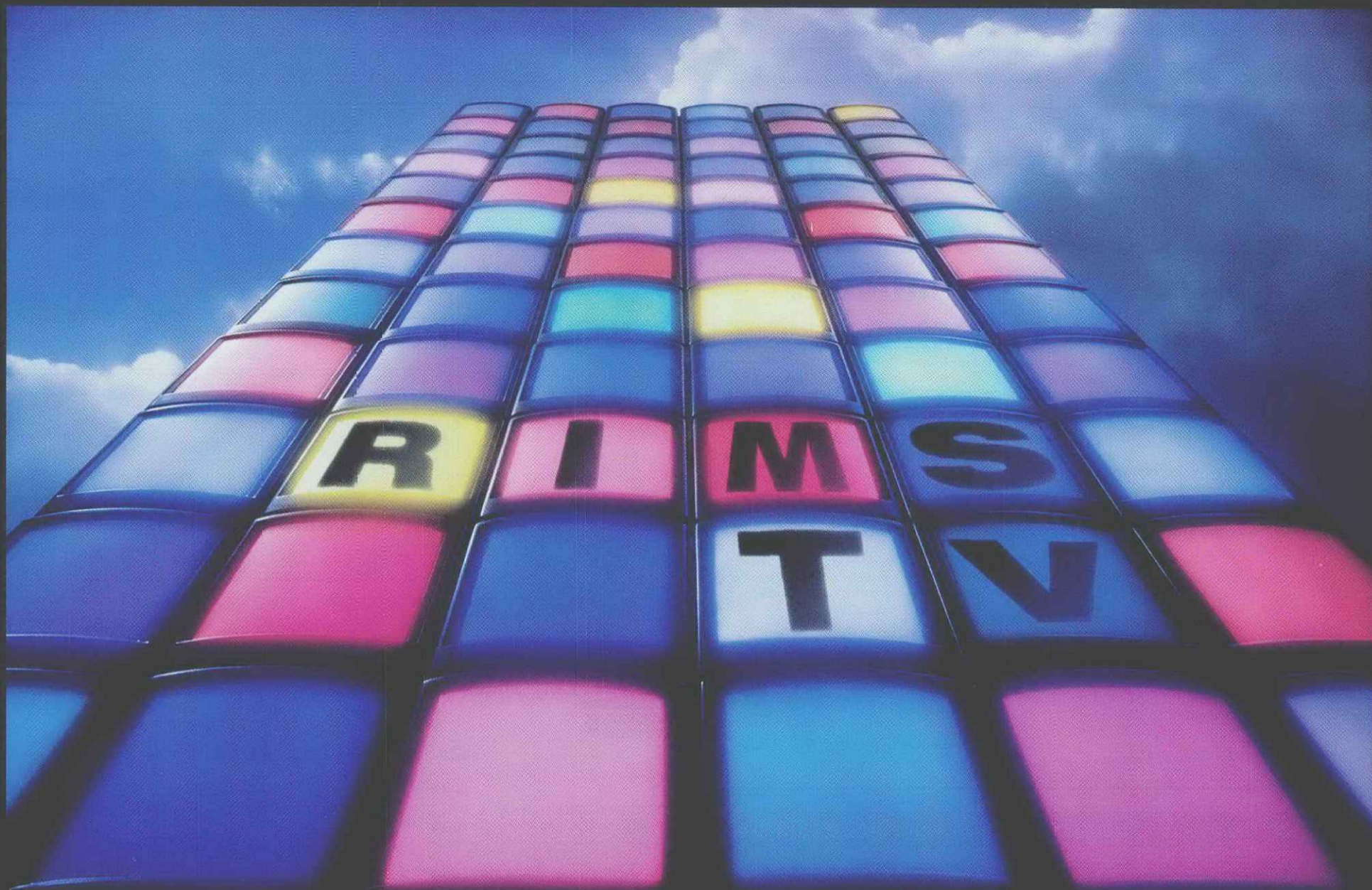
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**NOTICE OF THE CREDITORS' MEETINGS**

No. 363 of 2000

IN THE HIGH COURT OF JUSTICE (IN ENGLAND)  
CHANCERY DIVISION  
COMPANIES COURT  
IN THE MATTER OF

**ANGLO AMERICAN INSURANCE COMPANY LIMITED**  
and  
**IN THE MATTER OF THE COMPANIES ACT 1985**

NOTICE IS HEREBY GIVEN that, by an order dated 25 January 2000 made in the High Court of Justice in the manner of Anglo American Insurance Company Limited ("the Company"), separate meetings were ordered to be summoned of Scheme Creditors (as defined in the scheme of arrangement hereinafter mentioned) of the Company for the purpose of considering and, if thought fit, agreeing to a scheme of arrangement proposed to be made between the Company and its Scheme Creditors pursuant to section 426 of the Companies Act 1985 ("the Scheme"), namely:

- I. Scheme Creditors who are Protected Policyholders (as defined in the Scheme); and
  - II. General Scheme Creditors (being Scheme Creditors other than Protected Policyholders (as defined in the Scheme))
- The meetings will be held on 15 March 2000 at the Chartered Insurance Institute, 20 Aldermanbury, London EC2V 7HY at the times mentioned below, namely:
- I. in the case of Scheme Creditors who are Protected Policyholders, at 11:00 am (London time); and
  - II. in the case of General Scheme Creditors, at 11:10 am (London time) or as soon thereafter as the previous meeting shall have been concluded or been adjourned.

The chairman of the meetings will address Scheme Creditors generally on the Scheme and on issues relevant to voting at the commencement of the first meeting. Scheme Creditors may attend and vote at such of the meetings for which they are only eligible, either in person or by proxy and are, in any event, requested to complete the appropriate form of proxy and return it to the Provisional Liquidators of the Company at KPMG, 20 Farringdon Street, London EC4A 4PP, United Kingdom by 11:00 am on 13 March 2000, although if not so returned, it may be handed in between 9:30 am and 11:00 am on the day of the meetings at the place fixed for them.

Each Scheme Creditor or his proxy will be required to register his attendance at such meetings as he is entitled to attend prior to its commencement. Registration will commence at 10:00 am.

The Scheme is proposed between the Company and its Scheme Creditors (being creditors in respect of any claim arising out of a liability to which the Company is subject at the date of the Scheme or to which it may become subject thereafter by reason of an obligation incurred before that date, except any claim which would have been preferential in a liquidation of the Company or a claim in respect of the costs or expenses of the Scheme both of which will be payable in full).

Any person entitled to attend the meetings can obtain copies of the scheme of arrangement, the statement required pursuant to section 426 of the Companies Act 1985 and the forms of proxy for use at the meetings from the Provisional Liquidators of the Company at KPMG, 20 Farringdon Street London EC4A 4PP, United Kingdom.

By the order, the High Court of Justice has appointed Anthony James McMahon or failing him, Philip Wedgwood Wallace to act as chairman of the meetings and has directed the chairman to report the results of the meetings to the court.

The scheme of arrangement will be subject to the subsequent sanction of the High Court of Justice.

Queries regarding creditors' claims and the completion of proxy forms should be directed to the helpline on +44 (0) 20 7680 6600.

Dated 13th February 2000.

Clifford Chance  
Limited Liability Partnership  
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London EC1A 4JJ

Solicitors to  
Anthony James McMahon and Philip Wedgwood Wallace  
Provisional Liquidators of the Company

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**IN THE SUPREME COURT OF BERMUDA  
IN THE MATTER OF STOCKHOLM RE (BERMUDA) LTD., IN LIQUIDATION  
AND IN THE MATTER OF THE COMPANIES ACT, 1981**

NOTICE IS HEREBY GIVEN that by an Order dated 10 December 1999 made in the Supreme Court of Bermuda, a meeting was ordered to be convened of the Scheme Creditors (as defined in the Scheme of Arrangement hereinafter mentioned) of the above named company (hereinafter called the "Company") for the purpose of considering and, if thought fit, approving (with or without modification) a Scheme of Arrangement proposed to be made between the Company and the Scheme Creditors (as therein defined) and that such meeting will be held at The Chamber of Commerce, Front Street, Hamilton, Bermuda on **Friday 23 June 2000** commencing at 11:00 a.m. at which place and time all such Scheme Creditors are requested to attend.

The Scheme Creditors may vote in person at the said meeting or they may appoint another person, whether such person is or is not a Scheme Creditor, as their proxy to attend and vote in their place and are requested to complete the Proxy Form and return it to the Joint Liquidators at Corner House, Parliament Street, Hamilton HM12, Bermuda (facsimile number 441 292 0961). The Proxy Form must be received by 5:00pm on 22 June 2000.

Each Scheme Creditor or his proxy will be required to register his attendance at the meeting prior to its commencement. Registration will commence at 9:30 a.m.

By the Order, the Court has appointed David L. Morgan or failing him Mark W. R. Smith to act as Chairman at the said meeting and has directed the Chairman to report the result of the meeting to the Court.

A copy of the Scheme of Arrangement and the Explanatory Statement required to be furnished pursuant to Section 100 of the Companies Act 1981 together with the Proxy Form for use at the meeting, and the Claim Form are available from the offices of Deloitte & Touche in Bermuda at Corner House, 20 Parliament Street, Hamilton HM12 (Ref: MWRS) and in England at Stonecutter Court, 1 Stonecutter Street, London EC4A 4TR (Ref: JRDS).

The Scheme of Arrangement will be subject to the subsequent sanction of the Court.

**TAKE FURTHER NOTICE** that there will be a general meeting of creditors of the Company held at 10:30 a.m. on 23 June 2000 at the Chamber of Commerce, Front Street, Hamilton, Bermuda to consider the appointment of a third liquidator, Mr. James R. D. Smith, a partner of Deloitte & Touche, London, England. Further details regarding this meeting can be obtained from the office of the Joint Liquidators in Bermuda at Corner House, 20 Parliament Street, Hamilton HM 12. For the purpose of voting at the meeting, the Joint Liquidators will use the same Proxy and Claim Forms as those submitted for the purpose of attending the Court Meeting referred to above.

Dated 7 February 2000.

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PHOTO: AP/WIDE WORLD

## Seton Hall dorms to get sprinklers

SOUTH ORANGE, N.J.—Seton Hall University is installing sprinklers in the dormitory where three students died in a fire last month.

The sprinklers are being installed in Boland Hall and another dorm, even though they are not required by building codes that govern the university, said Dan Taylor, director of business affairs at Seton Hall in South Orange. The school's four other dorms already have sprinklers.

In a statement, the university said Boland Hall's fire safety systems performed properly in the Jan. 19 fire. The dorm has smoke detectors in all rooms and common areas and is equipped with fire-exit doors and pull-type alarms.

An investigation of the fire's cause continues. "There have been a lot of rumors, but there are no answers yet," Mr. Taylor said. He said late last week that he was not aware of any litigation filed against the school as a result of the deadly fire.

## Comp measure costly: WCIRB

SACRAMENTO, Calif.—If a bill recently introduced in the California Senate becomes law, it would result in a 25%—or \$2.6 billion—increase in workers compensation costs, according to a Workers Compensation Rating Bureau of California analysis.

The greatest increases would occur during the last years of the planned five-year gradual implementation, said Dave Bellusci, WCIRB chief actuary. The workers comp bill, S.B. 996, is sponsored by Sen. Patrick Johnston, D-Sacramento.

The measure would increase all types of indemnity benefits, and the greatest increases would be for permanent disabilities, particularly those with low permanent-disability ratings. For example, the average award would increase from to \$6,000 from \$3,000 for injuries with a rating below 15%.

The benefit changes contained in S.B. 996 are similar to those in S.B. 320, Mr. Bellusci said. S.B. 320 won legislative approval last year but was vetoed by Gov. Gray Davis.

## Problems detected in sprinkler model

JOHNSTON, R.I.—Factory Mutual Insurance Co. has identified problems in some Central Sprinkler Model GB fire sprinklers, including leakage and related encrustation and corrosion that could prevent the sprinkler from operating as designed.

Lansdale, Pa.-based Central Sprinkler Co., said in a statement that it is working with testing laboratories and is conducting independent evaluation and analysis.

Last year, Central Sprinkler recalled millions of its Omega-brand fire sprinklers, pursuant to an agreement with the U.S. Consumer Product Safety Commission and a nationwide class-action settlement (BI, Aug. 16, 1999). Central Sprinkler emphasized that the glass bulb sprinklers Factory Mutual tested are not the same type as those with Belleville seals currently being used to replace the recalled Omega sprinklers.

Central Sprinkler said a recall or replacement of the GB model sprinkler is premature but suggested "any system containing Central's Glass Bulb sprinklers with O-rings should be inspected by a qualified sprinkler contractor to determine if the Glass Bulb sprinklers exhibit any signs of corrosion, leaking or weeping."

## Sunoco cleaning Philadelphia spill

PHILADELPHIA—Sunoco Inc. has recovered at least 69,000 gallons of oil that spilled from one of its underground pipes into a frozen pond at the John Heinz National Wildlife Refuge, said a spokesman for the Philadelphia refinery.



PHOTO: AP/WIDE WORLD

The rupture of the 50-year-old pipe was discovered earlier this month after a hiker in the refuge, in southwestern Philadelphia, noticed an odor, the spokesman said.

"The EPA is concerned and would like a more dependable alert system, like auto alarms and shut-off valves," according to Pat

Boyle, chief of public affairs for the Mid-Atlantic region of the Environmental Protection Agency in Philadelphia.

He noted the spill is contained in one area. "It's in a frozen area and is under the thick ice, which, fortunately, is protecting the wildlife," he said. Once the ice melts, though, some species may be at risk, he noted.

"Sunoco is doing the (recovery) work and is doing it effectively," he said. But, "they need to step up and take precautions."

The Sunoco spokesman said the company expects to review all of the details of the leak. "We then hope to learn how we can increase surveillance of the area," he said.

## Information in brief

**USI Insurance Services Corp.** late last month acquired The Securus Group, an Oak Park, Ill.-based insurance broker. Terms of the transaction were not disclosed. . . Rep. Pete Hoekstra, R-Mich., plans to introduce legislation that would clarify the Occupational Safety and Health Administration's oversight of home offices, said a spokesman for the congressman. The bill follows a hearing before the House Committee on Education and the Workforce's Subcommittee on Oversight and Investigations—which Rep. Hoekstra chairs—about potential employer liabilities over safety conditions in home offices used by telecommuting employers (BI, Jan. 31). . . Members of the National Assn. of Insurance Commissioners last month formally approved revising confidentiality and information-sharing language in several model laws. They also adopted a resolution supporting the Uniform Electronic Transactions Act, which aims to ensure the legality of electronically transmitted records and signatures.

## Comings & Goings: Industry

**Andrew Di Loreto** has been appointed president and chief executive officer of Herbert Clough Inc., the reinsurance brokerage subsidiary of General Reinsurance Corp. in Stamford, Conn. He will also continue to serve as president and CEO of Ardent Risk Services Inc. . . **Roger S. Giddings** has been named chief underwriting officer, exploration and production at Zurich U.S. unit Zurich Energy. Mr. Giddings, who will be in London, previously was with American International Group Inc. . . **Fortis Benefits Insurance Co.** in Kansas City, Mo., has named **Richard W. Simmons** senior vp and general counsel. Prior to joining Fortis, Mr. Simmons was with BankAmerica Corp. . . **Nicholas Bozzo** has been named vp of Financial Insurance Solutions, a New York-based division of The Kemper Insurance Cos. Mr. Bozzo previously was with Chubb Corp. **BI**

# Budget

*Continued from page 1*  
terminating employees' accrued pension benefits to an individual retirement account or to a pension plan sponsored by the new employer. How many, if any, of these provisions Congress will act on isn't known. During the first half of the 106th congressional session, relations between the executive and legislative branches were so strained that few major pieces of legislation were enacted. For example, a big tax cut bill— assembled by GOP leaders with little input from Democrats—was passed last year but was later vetoed by President Clinton. Still, in an election year, with both parties eager to claim credit for proposals that would help voters, such as prescription drug benefits for retirees, many of these issues will be intensely debated. The prescription drug proposal "is a key campaign issue," said Frank McArdle, a consultant with Hewitt Associates L.L.C. in Washington. How these issues will be resolved is of direct importance to employers. For example, the Clinton administration's proposal to add a prescription drug benefit to Medicare would significantly cut costs for employers

with retiree health care plans. By contrast, GOP proposals to limit the availability of a drug benefit to only lower-income retirees would provide limited cost savings for employers, Mr. McArdle notes. The administration's proposal to mandate new, more rapid vesting schedules for defined benefit and defined contribution pension plans would increase employers' costs. The severity of increases, though, would depend significantly on current plan design and employee turnover rates. Under the proposal, the slowest vesting schedules employers could offer would be those in which employees were first and fully vested after three years of service, or an alternative under which employees would vest at the rate of 20% per year until becoming fully vested after five years of service. Those schedules are significantly faster than the current minimum standards of either first and fully vested after five years of service or a graded schedule under which employees are 20% vested after three years of service with vesting continuing at a rate of 20% annually until full vesting is achieved after seven years of service. Most employers with defined benefit plans would need to amend their plans to meet the new vesting stan-

dard. Currently, most plans use a schedule in which employees first and fully vest after five years. For employers with traditional final-average-pay plans, the cost impact of adopting a faster schedule would be small, notes Larry Sher, a principal with PwC Kwasha in Teaneck, N.J. Benefit values in traditional plans grow very slowly during employees' first years of service, becoming significant only after many years of service. The cost impact, though, would be greater in cash balance plans, where benefit values increase faster for the first years of service compared with traditional plans. The most significant cost variable, though, would be employee turnover. If most of an employers' workforce stays for a long period of time, or if many employees leave after just one or two years of service, the cost impact of faster vesting for defined benefit plans would be minimal. For defined contribution plans, such as 401(k) plans, many employers already vest corporate contributions as fast as the proposed schedules require, if not faster. A Hewitt survey of 947 defined contribution plans found, for example, that 33% offered immediate full vesting to employees. "Whether the time is right for a change in law to force companies to accelerate vesting is debatable, but

corporate trend definitely is in that direction," Mr. Sher said. The COBRA provisions in the budget package have several parts. Under one part, employees would receive a 25% federal tax credit, which would effectively reduce the true cost of COBRA premiums by the same amount. In explaining the proposal, the administration notes that only 20% to 25% of those eligible for COBRA actually opt for coverage. One reason—other than the high cost—behind that small percentage is that COBRA premiums are paid on an after-tax basis, the administration says. By reducing beneficiaries' real cost for COBRA, more former employees and dependents likely would opt for COBRA, increasing employers' costs. Beneficiaries opting for COBRA are those most likely to use health care services, benefit experts note. As a result, while employers can charge COBRA beneficiaries a premium equal to 102% of the group rate for active employees, that premium rarely covers COBRA beneficiaries' claims' costs. "Because of adverse selection, the actual cost for beneficiaries tends to be around 150% of the group rate," said Paul Dennett, vp-health policy at the Assn. of Private Pension & Welfare

Plans in Washington. This same 25% tax subsidy also would be extended to early retirees purchasing COBRA coverage in situations where employers drop retiree health care plans. In such a situation, employers could charge retirees a COBRA premium equal to 125% of the group rate. Coverage would continue until the retiree was eligible for Medicare at 65. That could mean that an employee who retired at a young age, say 55, and whose employer terminated its retiree health plan, could buy COBRA coverage for a decade. Currently, former employees can purchase COBRA coverage for 18 months, while dependents, in death, divorce or marital separation situations, can buy coverage for 36 months. **BI**

## ADVERTISER INDEX

### Issue of February 14

| ADVERTISER                   | PAGE #    |
|------------------------------|-----------|
| American Equity Underwriters | 6         |
| Burnham Systems              | 24        |
| Business Insurance           | 19, 25    |
| Carvill America Inc.         | 4         |
| Fortis Inc.                  | 20/21     |
| General Reinsurance          | 13, 14/15 |
| IRU, Inc.                    | 12        |
| Kemper Insurance Companies   | 5         |
| Liberty Mutual               | 9         |
| Metropolitan Life Ins. Co.   | 10/11     |
| Oxford Health Plan           | 19R       |
| PHICO Group                  | 16        |
| Reliance National            | 7         |
| Royal & SunAlliance          | 32        |
| Zurich Reinsurance Intl.     | 22        |

# Turn

*Continued from page 3*  
creasing, but only by about 10%, he said.

General liability rates are flat, and excess casualty rates are still declining for some policyholders, Mr. Pinkston said.

The increases that are being imposed are usually limited to renewal business, he said. "There isn't the same amount of discipline on new business," Mr. Pinkston noted.

In one case, a Willis client was asked to pay a 60% increase in premium for a January renewal, but, after changing insurers, the policyholder paid only a 10% increase on its program, he said.

Insurers generally increased rates at the Jan. 1 renewal, but increases were nothing like those seen in the mid-1980s, said John T. Sinnott, chairman and CEO of Marsh Inc. in New York.

Most increases, in fact, were no more than the single digits, he said. "We are seeing some price in-

creases, but it's too early to be talking about market turns," said Andrew L. Rogal, chairman and CEO of Hilb, Rogal & Hamilton Co. in Glen Allen, Va.

Most of the increases have been on workers comp rates, he noted.

"We are seeing what I consider to be no more than firming in mid-market commercial lines," he said.

The increase in workers comp rates, particularly in California, will likely drive more policyholders to the alternative market, said Robert Mulderig, chairman and CEO of

Mutual Risk Management Ltd. in Hamilton, Bermuda.

The collapse of the Unicover pool has removed a significant source of cheap reinsurance, and MRM is expecting more business to be written through its alternative-market facilities, such as rent-a-captives, he said.

"People expected California workers comp to come to us, and it probably will, though it will take longer than the nanosecond that some people expected," Mr. Mulderig said. **BI**

# Brokers

Continued from page 2

used to redress U.K. customers who purchased private pension plans based on allegedly improper sales advice in the late 1980s.

During a conference call to investors last Tuesday, Aon Chairman and Chief Executive Officer Patrick G. Ryan explained that Aon "inherited" the pension sales liability. The liability came from Godwins International Holdings Inc., the former benefits operation of Frank B. Hall & Co. Inc., which Aon acquired in 1992; and from Alexander Consulting Group, the former benefits operation of Alexander & Alexander Services Inc., which the broker acquired in 1997.

Although the problem was acquired, Mr. Ryan described it as "a systemic issue" that Aon "is dealing with."

The remaining \$72 million special charge includes a \$27 million settlement payment Aon has made to Reliance Group Holdings Inc. related to the broker's dealings with the failed Uncover Managers Inc. pool (BI, Jan. 17). Approximately \$24 million, representing additional Uncover commissions not related to Reliance, will also be set aside to cover other potential settlement agreements, Mr. Ryan explained.

The rest of the charge, the CEO said, will be used for the resolution of Uncover matters and for other litigation.

Although new business production in its U.S. and Latin America retail operations was better than expected, results from Aon's international operations were "disappointing" and "not acceptable," Mr. Ryan said.

International operations posted \$100 million in new business in 1999 but also recorded \$62 million

in lost business, he said.

Specifically, Mr. Ryan said, operations in the United Kingdom and France were the "leaked buckets" on middle-market business. He further said that the lost international business principally came from the former A&A and Bain Hogg Group P.L.C. operations.

But when asked by an investor whether, given the opportunity, he would buy Bain Hogg's operations again, Mr. Ryan responded, "Absolutely."

Aon bought Bain Hogg cheaply—for about 60 cents per dollar of

## When asked if he would buy Bain Hogg's operations again, Aon's Patrick G. Ryan responded, 'Absolutely.'

revenue—and, though it needed a lot of work, the broker was a good value, Mr. Ryan said.

In addition to noting lower-than-expected results from the United Kingdom and France, Mr. Ryan said that fourth-quarter results were negatively affected by the absence of Uncover revenues and significant shortfalls in private equity income and fiduciary investment income.

News of the lower-than-anticipated earnings has led to a significant drop in Aon's stock price. Aon shares closed Friday at \$23.94, compared with a 52-week high of \$46.69.

Aon is not the only broker to be hit by special charges in 1999.

New York-based M&M recorded a \$253 million charge to its fourth-quarter earnings relating to further integration costs associated with Sedgwick Group P.L.C., which the broker acquired in 1998.

M&M also took a Sedgwick-related \$84 million charge in the second quarter (BI, Aug. 16, 1999).

J. Michael Bischoff, vp-corporate development, said that both charges cover costs related to severance payments for more than 4,500 employees, 53% of whom came from Sedgwick and 47% from Marsh. The fourth-quarter charge also will cover real estate costs for the consolidation of 175 offices; of that number, 125 were former Sedgwick offices, he said.

Marsh's 1997 acquisition of Johnson & Higgins is complete, and the broker expects to finish the Sedgwick integration within the next four to five months, Mr. Bischoff said.

Marsh said that it expects net consolidation savings to approach \$160 million over three years, including \$30 million that is reflected in its 1999 results.

While Marsh's brokerage revenues rose 32.3%, its corporatewide revenues, which include investment income and revenues from The Putnam Co., M&M's Boston-based investment management company, rose 27.2% to \$9.18 billion.

Mr. Bischoff said that an overwhelming majority of its brokerage revenues are fueled by acquisitions. Between 4% and 5% is attributable to organic growth.

"We had a fantastic quarter, as well as a fantastic year," Mr. Bischoff said.

In addition to posting strong brokerage revenues in 1999, Arthur J. Gallagher reported an 8.3% rise in corporatewide revenues, including investment income, to \$605.8 million.

In a statement, Gallagher's president and CEO, J. Patrick Gallagher Jr., attributed the broker's "record results" to strong new sales, continued emphasis on account retention and expense controls. **BI**

# Willis to target major accounts

By SALLY ROBERTS

NEW YORK—Risk managers of Fortune 1000 companies that are accustomed to knocks on the door from the likes of Marsh Inc. and Aon Group Inc., soon also will be getting a knock from Willis Risk Ltd.

Known more for its middle-market and niche focus, London-based Willis is jumping into competition with Marsh and Aon for the major-account seg-

customer-focused problem solvers by having a superior understanding of client issues from an enterprise perspective, a superior solution to risk-related problems, and a superior execution through a seamless global practice," Mr. Kelly said.

He noted that gives a privately held company gives Willis an advantage over its publicly traded competitors.

"With the magnitude of the investment we are making over



*"With the magnitude of the investment we are making over the next several years, we'd have a difficult time doing that as a public company."*

— John J. Kelly

ment of the U.S. insurance and risk management marketplace with a new global practice group called Willis Risk Solutions.

The New York-based group—which initially brings together 450 people from four major-account-focused retail brokerage, reinsurance brokerage and consulting subsidiaries in the United States—is being rolled out today.

Based on information supplied by a number of different research groups, "the message keeps coming back that there is clearly a need for a third major force in the upper-end marketplace, which has been significantly impacted by (brokerage) consolidation," said John J. Kelly, chairman and chief executive officer of Willis Risk Solutions.

Willis currently has business relationships with about 15% of the Fortune 1000 companies, "so we have a strong foundation to build on," he said.

Mr. Kelly acknowledged that, to do so, Willis must differentiate itself from its competition.

One of Willis Risk Solutions' distinguishing features, according to Mr. Kelly, is that it offers "true integrated risk solutions" to large-account clients. The merging of several disciplines into one group will allow the broker to solve client needs in a cross-disciplinary approach.

"We want to be thought of as

the next several years, we'd have a difficult time doing that as a public company," as the costs will dilute earnings, he said. With a significant commitment from Willis' investors, the broker does not have to become "overly sensitized" to quarterly results and can consistently focus on placing the client first, he said.

Unlike its competitors that own hundreds of offices around the world, Willis has kept to its global strategy of taking equity stakes in other brokerages around the globe. Willis operates in 106 countries, and it holds at least a 30% equity stake in brokerages in 61 of those countries. The broker has correspondent relationships in the other 45 countries, Mr. Kelly explained.

Willis' goal is to be No. 1, 2 or 3 in market position wherever it operates, and the broker plans to invest a significant amount of capital to increase its equity control to a majority position in each of those countries, he said.

In addition to increasing its market share in the major-account arena, Willis Risk Solutions also will seek to expand the broker's product offerings, focusing on, among other things, enterprise risk, alternative risk transfer and merger and acquisition due diligence, Mr. Kelly said.

# BI to publish directory on risk securitization

Business Insurance will publish its first Directory of Risk Securitization Specialists in the March 20 issue.

That issue also will include a spotlight report on new risk financing options.

The directory is published as an editorial service; there is no charge for a company to be included. A company must simply submit a completed questionnaire by the extended deadline of March 3.

To be listed in the directory, a company must provide risk securitization consulting, which BI defines as providing advice on a

fee-for-service basis regarding the packaging of insurance risk using capital markets instruments. Risk securitization consulting does not include providing advice on other forms of risk financing, or underwriting securities or traditional insurance.

If your company provides these services and has not received a questionnaire, please request one by calling Assistant Directory Editor Michel Schwartz, at 312-649-5313.

The questionnaire also may be printed from the directory area of BI's Web site at [www.businessinsurance.com](http://www.businessinsurance.com) **BI**

## 1999 year-end results for the world's largest publicly held brokers

(in millions of dollars)

|                                  | Brokerage & Consulting |                    | Corporate      |                    |            |                    |
|----------------------------------|------------------------|--------------------|----------------|--------------------|------------|--------------------|
|                                  | Gross revenues         | % change from 1998 | Gross revenues | % change from 1998 | Net income | % change from 1998 |
| Marsh & McLennan                 | \$6,473                | 32.3%              | \$9,178        | 27.2%              | \$726.0    | -8.8%              |
| Aon                              | 4,800 <sup>1</sup>     | 9.2                | 7,070          | 8.9                | 352.0      | -35                |
| Arthur J. Gallagher <sup>2</sup> | 577.6                  | 6.8                | 605.8          | 8.3                | 67.8       | 16.5               |

<sup>1</sup> Includes some non-fiduciary investment income. <sup>2</sup> 1998 results have been restated for poolings of interests.

Source: BI survey

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# America's Cup a lesson in risk

For the first time in the 149-year history of the America's Cup yacht races, there will be no American boat competing for the silver cup. It will be the Italians challenging Team New Zealand, the current holder of the America's Cup.

Why? Partly, it was bad risk management, or lack of risk management, by the skipper of America One, according to one New Zealand yachting commentator.

America One and the Italian challenger Prada beat nine other yachts to sail in the Louis Vuitton series that determined the challenger to New Zealand's right to keep the America's Cup in the races later this month in New Zealand. America One, representing the St. Francis Yacht Club, lost 4-5 to the Italians in the best-of-nine series.

The commentator invoked the need for risk management by Paul Cayard, the skipper of America One, after Mr. Cayard had made a serious error that resulted in a penalty against America One in the eighth race.

My ears perked up when I heard the term "risk management" used during a commentary on a yacht race. I always tell people unfamiliar with risk management that there is risk management in every aspect of life and business. But even I had not considered the risk management angle to the United States winning back the America's Cup.

Carrying the risk management analysis beyond the need to avoid costly penalties in racing, America is indeed out of the America's Cup racing on the Hauraki Gulf for failing to properly apply fundamental principles of risk management.

First, the Americans did not properly assess the risk that they could lose the opportunity to challenge for the precious America's Cup. After all, an American yacht has always challenged for the cup and has lost it only twice—once to the Australians and, most recently, to New Zealand.

The Americans must have been pretty sure that they would be in the final cup races. What other excuse can there be for allowing the Italians a head start in setting up camp in New Zealand to train for the series two years before the racing began while the Americans were home still raising money?

Second, the United States sent five teams to New Zealand to challenge for the cup. Now, diversification is indeed a principle of risk control, but five teams from one country was clearly carrying diversification too far.

The resources in the United States supporting the challenges to win back the America's Cup certainly could have been pooled to support stronger challenges, namely in better boat design and crew training. It's expensive to mount a challenge to win the America's Cup, and there is only so much money to be tapped from wealthy individuals and corporate sponsors.

The Italians had a budget of \$50 million. America One had a budget of \$32 million. But the five American challengers' combined budgets totaled an estimated \$120 million.

As Mr. Cayard was quoted in *The New York Times*: "Having five teams from the U.S. is probably not the best way to put our best foot forward."

Indeed, and not the best possible yacht, either. America One was plagued with equipment problems, one of which caused her to withdraw from the third race.

But the American challengers, including the St. Francis and New York Yacht clubs, could not agree to any mergers that would have concentrated their resources.

Most commentators agree the Italian yacht Luna Rossa was indeed the faster boat, which allowed the Prada Challenge to win the final tie-breaking ninth race after sailing a near-perfect race.

Now all eyes will be on how well Team New Zealand, which has had five years to prepare to hold onto the cup, has practiced its risk management. We'll see over the next few weeks. My heart is with Team New Zealand and skipper Russell Coutts as he takes on the Prada Challenge with skipper Francesco de Angelis, despite the fact that my husband is a member of the New York Yacht Club.

By the way, the penalty in the eighth race that prompted the call for risk management was irrelevant. America One would have lost that race to the faster, better-equipped and better-sailed Luna Rossa even without the penalty. But if America One had not lost the fourth race due to a penalty, there never would have been an eighth race. America One would have been the challenger facing Team New Zealand in the 30th America's Cup races.

*Publisher and Editorial Director Kathryn J. McIntyre's commentary appears fortnightly. She can be reached at mcintyr@crair.com.*

# Tobacco

*Continued from page 1*

Philadelphia. "Dressed up, these are bodily injury claims" that insurers intended to exclude, he said.

If Liggett prevails, though, other tobacco companies—which have long avoided confronting their liability insurers—could follow Liggett to the courthouse.

"If they succeed in this, given the stakes, it's quite possible that other manufacturers would follow," said Michael Aylward, a lawyer with Morrison, Mahoney & Miller in Boston who is not involved in the case.

A policyholder such as Liggett needs only to show that coverage may exist under its policies to trigger insurers' duty to defend, which by itself is a huge potential liability for insurers, noted Edward M. Joyce, a partner with Anderson, Kill & Olick P.C. in New York, which is not involved in the case.

"If you have a claim in any area where there's no exclusion, somebody's going to have to start paying legal bills," he observed.

A spokesman for the Philip Morris Cos. said the cigarette maker has not made similar claims or filed suit against its insurers. Officials of Brown & Williamson Tobacco Corp., R.J. Reynolds Tobacco Holdings Inc. and Lorillard Tobacco Corp. could not be reached.

A spokesman for Brooke Group Ltd., Liggett's parent, said the company would not discuss details of its lawsuit.

# D&O

*Continued from page 1*

to a record high of \$8.67 million, according to the survey. The cost of the average employee D&O claim increased 6.6% in 1999 to \$306,000.

"The trend in claim costs increasing and the trend in premium costs decreasing is not tenable over the long term," said Mark Larsen, a consultant for Tillinghast-Towers Perrin in Chicago and author of the survey.

"There is a distinct possibility that the larger body of insurers may react to claims or the potential for claims within some segment of the market and pricing will be adjusted accordingly," Mr. Larsen said.

Steven H. Anderson, vice chairman of FINPRO U.S., Marsh Inc.'s financial and professional services unit in New York, said that he feels "there's a fairly significant probability that, in the second half of 2000, with the loss trending we're seeing and the anecdotal evidence from insurers relating to the deterioration of their loss ratios, we will see some increasing of rates... in the 5% to 10% range."

Certain segments of the industry already are experiencing substantial premium increases, according to the survey. High-tech and biotech companies with recent initial public offerings and firms exhibiting some degree of financial distress are seeing substantial D&O premium increases, "anywhere from a few percentage points to more than 50%," Mr. Larsen said.

While trends in the D&O market may point to price hardening, D&O experts are hesitant about predicting an actual hard market for D&O insurance.

"I think that it has a lot to do with the economy," Mr. Larsen said. "If the stock market and the economy in general continue to be strong, that will work against any increases in potential claims and work against any increase in premiums. When the stock market or the economy turns south, we might find D&O premiums go north," he said.

Reduced premium decreases are

Brooke Group has been a tobacco industry maverick since it became the first to settle smoking-related lawsuits and turn over internal documents to plaintiffs, laying the groundwork for the later industrywide settlement with 46 state attorneys general.

Last month, the company again broke ranks with other cigarette makers by making the first claims against liability insurers for defense and indemnity of smoking-related lawsuits.

While tobacco companies have long declined to pursue insurers—possibly out of fear of losing control of their "no-settlement" litigation strategy, or out of doubts about their chances of recovery—Liggett in mid-January notified more than 30 primary, excess and umbrella insurers it has used since 1970 of its tobacco-related claims.

Notices also went to state guaranty funds paying claims on behalf of insolvent insurers, including American Mutual Liability Insurance Co., Liggett's sole insurer from 1911 to 1970, a source familiar with Liggett said. American Mutual Liability was placed in liquidation in 1989 in Massachusetts.

Hartford Accident & Indemnity Co. and six Hartford affiliates were among those receiving notices, and they fired the first shot in the legal battle. On Jan. 31, the Hartford units filed suit in Connecticut Superior Court in Hartford, seeking a declaratory ruling that Liggett has no coverage under their policies.

According to the suit, Hartford units have provided occurrence-based primary and excess liability coverage

to Liggett since 1981. The policies have featured tobacco exclusions barring coverage for injuries arising from "tobacco products (or) the consumption or use of or exposure to tobacco products."

Liggett has never notified Hartford of any of its tobacco liability cases, including a class action pending in a Florida state court, *Engle vs. R.J. Reynolds et al.*, in which Liggett and others have been found liable for smoking-related injuries and in which the company faces a possibly staggering punitive judgment, the insurer's suit says.

On Jan. 20, however, Liggett put Hartford on notice of 688 tobacco suits and separately notified the insurer of the tobacco company's exposure in the *Engle* case.

In the claims notices, Liggett demanded reimbursement of defense costs and coverage of future defense costs and any judgments or settlements.

Hartford, in its lawsuit, cites the tobacco exclusion and asks the court for a declaration that it has no duty to defend or indemnify Liggett. If the court finds there is coverage, though, Hartford asks the court to apply the same finding to Liggett's other liability insurers, 16 of which Hartford names as defendants in the suit.

A few days later, on Feb. 4, Liggett responded with its own declaratory action in Delaware Superior Court in Wilmington.

In addition to Hartford units, the Liggett suit names 28 companies that have insured Liggett under 98 policies

*See Tobacco on next page*

"an indication of a partial market change," said Phillip N. Norton, president of Arthur J. Gallagher & Co.'s professional liability division in Itasca, Ill. But there are opposing forces at work that will hinder the arrival of a hard market, he said.

On the one hand, he said, there are more losses for D&O insurers, but at the same time, there are new D&O insurers entering the market. In particular, Mr. Norton noted Kemper Insurance Cos.' jump into the professional liability market last year.

Susanne Murray, senior vp and national directors and officers liability product leader for Willis North America Inc. in New York, said that, due to the increase in the number of securities class-action suits being filed today "the rational thought process is that there will be a significant increase in premiums and significant tightening" in the level of coverage. Although "all carriers want to go that way," there is still too much capacity in the market for that to happen, she said.

"Characterizing the market as a 'capacity jungle' is an understatement," said Glenn Dockery, president of global financial and executive risks practice for Willis in Atlanta.

The Tillinghast survey notes that total limits capacity of D&O insurers increased in 1999. Mr. Larsen declined to give exact figures, though, stating that the goal of the survey was just to determine the trend.

Other findings include:

- The average amount of coverage carried by insured survey participants was \$27.6 million in total D&O limits. This figure is down slightly from 1998's finding, but that is, in part, a reflection of the larger sample of smaller firms in this year's survey, Mr. Larsen said.

- Based on the median total limits for specific business classes, utilities reported carrying the highest limit, with a median \$75 million in limits. Next were durable-goods manufacturers and large banks, which both reported carrying a median \$35 million. Construction and real estate firms and middle-market banks reported the lowest median limits, carrying \$5 million and \$3 million, re-

spectively.

- Respondent's average deductible was \$529,000, down sharply from \$736,000 in 1998 and \$927,000 in 1997. This drop is reflective of the soft pricing environment, the survey says.

- About 29% of the respondents reported premium increases in 1999, while 35% reported premium decreases and 36% had no change.

- Employment discrimination was the most frequent D&O claim issue brought by employees, cited by 27% of the respondents. For shareholder claimants, issues related to financial disclosure were the most common, accounting for more than 7% of all claims.

- A majority of the survey respondents, 67%, said they have purchased an employment practices liability endorsement for their D&O coverage, rather than a stand-alone EPLI policy. Only 15% of the respondents had purchased a stand-alone policy.

Given the \$150 million average asset size of the survey's respondents, observers generally agree with these findings but point out that the trend is different with larger employers.

An EPLI endorsement to a D&O policy is "very, very prevalent in smaller companies," said Ann Longmore, EPL national practice leader for Willis in New York. "It's a very attractive way to purchase the program."

But the majority of middle-market and large companies are either looking to buy or have bought stand-alone EPLI coverage, Ms. Longmore said.

The 1999 Directors and Officers Liability Survey is the 22nd in a series of studies on D&O liability claims. This year's survey is the second produced by Tillinghast-Towers Perrin, which acquired Watson Wyatt's Risk & Insurance Services Practice—the D&O survey's original producers—in April 1998.

The consultant surveyed 1,325 U.S. businesses. The median size of respondents in terms of assets was \$150 million.

*A full report is available for \$425 by contacting Mary Maze at 312-609-9347, via fax at 312-609-9393 or e-mail at mazem@towers.com.*



Kathryn J. McIntyre

# Tobacco

*Continued from previous page*  
since 1970. These include Affiliated FM Insurance Co.; AFIA (St. Paul Mercury) Insurance Co., now part of the St. Paul Cos. Inc.; several units of American International Group Inc.; units of CNA Financial Corp.; Commercial Union Insurance Co.; Federal Insurance Co. and a second Chubb Corp. unit; Greenwich Insurance Co.; Home Insurance Co. and Home Indemnity Co.; International Insurance Co.; Northbrook Excess & Surplus Insurance Co.; Old Republic Insurance Co.; Reliance Insurance Co.; Royal Indemnity Co. and Royal Insurance Co. of America; Seaboard Surety Insurance Co.; Travelers Property & Casualty Insurance Co. and another Travelers unit; Westport Insurance Corp.; and Zurich Insurance Co.

Unlike the Hartford lawsuit, Liggett's action does not mention the tobacco exclusion or bodily injury or property damage claims to which it arguably applies. Instead, Liggett says it has been hit with "numerous claims... for personal injuries, advertising injuries, and other injuries and damages."

Charges against the tobacco company in these cases have included "negligence, invasion of privacy, causing addiction, negligent representation, breach of warranty and unfair competition," the suit alleges.

Liggett asks the Delaware court for a ruling that its insurers are obliged to defend and indemnify it, and that Liggett is entitled to choose which policy years to call on for indemnity

payments.

Neither Hartford nor Liggett has answered the other's complaint.

Liggett appears to be trying to skirt the tobacco exclusion by characterizing claims against it as involving personal or advertising injuries, a strategy that several corporations have used in trying to overcome absolute pollution exclusions in their policies, lawyers say.

Some policyholders have actually prevailed in arguing that cases of contamination represent trespass or nuisance claims covered under personal injury protections, lawyers say. Many courts, though, have refused to broaden personal injury coverage to include pollution claims, they add.

Liggett will have a tough time recasting tobacco injury cases as personal or advertising injuries, insurance defense lawyers contend.

The pollution cases "are not really decent precedents," said Stuart Cotton, a lawyer with Mound, Cotton & Wollan in New York who is not involved in the case. "The definition of personal injury coverage and advertising liability do not fit even by the greatest stretch."

Advertising injury coverage, for example, is triggered by the policyholder committing one of a handful of "enumerated offenses," including libel or slander. Of the several charges Liggett says it has been hit with, only invasion of privacy and unfair competition are among the enumerated offenses contained in any of the three advertising injury forms developed by the Insurance Services Office since 1973, lawyers note.

Liggett may have trouble trying to "shoehorn" tobacco claims into the

enumerated offense categories, defense lawyers contend.

Liggett could argue, for instance, that second-hand smoke injuries are an invasion of privacy, Mr. Aylward observed.

In addition, the U.S. Supreme Court in 1977 defined privacy to include the right to independence in making certain important decisions, said Thomas F. Segalla, a lawyer with Saperston & Day in Buffalo, N.Y., and chairman of the Defense Research Institute's insurance law committee.

Liggett might contend that false advertising claims for its products kept smokers from making such independent decisions, he observed.

Similarly, the cigarette maker could argue that it invaded smokers' privacy by selling a product it knew to be addictive without informing them, added Mr. Reeder of Cozen & O'Connor.

Still, these lawyers expressed doubts about Liggett's chances of success.

"It's not surprising to me that, given the stakes, insureds are trying to push the envelope and be creative," Mr. Aylward said. But "I think a number of courts are going to be skeptical about this."

Most advertising injury coverages, Mr. Segalla said, contain another exclusion that could wipe out Liggett's claims. This "quality of goods" exclusion bars coverage for any failure of goods, products or services to conform to advertised quality or performance, he said.

"I think they are treading on very, very thin ground," Mr. Segalla said of Liggett. **BI**

## Updates

### Residual comp market profits

*Continued from page 2*

cilities that act as the markets of last resort for employers needing workers comp coverage. These include assigned risk plans, state pools and workers comp state funds. In the remaining jurisdictions, state funds accept all applicants, which eliminates the need for a specific residual market mechanism, according to the Downers Grove, Ill.-based insurer trade organization.

### Doctors amend HMO lawsuit

SAN DIEGO—The California Medical Assn. has amended a lawsuit seeking more than \$100 million from HMOs on behalf of doctors whose bills were left unpaid by bankrupt medical groups.

The amended complaint was filed Jan. 24 after San Diego Superior Court Judge Janis Sammarino ruled that the CMA did not have grounds to sue the plans under California's Health & Safety Code Section 1371, which requires plans to reimburse physicians for uncontested claims within 45 days of receipt of claims. The original CMA suit was filed in September.

Because the judge rejected the CMA's argument citing Section 1371, the amended suit now states that the HMOs violated the fairness provisions of other parts of the California code, a CMA spokesman explained.

Companies named as defendants are: Aetna U.S. Healthcare; Blue Cross of California; HealthNet; MaxiCare Health Plans Inc.; PacificCare of California; Prudential HealthCare, which recently merged with Aetna; and United HealthCare of California.

The CMA's decision to sue the plans was precipitated by bankruptcies or closures over the past three years of more than 100 physician groups, many of which had contracts with the HMOs. When the groups went out of business, many of their member physicians were not compensated for the care they delivered to HMO members, the suit explains.

### Non-profits may use Texas JUA

AUSTIN, Texas—In an effort to ease a growing insurance availability crisis, the Texas Department of Insurance will allow non-profit nursing homes to apply for coverage by a state joint underwriting association.

Texas Insurance Commissioner Jose Montemayor earlier this month approved an Insurance Department proposal that allows the state's 208 non-profit nursing homes to apply for medical liability insurance from the Texas Medical Insurance Underwriting Assn. The JUA is an insurer of last resort created in 1975 to issue coverage to health care providers.

The Insurance Department said only three groups of licensed companies currently write nursing home medical liability coverage in Texas, compared with eight in November 1996.

Mr. Montemayor said in a written statement that while the same coverage availability problem exists for for-profit nursing homes in Texas, he lacks the authority to include them in the JUA.

### N.Y. assessment lowered

ALBANY, N.Y.—New York has lowered slightly the "covered lives assessment" it charges employers with health plan participants living in the state.

That assessment is used by the state to help fund graduate medical education. For example, the annual assessment for family coverage for participants living in New York City will fall to \$365.83 from \$382.93 per employee, while the assessment for individual coverage will drop to \$110.86 from \$116.04.

The lowest covered lives assessment for family coverage—\$13.44 per employee—is in the Utica/Watertown area, down from \$13.95. The assessment for individual coverage for employees living in that area will be \$4.07, down from \$4.23.

The reduction in the fee schedule was mandated under legislation passed late last year, which cut the amount of money needed to fund a graduate medical education pool. The exact amount of the reduction in the covered lives assessment was left to the New York Department of Health.

### Briefly noted

The spate of attacks last week on several well-known Internet sites has sent e-commerce companies scrambling to buy **specialty e-commerce coverage**, insurance sources say. But even though the attacks prevented millions of users from visiting its site for about three hours, Yahoo.com did not experience a financial loss that would trigger its traditional business interruption coverage, a Yahoo spokeswoman said. . . . An Illinois Circuit Court judge has dismissed a portion of Chicago's **suit against gun manufacturers and distributors**. Judge Stephen Schiller said there was no basis for the portion of the suit brought by Chicago and Cook County charging the gun industry with negligent entrustment. The judge, however, did not rule on what the city considers the key element of its \$433 million suit, that the sale of guns used in acts of violence constitutes a public nuisance. . . . By a unanimous vote in the Senate and a 107-1 margin in the House, Michigan legislators have sent a **mutual holding company bill** to Gov. John Engler. The governor is expected to sign the bill into law. . . . Florida's insurance and legal authorities earlier this month ordered Metropolitan Life affiliates to pay \$7.5 million to the state to settle allegations that some of its agents used **deceptive sales tactics** during the past two decades to persuade thousands of residents "to buy more life insurance." Insurance Commissioner Bill Nelson is seeking a budget amendment to earmark the money for students who agree to enroll in ethics classes at Florida's colleges. The insurer denied it had engaged in any illegal sales scheme.

# P&I clubs

*Continued from page 2*

said this process may take several years, depending on the pace of change forced by growing competition for marine insurance business.

Some insurers that have recently begun competing for P&I business are AXA Global Risks S.A.; Southern Seas, for which Chubb Insurance Co. of Europe and QBE International Insurance Ltd. are underwriters; and Terra Nova Insurance Co. Ltd. In addition, capacity from Lloyd's of London is being offered separately by Dragon, HIH Insurance, JL Jones & Others and Osprey Underwriting Agency Ltd.

While S&P's latest P&I club ratings are largely unchanged from last year, the rating company reports that the outlook for the clubs is "negative," reflecting the industry's operating performance and underwriting.

"In an industry suffering from rising loss costs, declining margins and the potential growth in market power of non-traditional, fixed-premium underwriters, many P&I clubs could face significant strategic reform," said Ms. Potter.

P&I clubs must tailor their products better, particularly toward the smaller shipping companies that believe they are paying for more than they need, she said. The clubs also need to think about possible joint ventures with insurers, to offer shipowners both third-party liability and hull coverage, for example, she said.

The report says that most clubs are running deficits on their underwriting and relying on investment income to maintain free reserves. Rates, however, have shown no signs of hardening, even in the Feb. 20, 2000, renewals. Because contracts usually run for two years, the report says, it will be 2002 before any improvement can be anticipated, "unless clubs take action in the short term."

Copies of the 2000 edition of the *Marine Mutual Report* are available from Elizabeth McGlogan, Standard & Poor's Insurance Ratings, 6th floor, 18 Finsbury Circus, London EC2M 7NJ; telephone: 44-171-826-3562. The cost is £495 (\$792).

## P&I club ratings from S&P

All ratings valid as of Feb. 3, 2000

| P&I club name  | Location       | Ratings |       |
|--|----------------|---------|-------|
|  |                | 2000    | 1999  |
| American Steamship Owners Mutual Protection & Indemnity Assn. Inc.         | United States  | BBBpi   | BBBpi |
| The Britannia Steam Ship Insurance Assn. Ltd.                              | United Kingdom | Api     | Api   |
| British Marine Mutual Insurance P&I Assn. Ltd.                             | United Kingdom | BBBpi   | BBBpi |
| Assuranceforeningen Gard - Gjensidig                                       | Norway         | Api     | Api   |
| The Japan Ship Owners Mutual Protection & Indemnity Assn.                  | Japan          | BBpi    | BBpi  |
| Liverpool & London Steamship Protection & Indemnity Assn. Ltd.             | United Kingdom | NR      | Bpi   |
| The London Steam-Ship Owners Mutual Insurance Assn. Ltd.                   | United Kingdom | Api     | Api   |
| North of England P&I Assn. Ltd.  | United Kingdom | BBBpi   | BBBpi |
| The Shipowners' Mutual Protection & Indemnity Assn. (Luxembourg)           | Luxembourg     | Api     | Api   |
| Assuranceforeningen Skuld - Gjensidig                                      | Norway         | BBBpi   | BBBpi |
| The Standard Steamship Owners' Protection & Indemnity Assn. (Bermuda) Ltd. | Bermuda        | AA-     | Api   |
| The Standard Steamship Owners' P&I Assn. (Europe) Ltd.                     | United Kingdom | AA-     | **    |
| The Standard Steamship Owners' P&I Assn. (Asia) Ltd.                       | Singapore      | AA-     | **    |
| The Standard Steamship Owners' Protection & Indemnity Assn. (London) Ltd.  | United Kingdom | BBBpi   | BBBpi |
| The Steamship Mutual Underwriting Assn. (Bermuda) Ltd.                     | Bermuda        | BBBpi   | BBBpi |
| Sunderland Marine Mutual Insurance Co. Ltd.                                | United Kingdom | BBB+    | BBB+  |
| Sveriges Angfartygs Assurans Forening (The Swedish Club)                   | Sweden         | BBBpi   | BBBpi |
| The United Kingdom Mutual Steam Ship Assurance Assn. (Bermuda) Ltd.        | Bermuda        | Api     | Api   |
| The West of England Ship Owners Mutual Insurance Assn. (Luxembourg)        | Luxembourg     | BBBpi   | BBBpi |

\*\* New ranking - NR = not rated

Source: Standard & Poor's Corp.

# Suit

Continued from page 1  
its annual meeting (BI, May 11, 1998). In early 1999, RIMS negotiated a voluntary policy of disclosure with Marsh and later Aon.

Susan R. Meltzer, president of RIMS, said last week she was "taken aback" at learning of the lawsuit. The issue of contingent fees "is not even on my radar screen right now," she said.

In addition to the brokers named in the suit, RIMS is mentioned in the complaint's general allegations section. The suit states that RIMS and "other groups" in 1998 pressured the defendant brokers to disclose their participation in contingent fee arrangements.

RIMS was unaware that it was mentioned in the lawsuit until a reporter contacted the society last week, Ms. Meltzer said. The complaint does not specify who the other groups are.

RIMS opposes suing over the issue, as well as regulatory intervention in matters pertaining to large insurance buyers and contingent fees, said Ms. Meltzer, who is assistant vp-insurance and risk management at Sun Life Assurance Co. of Canada in Toronto.

Anderson, Kill, however, wants brokers to disclose contingent commission arrangements regardless of whether policyholders have requested disclosure.

The lawsuit asks the court to enjoin brokers from "entering into any contractual relationships with policyholders, or receiving commissions under existing relationships with policyholders, unless and until they fully disclose all undisclosed agency agreements to all policyholders, whether or not a particular policyholder requests such disclosure," according to the lawsuit.

Policyholders do not have a choice or cannot request disclosure if they don't know the practice occurs, said Finley T. Harckham, an Anderson, Kill partner in New York handling the lawsuit. The point of Anderson, Kill's lawsuit, he said, is to compel the brokers to inform all policyholders of the practice.

"Although RIMS made some progress in 1998 and got some limited disclosure from Marsh & McLennan, to this day, many policyholders have no idea the brokers are getting undisclosed commissions and fees from insurance companies," Mr. Harckham said. "We brought this suit to bring light on this practice which should have been fully disclosed years ago."

The lawsuit would not expose individual policyholder information during discovery, he said. Only information on contracts between brokers and insurers will be sought, Mr. Harckham said.

The lawsuit also asks for attorney fees under a California doctrine that allows lawyers to act as private attorneys general representing the pub-

lic. Legal experts say those fees can be substantial for a law firm filing such an action.

Several industry sources say Anderson, Kill's lawsuit is the first one they are aware of over contingent fee arrangements.

The brokers named in the complaint have united to defend against it, said an industry source familiar with the litigation who requested anonymity.

"It's going to be a long, hard fight before the word 'settlement' even occurs," the source said.

The brokers will muster all of their resources to prevent the law firm from forcing them to disclose their client and insurer arrangements, the source said.

Scott C. Turner, the plaintiff named in the complaint, did not return a call seeking comment. Mr. Turner, who is listed in the lawsuit as an Anderson, Kill representative in Carmel, Calif., is a sole practitioner affiliated with the

**'We brought this suit to bring light on this practice which should have been fully disclosed years ago,' says Finley T. Harckham.**

New York firm.

The suit charges that the brokers are deceiving policyholders by claiming to be policyholder representatives while secretly also receiving substantial commissions from insurers.

The undisclosed contracts create a conflict between the financial interests of the defendants and the interests of their policyholder clients, the suit contends. The practice creates a strong monetary incentive for the brokers to maximize the premium paid by policyholders to specific insurance companies and to minimize the amounts paid by the insurers on individual claims, the suit alleges.

Davis Carr, senior litigation counsel for Aon Corp. in Chicago said he had only recently received a copy of the lawsuit and would need time to properly evaluate the complaint before commenting. Regarding an attorney being the only named plaintiff, however, Mr. Carr said: "Let everybody draw their own conclusions."

Bart Schwartz, senior vp and general counsel for Willis North America Inc. in Nashville, Tenn., declined to comment because of the pending litigation.

Although a Marsh spokeswoman would not comment on the details of the litigation, she said the lawsuit is unfounded and that Marsh will contest it.

"Marsh has made considerable effort to ensure

its clients are well informed about these agreements," she said. "The latest example is last year we worked closely with RIMS and our clients to reach an agreement over disclosure."

The Washington-based Council of Insurance Agents & Brokers is monitoring the suit on behalf of its members, a spokesman said.

The lawsuit was filed under part of California's decades-old Business and Professional Code, which allows lawyers to bring suits over unfair or illegal business practices that harm the public.

"The defendants' failure to inform their policyholder clients of the undisclosed agency contracts and their acceptance of millions of dollars in commissions and fees under those agreements constitute unfair business practices under Bus. & Prof. Code 17203," the lawsuit alleges.

Thus, the millions of dollars in contingent fees that brokers have collected should be returned to policyholders of the State of California, the suit continues.

Lawsuits brought under California's Business and Professional Code can have merit, said John H. Sullivan, president of the Civil Justice Assn. of California, a Sacramento-based tort reform advocacy organization.

Too often, however, the suits merely seek to force businesses to disclose their client relationships, which, in turn, gives plaintiffs lawyers great leverage in demanding settlements, Mr. Sullivan added.

"Once you accuse an organization of doing something unlawful, the sky is the limit for discovery," he said. "Discovery is a huge stick."

Additionally, under the law, plaintiffs can take a case all the way to the California Supreme Court without ever naming actual plaintiffs, other than the attorneys who file the case, Mr. Sullivan said.

Very few of the cases brought under the code actually go to trial, however, because businesses often settle to end the suits quickly and curb potentially damaging discovery, he added.

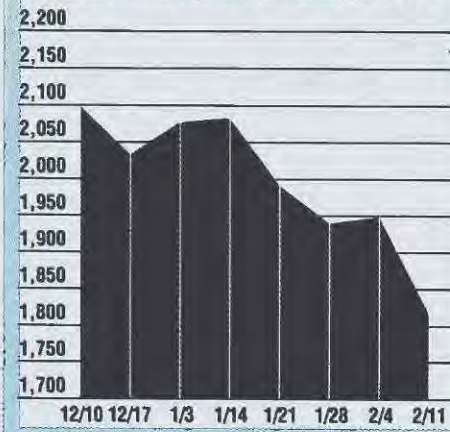
If a court finds in favor of the plaintiffs, it can order attorneys named as plaintiffs to notify harmed parties that an award is available, much as courts do in class-action settlements, legal experts said. Under the California code, though, courts also can order that an award be paid to a non-profit organization.

In the most egregious abuses of this law it has seen, the Civil Justice Assn. discovered that some non-profits were being operated by family members of the attorneys involved in a lawsuit, Mr. Sullivan said.

California's high court has agreed this year to hear a case involving practices related to the Business and Professional Code.

Anderson, Kill, maintains that the California law provides a good vehicle for bringing about full disclosure, Mr. Harckham said. **BI**

## BI Insurance Index



Base=100 on Dec. 29, 1978  
Source: CNET Investor (investor.cnet.com) Boulder, Colo.

## PCS catastrophe options

| As of Feb. 11                 | Call spread | Price bid/ask | Call spread | Price bid/ask |
|-------------------------------|-------------|---------------|-------------|---------------|
| <b>National Annual 2000</b>   |             |               |             |               |
| 60/80                         | 5.0/—       |               |             |               |
| 100/150                       | 7.5/—       |               |             |               |
| 150C                          | 6.0/—       |               |             |               |
| 190/195                       | 0.3/0.5     |               |             |               |
| 200/250                       | 3.7/—       |               |             |               |
| <b>California Annual 2000</b> |             |               |             |               |
| 150/155                       | 0.1/0.3     |               |             |               |
| <b>Western Annual 2000</b>    |             |               |             |               |
| 150/155                       | 0.2/0.4     |               |             |               |
| 300/350                       | 0.5/—       |               |             |               |
| <b>Midwest June 2000</b>      |             |               |             |               |
| 10/20                         | 0.8/3.3     |               |             |               |
| 20/30                         | 0.4/1.5     |               |             |               |
| <b>Eastern September 2000</b> |             |               |             |               |
| 40/60                         | 1.5/—       |               |             |               |
| 80/100                        | 1.0/—       |               |             |               |

Total volume: 0 Total open interest: 792

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

## British Issues

| Companies              | Price pence | P/E  | Div. pence | Yield % | 52-week high-low |
|------------------------|-------------|------|------------|---------|------------------|
| <b>Legal &amp; Gen</b> | 141         | 17.7 | 3.6        | 2.6     | 237-133          |
| <b>Royal &amp; Sun</b> | 331         | 12.1 | 23.0       | 6.6     | 633-331          |
| <b>Brokers</b>         |             |      |            |         |                  |
| <b>Lmbrt Fenchurch</b> | 142         | 14.0 | 4.2        | 3.0     | 145-58           |
| <b>JLT</b>             | 250         | 11.2 | 12.0       | 4.81    | 286-166          |

Note: Prices are Feb. 11 closings; other numbers from Feb. 10.

Source: CNET Investor (investor.cnet.com) Boulder, Colo.

# BI Industry Stock Report FEBRUARY 7, 2000, THROUGH FEBRUARY 11, 2000

| BROKERS                    | Price | Weekly % change | Year to date % change | Year to date |          |           | Price | Weekly % change | Year to date % change | Year to date |        |           | Price | Weekly % change | Year to date % change | Year to date |        |           |       |       |
|----------------------------|-------|-----------------|-----------------------|--------------|----------|-----------|-------|-----------------|-----------------------|--------------|--------|-----------|-------|-----------------|-----------------------|--------------|--------|-----------|-------|-------|
|                            |       |                 |                       | High         | Low      | Vol.(000) |       |                 |                       | High         | Low    | Vol.(000) |       |                 |                       | High         | Low    | Vol.(000) |       |       |
| Aon Corp.                  | NYS   | 23.94           | -11.95                | -40.16       | 46.66    | 22.75     | 4973  | 12.94           | -8.81                 | -30.38       | 27.38  | 12.88     | 609   | 15.00           | -2.83                 | -12.73       | 22.50  | 14.63     | 543   |       |
| Clark Bades Holdings       | NDQ   | 17.00           | -0.73                 | 18.26        | 21.00    | 11.63     | 176   | 22.36           | -10.28                | 0.28         | 35.88  | 20.50     | 1434  | NYS             | 22.69                 | -0.82        | -24.38 | 32.63     | 20.50 | 463   |
| E.W. Bianchi Holdings Inc. | NYS   | 48.88           | -1.26                 | -20.20       | 71.75    | 46.25     | 357   | 6.69            | -12.30                | -9.32        | 23.25  | 4.69      | 1174  | NDQ             | 48.50                 | -7.84        | -17.97 | 67.00     | 48.38 | 135   |
| Gallagher Arthur J. & Co.  | NYS   | 54.25           | -7.56                 | -16.22       | 66.25    | 44.06     | 227   | 2.63            | -16.00                | -23.64       | 17.25  | 2.38      | 1032  | NYS             | 21.00                 | -8.94        | -27.74 | 38.00     | 20.56 | 3167  |
| Hibb, Rogal & Hamilton     | NYS   | 26.25           | -4.76                 | -7.08        | 29.13    | 15.56     | 97    | 6.13            | 2.08                  | 13.95        | 6.94   | 3.94      | 106   | NYS             | 71.25                 | -5.00        | -8.73  | 80.50     | 69.06 | 59    |
| Kaye Group Inc.            | NDQ   | 9.00            | 5.88                  | 7.46         | 9.56     | 5.00      | 91    | 12.88           | -2.37                 | -9.65        | 22.25  | 11.63     | 95    | NYS             | 30.50                 | -12.70       | -10.95 | 41.88     | 27.69 | 2466  |
| Marsh & McLennan           | NYS   | 84.44           | -12.67                | -11.76       | 104.75   | 59.19     | 4876  | 25.38           | -7.94                 | -24.95       | 42.25  | 24.75     | 741   | NYS             | 12.81                 | -6.82        | -24.35 | 33.00     | 12.81 | 219   |
| Brown & Brown              | NYS   | 36.75           | -1.67                 | -4.08        | 40.63    | 29.31     | 105   | 12.38           | -7.91                 | -6.16        | 25.13  | 8.00      | 508   | NDQ             | 6.88                  | -5.17        | -1.79  | 13.13     | 6.38  | 15    |
| <b>BROKERS AVERAGE</b>     |       |                 | -3.67                 | -8.65        |          |           |       | 49.69           | -7.13                 | -18.55       | 63.94  | 47.44     | 774   | NDQ             | 22.94                 | 16.88        | 1.38   | 33.00     | 18.75 | 20    |
| <b>INSURERS/REINSURERS</b> |       |                 |                       |              |          |           |       | 10.88           | -7.45                 | -26.89       | 22.50  | 10.00     | 350   | NDQ             | 34.63                 | -3.23        | -7.97  | 42.38     | 30.50 | 464   |
| ACE Ltd.                   | NYS   | 15.00           | -11.11                | -10.11       | 35.25    | 15.00     | 5852  | 10.88           | -7.45                 | -26.89       | 22.50  | 10.00     | 350   | NYS             | 14.56                 | -45.05       | -54.58 | 56.88     | 14.56 | 31924 |
| Accel International Corp.  | NDQ   | 1.00            | 10.38                 | 0.00         | 3.00     | 0.50      | 48    | 12.13           | -5.37                 | -26.52       | 19.88  | 10.88     | 134   | NYS             | 4.56                  | -5.19        | 17.74  | 8.19      | 3.38  | 230   |
| Acceptance Insurance Cos.  | NYS   | 3.44            | 0.00                  | -40.22       | 18.00    | 2.75      | 421   | 32.25           | -10.88                | -19.38       | 57.50  | 32.25     | 3335  | NYS             | 44.00                 | -6.63        | -15.18 | 67.19     | 41.94 | 2896  |
| AEGON N.V.                 | NYS   | 72.81           | -5.13                 | -23.76       | 113.00   | 69.63     | 337   | 18.94           | -11.66                | -10.62       | 30.53  | 18.81     | 126   | NYS             | 19.06                 | -4.09        | -7.58  | 26.69     | 18.75 | 64    |
| Aetna Life & Casualty      | NYS   | 40.00           | -28.57                | -28.33       | 99.88    | 39.44     | 15816 | 145.50          | -11.82                | -6.13        | 193.00 | 134.00    | 80    | NDQ             | 15.56                 | -45.05       | -54.58 | 56.88     | 14.56 | 31924 |
| AFLAC Inc.                 | NYS   | 39.88           | -9.25                 | -15.50       | 56.75    | 37.50     | 4090  | 39.19           | -18.15                | -25.80       | 71.88  | 39.06     | 5310  | NYS             | 14.56                 | -45.05       | -54.58 | 56.88     | 14.56 | 31924 |
| Allmerica Financial Corp.  | NYS   | 44.63           | -8.70                 | -19.78       | 64.81    | 44.25     | 721   | 5.25            | -12.50                | -20.00       | 17.13  | 4.75      | 60    | NYS             | 4.56                  | -5.19        | 17.74  | 8.19      | 3.38  | 230   |
| Allstate Corp.             | NYS   | 21.69           | -6.72                 | -9.87        | 40.75    | 19.88     | 24806 | 9.31            | 4.93                  | 7.97         | 17.44  | 3.31      | 479   | NYS             | 44.00                 | -6.63        | -15.18 | 67.19     | 41.94 | 2896  |
| Ambac Financial Group      | NYS   | 44.69           | -5.30                 | -14.37       | 63.00    | 43.88     | 1884  | 15.13           | -8.33                 | -10.04       | 43.25  | 9.81      | 847   | NYS             | 19.06                 | -4.09        | -7.58  | 26.69     | 18.75 | 64    |
| American Financial Group   | NYS   | 18.88           | -10.39                | -28.44       | 38.38    | 18.88     | 590   | 10.13           | 2.53                  | 3.85         | 16.00  | 9.13      | 10    | NYS             | 14.56                 | -45.05       | -54.58 | 56.88     | 14.56 | 31924 |
| American General           | NYS   | 55.31           | -7.33                 | -27.10       | 82.19    | 52.81     | 4006  | 12.88           | -3.74                 | -2.37        | 19.50  | 12.00     | 44    | NYS             | 4.56                  | -5.19        | 17.74  | 8.19      | 3.38  | 230   |
| American Intl Group        | NYS   | 94.81           | -5.89                 | -12.31       | 114.50   | 78.30     | 23127 | 11.75           | -8.96                 | -26.85       | 21.00  | 11.75     | 2592  | NYS             | 56.50                 | -0.44        | 6.35   | 70.00     | 49.38 | 8404  |
| American Safety Insurance  | NYS   | 6.94            | 0.00                  | 6.73         | 10.38    | 6.00      | 13    | 11.50           | -5.15                 | -15.60       | 20.69  | 11.25     | 1094  | NYS             | 66.94                 | -1.02        | 1.52   | 97.00     | 48.25 | 1712  |
| Argonaut Group             | NDQ   | 17.25           | -8.61                 | -13.21       | 27.94    | 17.25     | 118   | 33.50           | 8.72                  | 3.28         | 46.13  | 28.38     | 751   | NYS             | 66.94                 | -1.02        | 1.52   | 97.00     | 48.25 | 1712  |
| AXA-UAP Group              | NYS   | 63.38           | -6.80                 | -10.74       | 73.63    | 53.75     | 412   | 8.88            | 10.08                 | 14.52        | 11.44  | 6.63      | 45    | NYS             | 66.94                 | -1.02        | 1.52   | 97.00     | 48.25 | 1712  |
| Baldwin & Lyons Inc.       | NDQ   | 19.38           | 0.16                  | -12.43       | 24.05    | 18.63     | 75    | 17.75           | 4.80                  | -10.69       | 21.13  | 16.00     | 80    | NYS             | 66.94                 | -1.02        | 1.52   | 97.00     | 48.25 | 1712  |
| Berkley W.R. Corp.         | NDQ   | 15.31           | -9.93                 | -26.65       | 29.13    | 15.25     | 393   | 15.38           | 2.07                  | 6.03         | 25.50  | 10.81     | 226   | NYS             | 66.94                 | -1.02        | 1.52   | 97.00     | 48.25 | 1712  |
| Berkshire Hathaway Inc.    | NYS   | 45200.00        | -11.46                | -19.43       | 81100.00 | 45200.00  | 6     | 12.13           | -3.96                 | -6.73        | 22.00  | 9.94      | 242   | NYS             | 66.94                 | -1.02        | 1.52   | 97.00     | 48.25 | 1712  |
| Capitol Transamerica Corp. | NAS   | 12.31           | 2.60                  | 22.36        | 17.63    | 9.38      | 8     | 5.69            | 8.33                  | -14.15       | 11.88  | 2.81      | 3091  | NYS             | 66.94                 | -1.02        | 1.52   | 97.00     | 48.25 | 1712  |
| Chubb Corp.                | NYS   | 49.38           | -13.76                | -12.32       | 76.38    | 44.00     | 3695  | 32.44           | -3.17                 | -17.22       | 49.81  | 28.72     | 2828  | NYS             | 66.94                 | -1.02        | 1.52   | 97.00     | 48.25 | 1712  |
| CIGNA Corp.                | NYS   | 79.88           | 5.27                  | -0.85        | 98.63    | 63.44     | 5985  | 36.63           | -7.42                 | -10.40       | 43.19  | 30.00     | 114   | NYS             | 66.94                 | -1.02        | 1.52   | 97.00     | 48.25 | 1712  |
| Cincinnati Financial Corp. | NYS   | 28.88           | -3.35                 | -9.41        | 42.50    | 27.38     | 2272  | 14.19           | 1.34                  | 12.38        | 22.00  | 11.00     | 178   | NYS             | 66.94                 | -1.02        | 1      |           |       |       |