

# Business Insurance

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

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## Express Scripts to acquire ValueRx for \$445 million

ST. LOUIS—In a move that will create a formidable and independent prescription benefit management company, Express Scripts Inc. announced Friday it planned to acquire ValueRx for \$445 million in cash.

St. Louis-based Express Scripts, the second-largest PBM not owned by a drug manufacturer, said it had reached a definitive agreement to buy Plymouth, Minn.-based ValueRx—the nation's leading independent PBM—from Columbia/HCA Healthcare Corp. The deal, subject to regulatory approval, is expected to close in the next few weeks. *See Updates on next page*

## IRS allows tax-favored retiree health funding

By JERRY GEISEL

WASHINGTON—The Internal Revenue Service is opening the door to a new, tax-favored way for employers to prefund retiree health care obligations.

The IRS recently issued a favorable private-letter ruling involving an employer-established voluntary employee beneficiary association's purchase of medical stop-loss insurance from an offshore group captive. VEBAs are trusts used to fund employee benefits.

The ruling was obtained by Energy Insurance (Bermuda) Ltd. of Hamilton, Bermuda, a separately capitalized

subsidiary of electric and gas utility excess liability insurer Energy Insurance Mutual Ltd. of Tampa, Fla. The Bermuda-based company was set up in 1992 and designed as a reinsurance-style insurer to write a broad range of insurance coverages, reinsurance or non-traditional financial deals for utilities that belong to EIM.

Prior to the ruling, at least one utility—Oklahoma Gas & Electric of Oklahoma City—had been using a VEBA to buy stop-loss coverage from Energy Insurance as a way to prefund future retiree health care liabilities (*BI*, Nov. 13, 1995).

"This has proved to be a very cost-

effective way to fund retiree health care benefits," said James Hatfield, vp and treasurer at Oklahoma Gas & Electric, which began using the program in late 1995.

While the ruling, LTR 9752061, applies to Energy Insurance and a particular set of facts, legal experts say it could have broad application.

"This should be of interest to any large employer that is funding retiree medical liabilities. We expect lots of companies to be interested" in this approach, said Henry Lawrie, a partner with law firm Gardner, Carton & Douglas in Chicago.

*See Prefund on page 7*

### Dow Corning ups the ante

	New proposal	Old proposal
Total value:	\$4.4 billion	\$3.7 billion
Claimants share:	\$3.0 billion	\$2.4 billion
Commercial creditors:	\$1.4 billion	\$1.3 billion
Settlement options:	15	4
Payment amounts:	\$1,000 - \$200,000	\$1,000 - \$200,000

Source: Dow Corning Corp.

GRAPHIC BY JOHN HALL

## Dow Corning offers higher settlement

By JOANNE WOJCIK

MIDLAND, Mich.—Dow Corning Corp. is sweetening its settlement offer to women with silicone breast implant claims by \$640 million under a proposal that, if accepted, would allow the company to emerge from bankruptcy protection.

Under a new reorganization plan submitted Feb. 17 to the U.S. Bankruptcy Court in Bay City, Mich., Dow Corning would pay \$3 billion to resolve implant claims, up from \$2.4 billion proposed in a reorganization plan unveiled last August.

The offer contained in the earlier plan was \$400 million larger than the company had pledged before seeking bankruptcy protection.

However, Judge Arthur J. Spector declined to adopt either that or a plaintiffs' counterproposal and asked Dow Corning to submit a new plan by Feb. 17, 1996, (*BI*, Sept. 1, 1997; Dec. 9, 1996).

The Tort Claimants Committee, the official committee representing women with silicone breast implants, says the new plan is still inadequate because it delays payments for many sick women.

In particular, the committee criticized the plan because while Dow Corning says it is offering \$4.4 billion, the true payment to women with implants is significantly less than \$2 billion in today's dollars. This is because \$1.4 billion in the plan would go to commercial creditors, and the payment to women would take place over almost two decades, reducing present value to less than \$2 billion, according to committee spokesmen.

"Dow Corning is again offering too little too late," said Sybil Niden Goldrich, co-founder of the Command Trust Network, an information clearinghouse for women with silicone implants. "I am extremely disappointed that Dow has failed again to provide fair

*See Implants on page 4*

## Kaiser loss a bad omen

Buyers should prepare strategies to offset rate increases

By JUDY GREENWALD

Health plan sponsors should brace themselves for a bumpy ride ahead.

Kaiser Permanente's announcement that it posted a \$270 million loss for 1997 and plans to raise rates, along with other recent developments in the health care market, mean employers can expect higher rate increases next year on top of the rate hikes already seen for 1998 (*BI*, Dec. 8, 1997).

"Employers who are beginning their 1999 strategic planning should expect the worst," said Randall K. Abbott, Little Fall, N.J.-based regional practice leader of health care consulting at Watson Wyatt Worldwide. Mr. Abbott said he anticipates 6%-8% rate increases in 1999 for health maintenance

organizations.

The best way for employers to cope with rising rates, benefit experts say, is to sharpen their negotiating skills and focus even more clearly on getting quality performance from their managed care organizations.

Benefit managers say they are ready.

Morristown, N.J.-based Allied Signal Inc. plans to "take aggressive and active steps to offset cost increases," said Joe Checkley, director of insurance.

Among the steps he plans to take are focusing more on disease and demand management programs.

Suzanne Mercure, manager of health programs for Southern California Edison Co. in Rosemead, Calif.,

said she is prepared to insist health plans justify requested hikes.

However, Ms. Mercure said she is concerned that battles over rate increases could derail collaborative efforts between employers and health care plans to improve quality of care.

"We'd lose some of that perspective, the opportunity we had to improve quality," she said. "We could actually revert to a more adversarial relationship again, which would not be constructive, in my opinion."

Kaiser's \$270 million loss last year compares with a \$265 million profit in 1996. A spokeswoman for the Oakland, Calif.-based health plan said "moderate yet competitive rate increases" are "certainly one of the

*See HMOs on page 26*

## High-tech goes mainstream

By DAVE LENCKUS

For Jackie Hair at Cisco Systems Inc., it was the quick, powerful solution that allowed her to meet a pressing deadline for submitting the software company's directors and officers insurance submission to the market.

For Bruce Magwood at Philip Services Corp., it was an efficient communication tool for explaining to property insurers the company's recent evolution from a solid waste handler to an industrial services and metals recovery concern.

For Henry Good at Rohm & Haas Co., it ushered in a more timely communications process with the specialty chemicals manufacturer's property insurance engineers.

With the aid of brokers Aon Group Inc. and Willis Corroon Group P.L.C., all three risk managers have used it—high-tech communication—to streamline either an underwriting submission or a major portion of the process for placing their companies' risks.

Ms. Hair and Mr. Good are using the Internet, offering underwriters and property engineers, respectively, crucial underwriting information via special sites on the

*See High-tech on page 18*

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# Implants

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compensation in a timely way for women who have suffered," she said.

Under the new reorganization proposal, which still requires court approval, the company also would set aside \$1.4 billion to satisfy commercial creditors, up from \$1.3 billion earmarked for creditors in the earlier reorganization plan.

The new plan also would offer women more than 15 settlement choices, depending on the nature of their claims, with payments ranging from \$1,000 to \$200,000.

Additional money also would be earmarked through the year 2014 for women who have uninsured medical bills that exceed their settlement payments.

Dow Corning also would create

a "Second Chance" fund that would allow women who settle immediately to qualify for additional payments should they later develop symptoms or conditions specified in the settlement plan.

The settlement proposal also would preserve the right of all women to seek a jury trial. However, as with the August proposal, the company seeks a single causation trial to attempt to put claims that silicone implants cause injuries to rest.

Dow Corning's new plan takes into account feedback from plaintiffs and attorneys to the company's earlier reorganization plan, which was submitted to the court in November 1996 and sweetened last August (*BI*, Sept. 1, 1997; Dec. 9, 1996).

"Dow Corning developed this amended plan with input from a variety of sources and with significant consideration and input

from women with breast implants," said Gary E. Anderson, president of Dow Corning, in a news release announcing the new plan. "We have been working vigorously to provide solutions to this issue and are fully committed to satisfying the claims of all women with our implants who are ready to resolve their claim and move on," he said.

Mr. Anderson also pointed out that Dow Corning's new proposal "is comparable to the revised global settlement offered by other breast implant manufacturers, which has been widely accepted by women."

The revised global settlement offer from the remaining major implant makers—Baxter International Inc., Minnesota Mining & Manufacturing Corp. and Bristol Myers Squibb Co.—totals \$2.25 billion (*BI*, Sept. 1, 1997).

Mr. Anderson emphasized, how-

ever, that the company is not admitting any fault by proposing the settlement plan.

"In the last month, three new studies have added to the continuing trend of research showing the breast implants do not pose a substantial increased risk for disease," he said, referring to new research by scientists in Canada, Sweden and Scotland. The studies, published this month in the *Journal of Rheumatology*, the *British Medical Journal* and *Plastic & Reconstructive Surgery*, found that women with silicone breast implants did not report the studied symptoms more frequently than women without implants.

"This should be reassuring for women. Even so, we believe that a settlement remains the best way to resolve this controversy," Mr. Anderson said.

The additional money in the latest offer came from increased cash

flow and reserves available since the company paid off some creditors after its 1995 bankruptcy filing, according to a company spokesman.

No additional insurance coverage recoveries contributed to the company's financial resources, he added.

So far, Dow Corning has recovered about \$1.2 billion in coverage from its liability insurers. About half of that was in the form of cash payments, while the remainder is in the form of coverage-in-place agreements, according to Kevin Scroggin, Dow Corning's risk manager.

Dow Corning's attorneys hope a recent pro-policyholder trigger-of-coverage decision by the Michigan Supreme Court will help it settle its outstanding insurance coverage disputes.

The court on Jan. 21 unanimously ruled in *Arco Industries Corp. vs. American Motorists Insurance Co.* that policyholders can tap all their commercial general liability policies from the time property damage first occurs (*BI*, Feb. 2).

By adopting this injury-in-fact trigger, the court effectively expanded coverage available to policyholders in environmental coverage cases such as Dow Corning's, explained John Rigas, senior managing counsel for the Dow Corning manufacturer in Midland, Mich.

That case is on appeal to the Michigan Court of Appeals in Detroit. No hearing date has been set yet.

Other features of Dow Corning's revised reorganization plan include:

- Expanded payment for implants that have been found ruptured after removal surgery, valued at \$15,000, \$30,000 or \$50,000, depending on the complexity of the rupture.

- A simplified process allowing women who already filed claims in the previous global settle-

See *Implants* on page 6



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## BI adds reporter in London

LONDON—Matthew MacDermott has joined *Business Insurance* in London as associate editor.

Mr. MacDermott, 24, graduated from the University of Queensland, Australia, with a



**Mr. MacDermott** before joining *BI*, Mr. Mac-

Dermott was a journalist for freelance company Kate Tilley Journalism Pty. Ltd. of Brisbane, Australia. While at Kate Tilley Journalism, he wrote for *Business Insurance* and *BI* sister publications *Plastics News* and *Urethanes Technology*, plus several Australian business magazines.

Mr. MacDermott can be reached in London at 44-171-457-1426.

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## Implants

Continued from page 4

ment—from which Dow Corning opted out before seeking bankruptcy protection—to submit the same documentation.

- Payments for claims filed at any time during the 16-year program would be treated the same as payments for claims filed immediately.

- Women who qualify initially for certain settlement options valued at less than \$50,000 can refile a claim in the future if they can document a changed medical condition eligible for up to an additional \$50,000 settlement.

- A Medical Procedures Program would be created to cover the future costs for women who elect to have their implants removed and, if they choose, to have breast reconstruction.

- Payment for non-U.S. claimants has been increased to up to 60% of what the U.S. women would get, compared with the previous plan's upper limit of 40%.

- Women without injuries can receive an expedited payment of \$1,000 as long as they can prove they have Dow Corning implants.

The revised reorganization plan must be approved by women with implants and confirmed by the court.

For more information regarding the settlement plan and the latest summaries of science and research on silicone breast implants, visit Dow Corning's Chapter 11 information site on the World Wide Web at <http://www.implantclaims.com>. **BI**

## Oregon court OKs testimony

PORTLAND, Ore.—A board-certified neurologist can testify at trial about an alleged new link he discovered between silicone gel breast implants and disease, an Oregon appellate court has ruled.

The Feb. 11 decision in *Nancy R. Jennings vs. Baxter Healthcare Corp.* by the Oregon Court of Appeals overturns a trial judge's ruling that excluded the expert testimony of a doctor based on the U.S. Supreme Court's historic "junk science" ruling in *Daubert vs. Merrell Dow Pharmaceuticals Inc.*

Since the 1993 *Daubert* decision, a number of courts have excluded expert opinions if the methodologies used to establish cause-and-effect relationships are not based on generally accepted scientific principles.

In 1997, the U.S. Supreme Court affirmed the *Daubert* opinion in *General Electric Co. et al. vs. Joiner et ux.* and ruled that federal appellate courts should not second-guess district courts on the issue of allowing expert testimony to be heard.

However, in the Oregon case, the state appellate court rejected Baxter HealthCare Corp.'s contention that the hypothesis regarding silicone-related disorder presented at trial by a University of California at Los Angeles physician, Dr. Stuart Silverman, was not scientific.

The court said: "Silverman's hypothesis that a silicone-related disorder exists is based on scientific methodologies that are in accordance with the general processes of how physicians undertake to identify new diseases or disorders."

—By Joanne Wojcik

## Employers increase 401(k) education: Study

More employers are educating workers on how to invest in 401(k) plans, with markedly more using sample investment portfolios as a teaching tool, a new survey finds.

The 1997 study by Lincolnshire, Ill.-based Hewitt Associates L.L.C. found that employers have beefed up education efforts because the number of investment options for employees is much higher than just a few years ago. Employees' ability to control their funds on a day-to-day basis also is much greater.

About 58 in 10 employers reported recently providing employees with formal education on investing. Another 27% said they would do so during 1998.

Eighty-five percent of the employers used seminars or workshops to convey 401(k) plan information, and virtually all reported that the meetings proved to be "very effective" or "somewhat effective" in communicating investment information.

The use of sample investment portfolios in par-

ticular has become a favorite educational method among many companies. Fifty-one percent of plans are providing workers with portfolios, a sharp increase from the 36% that reported using them in a similar Hewitt survey in 1995.

Sometimes all employees need to do is choose from among sample funds, which are then designed to "rebalance" themselves monthly or quarterly to preserve desired levels of bonds, equity funds or other kinds of investments, said Stacy Schaus, Hewitt 401(k) consultant and principal.

The number of investment options available to employees enrolled in 401(k) plans continues to soar, according to the survey. The average plan member had eight investment options last year. This compares with 6.3 on average in 1995 and 4.5 in 1993. Thirty-five percent of the plans last year offered nine or more investment choices.

Common types of investments offered by employers include:

- U.S. equity (stock) funds, offered by 95% of plans.

- Stable value funds, such as money market and bond funds, each offered by 65% of plans. These funds have a non-fluctuating principal value.

- Lifestyle, also known as life-cycle or pre-mixed portfolios, which consist of a range of funds balanced by experts to produce a desired degree of financial aggressiveness. Nineteen percent of plans offered such portfolios, up from 9% two years earlier.

About two-thirds of plans permitted employees to transfer balances daily between 401(k) plan funds, significantly up from 41% in 1995.

The Hewitt survey polled 460 employers.

For a copy of the study, "401(k) Trends and Experience 1997," contact the Publications Desk, Hewitt Associates L.L.C., 100 Half Day Road, Lincolnshire, Ill. 60069; 847-295-5000. The price is \$150.

—By Robert Kazel

General Accident  
Insurance

# Prefund

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In its ruling, the IRS said that reserves established for stop-loss policies are eligible for the same favorable tax treatment as life insurance reserves to the captive insurer. That means the investment income supporting the reserves is not taxed.

In addition, the IRS ruled that the inside buildup in the value of the stop-loss insurance is exempt from the unrelated business income tax generally applied to investment returns of VEBAs used to fund retiree health care benefits.

The linkage of a VEBA, stop-loss insurance and an offshore captive insurer, experts say, avoids many of the problems employers now face when they want to fund their retiree health care obligations in advance. Advance funding reduces liabilities employers have to report on their fi-

nancial statements under Financial Accounting Standard 106 and also helps to ensure enough money is available in the future to pay claims.

While employers are looking to prefund retiree health care liabilities, there are significant obstacles to doing so in tax- or cost-effective ways.

For example, a 1984 law sharply limits the tax-effective use of a VEBA alone to advance fund retiree health care benefits. Among other things, that law bars employers from taking into account anticipated future increases in health costs in making tax-deductible contributions to a VEBA. In addition, investment income earned on VEBA assets used to fund retiree health care liabilities are subject to the unrelated business income tax. This reduces the amount of assets available to pay for benefits.

To avoid these problems, VEBAs can purchase life insurance prod-

ucts—known as trust-owned life insurance, or TOLI—from commercial insurers. Under these policies, the inside buildup of the value of policies is not taxed. While the VEBA owns the policies, individual employees are named as insureds. When those employees die, the VEBA collects the insurance proceeds and uses them to pay for retiree health care costs.

Alternatively, employers can directly purchase corporate-owned life insurance policies from commercial insurers. Similar to TOLI policies, COLI policies, which name individual employees as insureds but are owned by the employer, allow the tax-free buildup of investment income earned on premiums paid by the employer. When employees die, the proceeds are used to pay for retiree health care claims. If certain rules are followed, money also can be borrowed tax-free from the policies.

The Clinton administration, however, has proposed stripping some of

the tax advantages of COLI policies (BI, Feb. 9).

In addition, a problem with TOLI and COLI is that in many states employers must disclose to employees that while they are named on such policies, they will not receive the benefits. That can create an employee-relations problem.

The purchase of stop-loss coverage to fund future retiree health care costs by an employer-established VEBA from an offshore captive, though, can even be more financially attractive than TOLI or COLI policies purchased from commercial insurers while avoiding the disclosure problem, explained Chris George, a consultant in the Wellesley Hills, Mass., office of Watson Wyatt Worldwide, which has been working with Oklahoma Gas & Electric and other large employers to fund benefit obligations through offshore captives.

"You get much greater cost effi-

ciency. There are fewer frictional costs," Mr. George said.

For example, by buying coverage from an offshore captive, state premium taxes, which commercial insurers must pay, can be avoided. In addition, offshore captives generally have lower overhead costs than commercial insurers. And, by buying medical stop-loss insurance from an offshore captive, the employee disclosure requirements associated with TOLI and COLI are avoided.

In addition, an individual employer—whose VEBA buys coverage from a group captive—probably will have greater control in how premium contributions are invested compared with purchasing policies from a commercial insurer.

The design of a VEBA stop-loss insurance captive-linked program is simple. Employers make tax-deductible contributions to the VEBA. With those contributions, the VEBA buys stop-loss policies from the group captive. The policies provide coverage for claims that exceed a specified level. To maximize earnings potential of the premium contributions, the policies could cover active employees years away from retirement. That would allow a significant growth of investment income before claims are paid.

Such an approach has especially great appeal to state-regulated utilities, Mr. George said. That is because they can build into their rate structure current contributions—such as contributions made to their VEBAs—for future retiree health care obligations, noted Jim Hess, a vp with benefit consultant ASA Inc. in Somerset, N.J.

Still, not all employers want to prefund retiree health care obligations. They may want to hold on to corporate cash to invest in their own operations, which may earn a greater rate of return than what they would get from buying insurance policies.

"The real issue is that earnings on an insurance policy may be less than what the business earns. Some companies may feel that it makes more financial sense not to prefund," Mr. Hess said.

The IRS ruling could be a boon to group offshore captives looking to increase their premium volume.

"Once this ruling becomes better known to the offshore market, you may see other offshore facilities pursuing this," said Robert Dumont, a partner with Baker & McKenzie in New York.

Labor Department rules, though, would preclude the use of a single-parent captive to take advantage of the IRS private-letter ruling. **BI**

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## Directory of 401(k) services

*Business Insurance* will publish its annual Directory of 401(k) Plan Administrators in the April 6 issue, which also will feature a Spotlight report on Pensions and Retirement Plans.

The directory is published as an editorial service, and there is no charge to be included. Companies simply must submit a completed questionnaire by the extended deadline of March 11.

If your company provides 401(k) administration services on a direct, unbundled basis and has not yet received a questionnaire, please request one by calling Assistant Directory Editor Matt Scroggins at 312-649-5483.

## Opinions

## Insurers courting danger

INSURERS ARE GETTING TOUGH in court and going after companies they blame for hundreds of millions of dollars in paid claims.

But their aggressive new legal strategy could have serious long-term fallout for the insurance industry, both in terms of alienating potential and existing customers and in exacerbating litigiousness in our society. As such, this development should be alarming not only to buyers but also to other insurers.

In a new twist in an already convoluted civil litigation system, a group of insurers has been certified as plaintiff in a class action against the makers of allegedly defective polybutylene piping (*BI*, Feb. 16). That action—called “historic” by one attorney—comes only a few weeks after State Farm Mutual Automobile Insurance Co. filed suit against Ford Motor Co., seeking reimbursement for hundreds of millions of dollars in auto claims it has paid due to allegedly faulty ignition switches (*BI*, Jan. 26). And in 1995, Blue Cross & Blue Shield of Minnesota took perhaps the first step in this direction when it became the first insurer to sue the tobacco companies to recover the costs of claims it has paid for smoking-related illnesses (*BI*, May 29, 1995).

While litigation involving insurers is hardly new, it typically has revolved around coverage disputes or subrogation issues. Rarely, if ever, have insurers been the plaintiffs in legal actions on such a scale as the polybutylene pipe and Ford suits. These aggressive actions to recover losses from third parties might suggest that the insurance industry's margins are perhaps thinner in this ongoing soft market than previously imagined, or that some companies can ill afford to use reserves to pay claims.

The insurer lawsuits could have repercussions far beyond the cases at hand.

U.S. businesses already face a considerable product liability exposure in our civil justice system. That could be greatly enlarged if a new breed of plaintiffs—and one with ample resources—begins to throw its weight around the nation's courtrooms.

If insurers emerge as more frequent plaintiffs, it is sure to increase corporate buyers' liability insurance costs as well as mistrust of the insurance industry.



Both would drive buyers in greater numbers to alternative risk financing options, as occurred in the 1970s and after with prior product liability crises.

This development, if it continues, also likely will spawn a new round of coverage disputes as companies seek to defend themselves from insurer plaintiffs. Surely some of those cases will engender inextricable conflicts of interest among various insurers, especially as the industry continues to consolidate. The costs of these legal battles could dwarf the hundreds of millions of dollars at stake in the current suits.

Even though we recognize that victims of fraud—as the insurers in the polybutylene pipe case and the Minnesota Blues suit allege they were—are entitled to pursue damages, we would urge the insurance industry to consider the possibly harmful ramifications of opening this Pandora's box.

The insurance industry's fortunes are closely tied to the ebb and flow of the civil justice system in our country. This disturbing legal trend could shift that tide and wind up dragging them under.

## Letters

## Praise for Walter Rhulen's contributions echoed

To the editor: As a multigenerational participant in the property and casualty business over the past 35 years, I want to second Kathryn McIntyre's lovely commentary in the Feb. 16 issue on the life and times of Walter Rhulen, a true visionary in this business.

At a time when we are seeing the increasing commoditization of the business, coupled with downsizings and restructurings that are taking the soul out of many of its participants, it has been a pleasure to follow the profitable and value-added expansion of Frontier's

business over the years under Walter's guidance.

As Kathryn points out, Frontier has become an insurer that truly tries to meet the needs of a variety of policyholders with difficult risks. Without companies such as Frontier, many small and risky businesses could not succeed and grow.

I visited Frontier last fall. It is headquartered in Sullivan County, a fairly depressed part of New York state. It was eye-opening to speak with many local residents, who considered Frontier the

local employer of choice and appreciated Walter's (and his family's and Frontier's employees) sponsorship of many local events and activities.

I applaud Walter's vision and commiserate with his family, employees, investors, agents, brokers and policyholders or his passing. We need more like him in this industry, and I wish his son Harry all the best for the future.

**Edgar S. "Sandy" Clark**  
Chief Executive Officer  
RSC Risk Solutions Corp.  
San Francisco

## Risk managers should think beyond checkbooks

To the editor: I would like to draw attention to the spirit of Michael Bradford's Feb. 16 article, "Soft Market Curbs

*Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611; fax: 312-280-3174; e-mail: pwinston@crain.com.*

Growth of Self-Funded Programs."

The idea that risk managers find soft market pricing a "cheaper" and "easier" alternative to self funding because they "don't have the work of putting together a self-insurance program and the responsibility of administering it," should be disgusting to any professional risk manager, but it exemplifies one of the major problems in our industry.

It is extremely difficult to maintain the standards of professionalism in an industry that has, apparently, reduced its product line to a commodity.

With few exceptions, we only buy or sell on PRICE, PRICE, PRICE! And, we are woefully poor in assessing the true cost of that PRICE, PRICE, PRICE mentality.

In casualty insurance, we now spend little time or effort on our infrastructure, relegating risk management tools, such as litigation management, safety or claims and reserve control, to the total purview of the insurers. In short, the clients choose to not control their own basic costs.

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## Business Insurance

Reporting weekly on corporate risk, employee benefit and managed health care news

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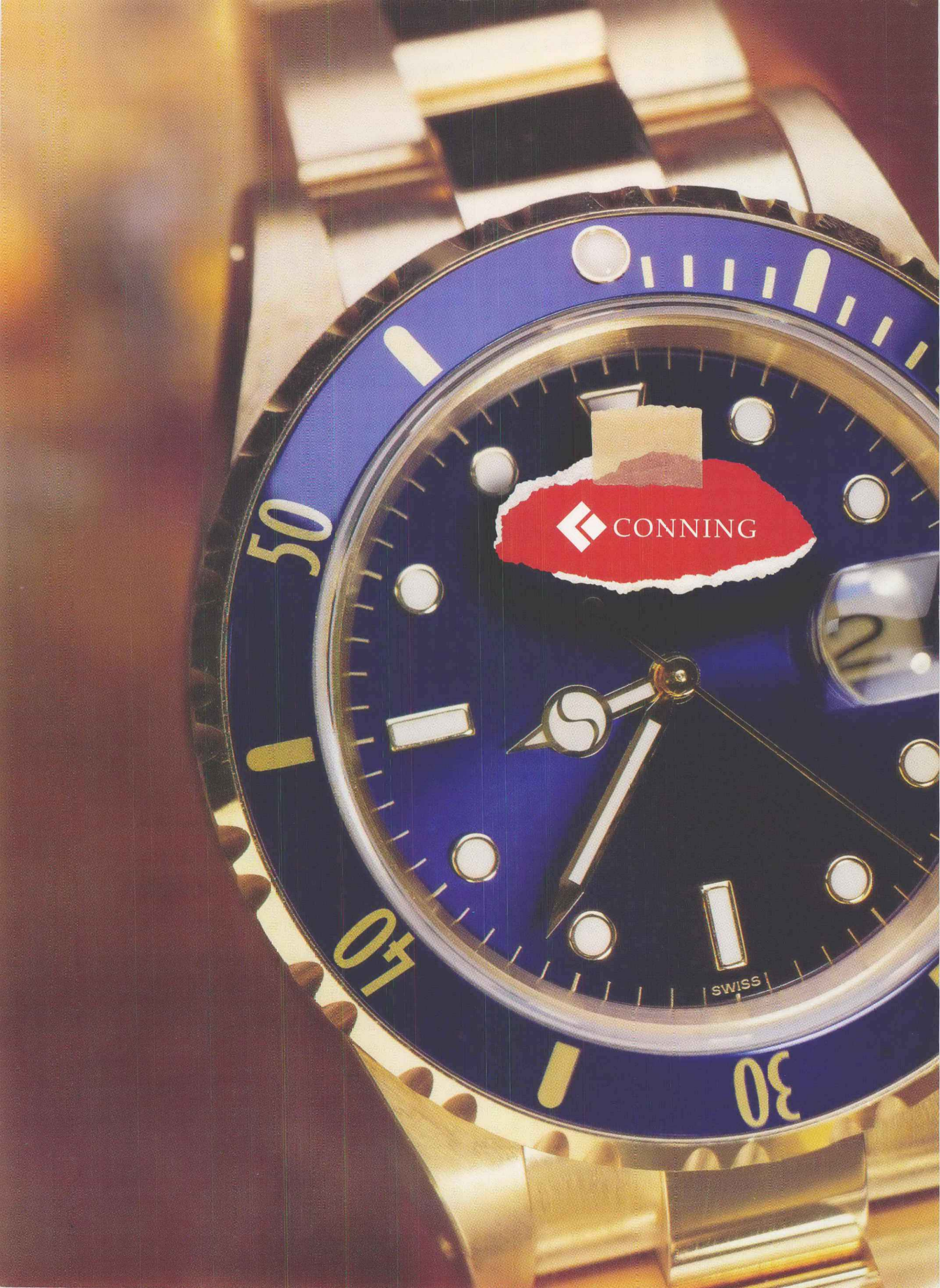
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# Pollution

Continued from page 2

tion costs for its Toms River manufacturing site in Dover, N.J. The site opened in 1952 and in 1983 was placed on the National Priorities List of Superfund sites by the U.S. Environmental Protection Agency. The company's cleanup costs at the site so far total \$200 million and are expected to reach \$400 million, said Mr. FitzPatrick.

The case had been due to be heard by a jury, but last year the New Jersey State Supreme Court set itself apart from most other states and upheld the insurers' stance that the case should be heard at a bench trial. Judge Lawrence Weiss in the Superior Court of New Jersey for Union County heard the case.

Ciba-Geigy had numerous primary and excess insurers over the 31 years from when it opened the site until the

EPA put it on the priority list, and several, including Liberty Mutual Insurance Co. and units of American International Group Inc., have settled with the company. Others that have not settled include units of what is now CIGNA Corp., General Insurance Corp., and Fireman's Fund Insurance Co., Mr. FitzPatrick said.

The insurers argued the pollution was a result of continuous discharges over a long period and that Ciba-Geigy knew it was polluting.

However, Ciba-Geigy said it thought the chlorinated solvents it was discharging would biodegrade and that it was not until the 1980s that trace amounts of the substances were deemed to be a health concern, according to court papers.

"Because Ciba did not have this knowledge at the time the insurance policies were in effect, Ciba did not 'expect or intend' to cause the pollution," the ruling said.

Over the course of the 31 years,

Ciba-Geigy made greater efforts than most companies to ensure it did not pollute the environment, the judge wrote.

"Furthermore, at the time, the insurance industry itself recommended that these chlorinated solvents be placed on the ground to evaporate," the ruling says.

The decision will favor many New Jersey policyholders, said William Greany of Covington & Burling in Washington, a policyholder lawyer not involved in the case.

In particular, the judge's written ruling gives a detailed analysis of the application of the 'expected and intended' clause in pollution exclusions that can be followed in other cases, he said. In particular, the judge cites a list of actions Ciba-Geigy took to avoid polluting, including the voluntary construction of a multimillion-dollar ocean pipeline to remediate contamination of the Toms River. These actions show that, despite the

1980s determination that the site was polluted, Ciba-Geigy clearly did not expect or intend the pollution.

"What you normally get when you take this type of case to a jury is a general verdict. Here you have a judge in a bench trial issuing very detailed findings of fact," Mr. Greany said. He said other companies will be able to show that actions resulting in contamination were neither expected nor intended at the time they occurred.

Those findings of fact make it clear that policyholders that unwittingly polluted the environment decades ago cannot be held to environmental standards determined in the 1980's and 1990's, said Mr. FitzPatrick, Ciba-Geigy's attorney.

The detail of the ruling will make it difficult to successfully appeal, as appeals courts normally rule on points of law rather than a lower court's findings of fact, he said.

Nevertheless, given the amount of money at stake, the insurers almost

certainly will appeal, he said.

Lawyers representing insurers in the case did not return calls. CIGNA would not comment on the case or whether it would appeal the ruling.

However, insurers may be successful in appealing the case, as Judge Weiss may have gone beyond decisions in prior cases in his decision to find coverage, said Edward Zampino, an insurer attorney with Cozen & O'Connor in Newark, N.J. He was not involved in the case.

Although Ciba-Geigy claimed it did not know at the time of the pollution that traces of solvents were hazardous, it did know that the solvents were dangerous to workers who came into contact with them at full strength, Mr. Zampino said.

By still allowing Ciba-Geigy to claim it did not expect or intend the pollution, the judge has gone a step further than other precedent-setting cases, he said.

Regardless of the success of an appeal, the case was unique and is unlikely to affect other disputes over the pollution exclusion, according to Mr. Zampino. "You are talking about the unique operations of one policyholder," he said.

*Ciba-Geigy Corp. vs. Liberty Mutual Insurance Co. et al., Superior Court of New Jersey, Law Division-Union County, docket no. L 97515-87.*

## Letters

Continued from page 8

The concept of risk management—reducing fortuitous circumstance to a budgetary expense—are abrogated to the extent that many risk managers cannot identify the dollar value of where their claims separates frequency from severity, thus rendering the whole process of risk management moot.

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In fact, the number of legitimate carriers providing inadequate services in both claims and safety, while appalling, is understandable given the costs involved and the industry mindset. The number of legitimate carriers whose agendas are totally different from those of their clients is even more amazing.

If the carriers won't, or can't, supply these tools, who will? And why don't we provide for ourselves?

A true professional risk manager has undertaken a program of loss control, litigation and reserve management and safety that does not rely on any outside control. She, or he, may employ some outside services to great effect, but she will rarely rely on her insurer to provide for her. We need to control our costs ourselves.

Our continued industry shortsightedness and failure to perform the work we need to perform to control costs will result in the continuation of some version of the "commodity"-based soft market; continuation of our penchant to attract federal intervention; continuation of the failure of many insurers; and the continuation of the polarization of the client, broker and insurer, resulting in the prevention of our industry and its members from ever regaining our status as true "professionals."

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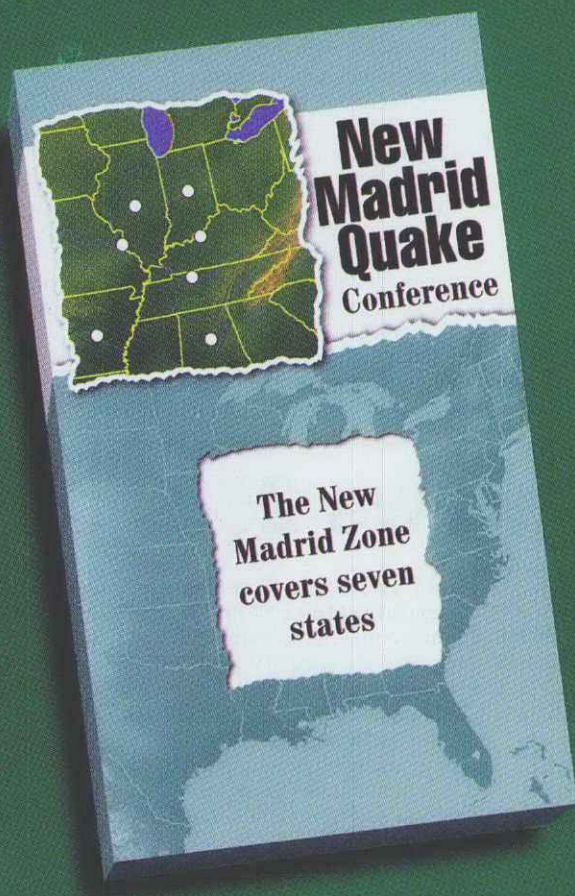
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# Rogue

Continued from page 3

futures, and Sumitomo Corp.'s \$2.6 billion 1996 loss on unauthorized copper trades.

But until now, coverage in the market often hasn't addressed unauthorized trading losses.

"Prior to 1976, fidelity bonds basically covered dishonest or fraudulent acts without a specific definition of dishonesty," Mr. Jennings noted.

Current fidelity bond wordings, however, require improper personal financial gains

if the trading loss is to be covered, eliminating coverage in cases where a person runs up large losses while genuinely trying to make money for the organization, albeit unsuccessfully.

Stephen J. Burnhope, a director with SVB Syndicates, noted that insurance brokers' professional liability policies cover unauthorized trading losses to client accounts but not to the broker's own accounts.

In contrast, Mr. Burnhope noted that the heart of SVB's policy—the insuring clause—provides for cover-

age of "direct financial loss... caused by unauthorized trading by a trader while trading for the assured which unauthorized trading was either fraudulent or falsely reported."

The policy's principal definition of unauthorized trading is trading in excess of permitted financial limits, outside of permitted product lines or trading with a counterparty that has not been designated as an approved

\$25 million retentions.

"But there's absolutely no reason at all the product should not be relevant for small institutions," he said, noting the policy could be written with deductibles of less than \$5 million.

The size of the deductible and the premium are partly a function of the policy's limits but also a result of analysis of the policyholder's exposure, Mr. Burnhope said, adding that the client institution's trading activities are the basis for underwriting, rather than such characteristics as asset size.

J.P. Morgan's Mr. Kelly said he expects additional coverage similar to the Lloyd's policy to enter the market very soon.

"Other insurers are already drafting policies to match or broaden the Lloyd's coverage," he said.

The rogue trading panelists noted that the new coverage isn't meant to replace good risk management by financial institutions, nor will it offset a truly disastrous unauthorized trading incident.

"I don't think this product is ever going to save an institution that has a Barings-type problem," Mr. Burnhope said. **BI**

**Potential clients so far 'tend to be the large institutions.... But there's absolutely no reason at all the product should not be relevant for small institutions,' says Stephen J. Burnhope.**

counterparty.

The SVB policy also expressly permits the policyholder to take discretionary action to mitigate a loss, such as liquidating the position or purchasing appropriate instruments to offset the loss. The policy covers costs, fees and expenses incurred in the course of such loss mitigation efforts.

Mr. Burnhope said the potential clients that SVB Syndicates have talked to so far about the coverage "tend to be the large institutions," typically interested in \$10 million to

## ABA conference draws 250

SAN DIEGO—The American Bankers Assn.'s 1998 Insurance Risk Management Conference drew approximately 250 attendees Feb. 1-3 to the Sheraton San Diego Hotel & Marina.

The 1998 conference represented a departure from past gatherings, providing a forum specifically for risk management and insurance professionals



**American Bankers Association**

dealing with financial institution exposures.

This year for the first time the conference—previously the Security, Audit and Risk Management Conference—was divided

into two distinct gatherings, separating the risk and insurance conference from that focusing on security and audit issues.

Next year's conference will be held in Orlando, Fla.

For information on the ABA's 1999 Insurance Risk Management Conference, call the ABA at 202-663-5274.

# Self-insurance takes strategy

Using the right approach can mean lower premiums, reduced losses

By RODD ZOLKOS

SAN DIEGO—Taking a truly strategic approach to self-insurance can quickly produce sizable savings for companies while spurring them to find ways to reduce losses over the longer term.

Advantages of self-insurance include greater financial rewards



**American Bankers Association**

to insureds who control their losses, noted Barbara F. Neal, a senior consultant with Coopers & Lybrand L.L.P. in Los Angeles.

Ms. Neal discussed self-insurance options in a presentation on strategic self-insurance at the American Bankers Assn.'s 1998 Insurance Risk Management Conference earlier this month in San Diego.

Companies that retain risk and consequently take more loss control steps can save money, Ms. Neal noted. They also can realize benefits through reduced insurance premium expenses and improved control over cash flows.

But while she advocates companies taking advantage of the benefits that various approaches to self-insurance might offer, Ms. Neal was cool to the notion of simply not purchasing insurance or "going bare."

"Usually we don't recommend that," she said. "If you're not going to purchase insurance, at least have some sort of strategy involved."

One approach for a company just beginning to move into self-insurance is to look to large deductible programs, Ms. Neal said. Those offer the advantage that the insurer typically adjusts claims, freeing the policyholder of that responsibility.

Maintaining self-insured retentions is another option, though there the company is responsible for adjusting claims within its retentions and might need to hire a third-party administrator or have a staff person deal with claims that fall within the retention, Ms. Neal said.

Workers compensation, general liability programs and automobile liability all lend themselves well to various degrees of self-insurance strategies, Ms. Neal said.

Noting that most workers compensation losses fall into the medical-only category, where the injured employee may require only a trip to an emergency room, the consultant suggested an effective strategy might be for companies to self-insure small medical claims.

The company can agree with its workers comp insurer that it will retain medical-only claims, Ms. Neal said, adding that those claims typically range from \$250 to \$1,000.

She recommended continuing to file injury reports with the insurer for those claims with the notation "This is for information purposes only." Doing so will put the insurer on notice should the claim later develop into something larger, she said.

An organization also might consider a large deductible program

for workers comp, using small or large deductibles to help control premiums, Ms. Neal said.

"Again the motivation behind this is to lower your premiums and to let you control those frequent predictable losses," she said.

Small deductibles typically range from \$100 to \$10,000 per claim. Companies using large-deductible plans—deductibles above \$10,000 per claim—typically are subject to state restrictions. Such programs are permitted in 41 states, and companies using them must meet specified financial requirements mandated by the states.

Among the benefits of deductible workers comp programs are that an employer gets "the op-

**'If you're not going to purchase insurance, at least have some sort of strategy involved,' says Barbara F. Neal.**

portunity to sample self-insurance without going through all the administrative burden," Ms. Neal noted. Among the disadvantages, though, is the risk of higher-than-expected losses.

In the general liability policy, she suggested companies consider bodily injury, property damage or combined bodily injury and property damage deductibles.

"If you have a lot of high-frequency claims, you might want to consult with an actuary and they can help you get the right deductible level," Ms. Neal observed.

Medical payments coverage, which reimburses the policyholder for first-aid costs or medical treatment of third parties injured on the policyholder's premises, is usually "just automatically in (the commercial general liability policy), and you should consider deleting it," Ms. Neal said. Deleting the coverage should not only cut premiums but also remove some claims from the company's loss experience.

Various areas of automobile liability coverage can lend themselves to self-insurance, the consultant said.

One option is liability and physical damage deductibles, Ms. Neal said, adding, "The property damage portion in the automobile policy is where you can make sizable savings."

Self-insuring collision coverage is another area that can produce "substantial savings," she said, particularly for vehicles more than three years old.

Larger companies particularly can benefit from self-insuring automobile bodily injury and property damage exposures, she said. Ms. Neal recommended assuming low levels of loss, such as the first \$100,000 to \$1 million, then purchasing excess coverage above that.

"The potential for a severe accident where there are several automobiles—a catastrophe-type incident—does exist here," she cautioned. **BI**

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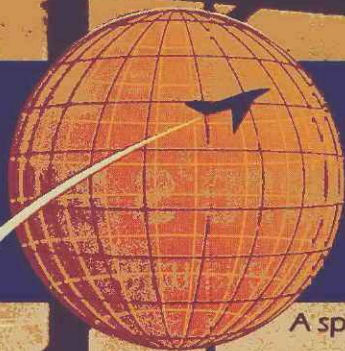
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# GLOBAL



# FOCUS

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Sydney is preparing to host the 2000 Olympic Summer Games page G2

## India:

Construction safety standards remain in the building stage page G4

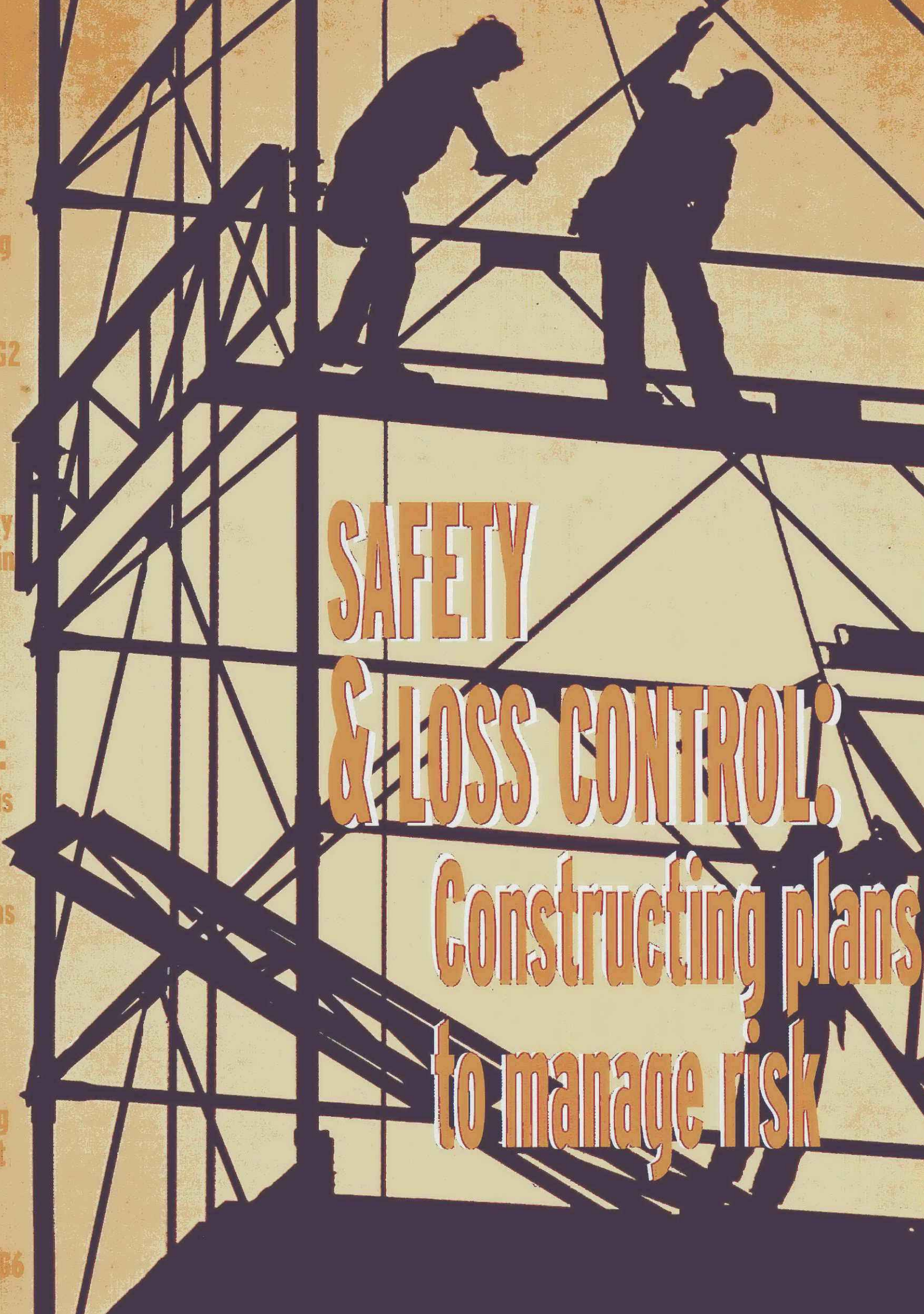
## Great Britain:

A focus on safety is taking root following recently enacted regulations page G4

## Germany:

Construction workers are calling on the government to implement an E.U. directive on safety page G6

# SAFETY & LOSS CONTROL: Constructing plans to manage risk



# Trial before there's an error

## Sydney Olympic Games organizers want to evaluate facilities' risks before 2000

By KATE TILLEY

SYDNEY, Australia—Evaluating the effectiveness of safety programs at all sporting venues well in advance of the next Summer Olympics is the key risk management strategy for organizers of the 2000 Games.

Officials are identifying and fixing potential problems as they inspect the facilities that will be used for the Games in Sydney, Australia.

With 2½ years until the opening ceremonies of the 2000 Olympics on Sept. 15, 2000, the Olympic Co-Ordination Authority, set up by the New South Wales government to oversee



PHOTO COURTESY OF THE OLYMPIC CORP. AUTHORITY

**Exhibition halls are some of the sites to be used for the 2000 Olympic games.**

construction of all facilities for the Games, is committed to ensuring every site is tested well before the Games begin.

Many facilities designed for the Games are finished and already have been used for major sporting events. The latest scheduled completion date for any major Olympics construction project is December 1999, when the \$280 million Australian (\$188.5 million) multiuse indoor arena west of Sydney is to be completed.

A spokeswoman for the OCA said construction on all facilities is ahead of schedule, which will allow adequate time for full tests before the Games begin.

The 760-hectare (1,877-acre) Homebush Bay site, a vacant area 16 kilometers (about 10 miles) west of downtown Sydney, will be the main venue for the Games. Six other sites also will be used for various sporting events, including a rowing complex at Penrith, 44 kilometers (about 27 miles) to the northwest of Sydney.

The Homebush Bay site previously housed a brickworks, a slaughterhouse, an armaments depot and a toxic waste dump. The New South Wales government has spent \$137 million Australian (\$92.2 million) to clean up the site, including sealing any areas where chemicals had been dumped. Organizers are confident that the site poses no health hazards.

The New South Wales government owns the majority of Games venues, so risk management and loss control are the responsibility of the government's Treasury Managed Fund, a self-insurance fund the state government established in 1989. The TMF insures assets valued at \$38.15 billion Australian (\$25.67 billion) and workers compensation for 326,000 state employees.

The TMF, as the OCA's insurer, is responsible for managing the Olympics complex until the facilities are handed over to the Sydney Organizing Committee for the Olympic Games, or SOCOG, for the duration of the Games.

A year ago, the TMF implemented a full environmental survey at the Homebush Bay site to ensure the procedures that the OCA had in

place to manage the identified risks were adequate. The TMF employed environmental scientists from the Sydney office of broker Willis Corroon Richard Oliver Pty. Ltd. to assist.

Sydney-based insurer GIO Australia Ltd. has managed the TMF since the fund's creation.

Bill Dunne, who is responsible for every Olympic venue as the TMF's property risk manager, said the Olympic sites will be handed over to the OCA to operate once they are built. However, the TMF will retain risk management responsibility for the facilities.

Mr. Dunne is using the Homebush Bay Olympics site as a training ground for risk managers from other government-owned facilities that the TMF insures.

In May, he plans to have the risk managers conduct hazard identification inspections at the Homebush Bay site as part of ongoing training programs implemented by the TMF.

"Between now and October, we'll do 2,500 hours of training with risk managers," he said.

Similarly, SOCOG also plans to "make everyone a risk manager" at the Olympic venues, said the organizing committee's assistant risk manager, Gordon Young. SOCOG will take over responsibility for the venues at differing times and ensure that adequate coverage and safety plans are in place, he said.

"Everyone is responsible for safety," he said. "We're focusing on all the operational plans (for every venue) and asking, 'What have you planned, if things go wrong?'"

Mr. Dunne has written a Best Practice in Risk Management Manual for risk managers at TMF-insured facilities, based on the Australia/New Zealand risk management standard, AS/NZS 4360.

The Olympic rowing venue, 44 kilometers west of Homebush Bay, once was a sand and gravel quarry. It opened in March 1996 and features a 2,300-meter-long competition course and a lake for rowing warm-ups. A \$6.5 million Australian (\$4.4 million) spectator pavilion and boat sheds opened last October.

The venue has been used for major tournaments, giving its manager, Peter Byron, the opportunity to test the facilities. Mr. Byron then discusses any risk management issues that arise with Mr. Dunne or a TMF team member.

Mr. Dunne said a risk management inspection after the venue was built identified "a few little things which were potentially dangerous" and since have been rectified.

For example, plants have been grown around roadside drainage culverts to prevent pedestrians from inadvertently falling into the uncovered culverts. There also are more signs posted to warn of service pit hazards.

Bare metal ends of rowing craft storage racks, many of which are "at eye height," have been fitted with plastic caps, Mr. Dunne said. Fire hose reels have been relocated to close gaps between the reach of each hose, and an area behind retractable seating on the pavilion is being sealed to prevent people falling behind the seats. To prevent injury to cyclists, rubber trim has been put around metal signs on the bike path that surrounds the main lake.

"We conducted inspections at each stage of the construction, spending four to six hours onsite with the manager discussing issues," he said. The onsite inspections were followed up with a written report, including photographs, with issues prioritized according to cost and potential impact.

"Risk management's all about looking after the simple things," Mr. Dunne said.

So far, the rowing center has had only one minor claim for wind damage to a tower for race officials.

The aquatic center, which contains four swimming pools, opened in October 1994, only a year after Sydney won the bid to host the 2000 Games. The center already has hosted some major tournaments.

Mr. Dunne or one of the four other risk managers on his team conducts regular risk management inspections at the center.

Not long after opening, Mr. Dunne said the center had many "slip and trip" claims. Substituting waterproof carpet for patio tiles that an inspection found were slippery when wet has significantly reduced accident claims.

The center, which has a fire sprinkler system, is designed with coded seating areas that direct spectators to exits if a fire breaks out.

Mr. Dunne said the aquatic complex's design had to take into account the need to accommodate a large number of spectators, and the safety of spectators and athletes was a paramount consideration.

During the construction phase of all the Olympic venues, the TMF's responsibilities were confined to ensuring that contractors had put adequate liability and construction works coverage in place. As with all the Olympic venues, a full risk management survey was conducted before the transfer of responsibility to the TMF from the construction contractors.

The TMF is responsible for the Olympics venues until the Games begin, after which SOCOG will take control of the facilities.

During the Games, property and liability coverage for Olympic facilities will be provided by Sydney-based AMP General Insurance Ltd., a unit of the giant life insurer AMP Society, which won the right to insure the facilities in a competitive bid put out by SOCOG.

The NSW government established SOCOG for the Olympic Games under a special act of Parliament to organize the sports program, operate the venues, organize transportation and accommodations, market the Games, provide media facilities and organize a program on Australian culture.

SOCOG raises its own money from ticket sales, television rights, sponsorships, marketing royalties and licensing fees.

Some facilities, such as the \$615 million Australian (\$414.1 million) main stadium, are built, owned and operated by private investors, that will lease the facility to the OCA for the duration of the Games.

Insurance and risk management for these private facilities are the owners' responsibility,

but the TMF does advise the OCA on all facilities' insurance requirements, particularly public liability and workers comp.

"Risk management is the major premise behind the TMF, because it's a non-profit, self-insurance fund," Mr. Dunne said. "The government agencies pay premiums based on their loss experience."

He said the TMF has a reinsurance program that provides catastrophe and stop-loss coverage. Mr. Dunne would not elaborate on the reinsurance coverage but said the fund provides almost unlimited coverage to its insured agencies, excluding inherent vice, illegality, wear and tear and pollution other than sudden and violent pollution.

The TMF covers all of the property/casualty risks plus workers compensation and motor fleets run by insured government agencies.

Mr. Dunne said trying all the facilities in advance is the TMF's and the OCA's key strategy to prevent losses during the Games.

At many of the facilities, potential design risks took a backseat to aesthetics, he said.

"Risk management ought to be a compulsory subject for architects and designers," he noted. For example, the entrance to the swimming complex featured a high stone archway with grass banks around it. Mr. Dunne insisted a fence be built around the top of the archway to ensure no one could climb up the bank and fall from the archway.

When the complex opened, the TMF risk managers organized a one-day training program for the aquatic center's operators and supervisors that focused on poolside risk management, including the operators' legal liabilities to center users.

A new \$55 million Australian (\$66 million) railway station and 3.5-kilometer (about 2-mile) loop track and a showground complex that will be used for five sports during the Games, will be tested in April, when Sydney's Royal Easter Show is held for the first time in its new venue.

The three Easter Shows to be held before the site is used for the Games, will provide adequate opportunity to test the facilities and the transportation arrangements with large crowds, Mr. Dunne said.

One of the biggest risks, security, will be addressed next month at a SOCOG seminar. **BT**



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**The Olympic Stadium in the Homebush Bay area will accommodate about 110,000 spectators. Organizers are addressing risk management by trying facilities in advance.**

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# India still building its safety standards

By KAUMUDI MARATHE

BOMBAY, India—Foreign investors wishing to take advantage of India's booming construction market are being advised to bring their own safety and loss control standards with them.

In the past five years, India has emerged as one of the world's most attractive construction markets. However, many think its building and safety practices are far behind that of the Western world.

With its developing economy, 960 million people and an urgent need for housing, India looks promising to investors. Since the liberalization of its economy in 1991, the country has seen enormous investment. Government-approved direct foreign investment rose to 308.54 billion rupees (\$7.95 billion) in 1996 from about 5.34 billion rupees (\$137.6 million) in 1990.

In the resulting building boom, architects say construction activity increased 30% to 50%. Real estate prices rose sharply, jobs were plentiful and labor was cheap.

Until recently, construction continued to escalate, and even the current slump appears temporary. "Although the market is down, the central government alone is constructing projects worth 140 billion rupees (\$3.61 billion)," said Delhi architect-planner K.T. Ravindran, who has a private practice and heads the urban planning department at the Delhi School of Planning & Architecture.

He estimates this is only a quarter of the total construction taking place in India. Numerous large-scale infrastructure, housing, industrial and other projects are under way.

Quality of construction in India varies based on availability of materials. Importing a variety of design materials or making them to specification is expensive. Also, the product standardization common in the West does not exist in India.

Another difference in the systems

is their use of labor.

"In the U.S., our chief resource is probably technology," said Peter Hertz of the Washington-based Thadani-Hertzel Partnership, which is building several major projects in India, including a 90-acre housing development in Bangalore.

"India's biggest resource is its labor," Mr. Hertz said. The irony, he said, is that the safety culture so much more common in the West is almost non-existent in labor-rich India.

Although Indian laws require contractors to buy insurance for accidents and delay, system enforcement is weak. While India's constitution in theory protects workers, in practice the country cannot keep track of all construction projects.

This is due in part to attitude. Even India's educated classes have not widely realized a right to knowledge, safety and fair pay. This extends to lack of awareness and education about loss control. The norm is cure rather than prevention.

Risk management still is a nascent concept for Indian corporations. The level of planning, scheduling, documentation, traffic control, security and delegation of responsibility taken for granted in the West is lacking in all but premier Indian firms.

Mr. Hertz noted that risk management "does not yet exist as a profession."

For his firm, middle-level management on Indian projects has been a problem. "Americans working there will probably feel a sense of angst that every aspect of a project is not within their control," he said.

Furthermore, government regulation and inspection are infrequent and inadequate, many Indian architects say. In the unorganized sector of construction labor, another drawback is lack of documentation of compensable accidents or injuries. Also, the largely illiterate construction workforce makes it difficult for workers to hold management ac-

countable and vice versa. The overburdened Indian bureaucracy worsens matters.

Bombay architect Rahul Mehrotra, of Rahul Mehrotra Associates, said: "It is sad that labor and life are so cheap. India has a dismal building safety record. While consciousness about industrial safety is on the upswing, that is certainly not the case with construction."

Construction workers, almost always uneducated, know little about minimum safety standards. An itinerant population, often they are farmers who migrate to construction sites to earn a living during the off-season. Welders, bar-benders, masons, painters, polishers or porters learn skills as apprentices onsite.

Anyone can work as labor, regardless of skill, record or medical condition. Middlemen and contractors repeatedly take advantage of the labor pool's ignorance.

Workers are not provided safety training. According to Mr. Ravindran: "Few safety guidelines are implemented. Only very large construction companies even issue hard hats." Usually, workers use equipment that would be considered obsolete or even hazardous in the West: wheelbarrows or steel basins to carry materials; old, rusty shovels and trowels; makeshift pulleys.

Workers do not wear protective shoes, helmets, glasses, masks or gloves because they cannot afford them. Living on or close to the sites increases the risk to themselves and their families.

The legal minimum daily wage is 68.50 rupees (\$1.77), but usually they get much less. Middlemen who obtain jobs for workers often get a cut of wages.

In addition, insurance is viewed more as a contractual or statutory need rather than a means to finance losses or compensate injured workers or their families.

Mr. Hertz explained, "Our liability is more limited, I believe, in In-

dia." Because the laws are less stringent, the Thadani-Hertzel Partnership carries less insurance in India than in other countries.

Mr. Mehrotra said, "With liability minimal, investors' responsibility remains limited, too, but with construction being so labor-intensive, contractors tend not to insure anyone except a core team of 10 or 12 people."

With widespread foreign investment, this apathy may change. A spokesman at the government-controlled General Insurance Corp., said: "Our cover is as good as any available in Europe or America. We have tie-ups with foreign insurers and run training programs to update our engineers, ensuring that we give the best possible service."

The GIC, which has insured construction risks through its four auxiliary companies for the past 25 years, said safety audits are regularly conducted to maintain standards.

The National Safety Council in Bombay concurs, claiming the Indian government is promoting safety and voluntary compliance.

However, several architects disagree, saying such audits may take place only in large organizations.

One of India's construction giants, Larsen & Toubro Ltd., regularly conducts internal safety and operations audits to upgrade systems. S. Chandrasekar, general manager-plant and human resources, emphasized, "Our plants and machinery are insured, and we take care of our people."

While L&T provides life/health and accident insurance, such practices remain the exception.

Architects and builders think foreign investors must play a major role in improving safety in India.

Enron Corp., as the largest single foreign investor in India's energy sector, is an example. Its 2,450-megawatt power plant at Dabhol, Maharashtra, which will "achieve commercial operation in December 1998," Enron said in a statement, is



a turnkey project by Bechtel Enterprises, designed by both companies. With

80% of Phase I complete, representatives of Houston-based Enron say the company has not had a lost-time accident in 21 million man-hours.

International safety standards are followed at Dabhol, in compliance with Indian regulations, Enron said. "If Indian standards are found to be more stringent, they are adopted. We have tried very hard to develop a safety culture," Enron said.

Enron also conducts safety training for workers, encouraging them "to question and work with management on the best way to achieve safe working practices."

The company is satisfied with the progression of construction. The only unforeseen problems were "having to involve the local community in the process and not always finding skills that facilitate participation. (But) we have been able to solve these and move forward," Enron said.

Other foreign investors must realize that, while they stand to gain immensely by entering the Indian building market, they must bring to India two essential elements, said Mr. Mehrotra: first, knowledge of technology and ability to implement it; and second, their standards and techniques of loss control. Both will lead to profitability while bringing Indian safety standards in line with international levels.

As Mr. Mehrotra stressed in a point that many architects made: "I would urge foreign companies not to adjust to local standards but to maintain the quality they are used to at home. Their projects and safety culture must become a part of the local environment." **B**

# U.K. regulations putting focus on safety

By CAROLYN ALDRED

LONDON—Companies involved in U.K. construction projects believe that recent regulations are helping create a more structured and coordinated approach to safety on building sites.

Although loss data is not yet available to prove the regulations are working, most companies believe safety attitudes are improving.

Adoption of the Construction (Design and Management) Regulations 1994, which went into effect in 1995 and implemented most of the European Commission's Temporary or Mobile Construction Sites Directive 1992, has led to a "radical change in safety culture" for all those involved in construction projects, according to the U.K.

Health and Safety Executive.

The regulations aim to reduce high rates of death, injury and illness in the U.K. construction industry by ensuring that health and safety is managed throughout a construction project.

Among other things, the regulations require not only contractors but also construction project clients and designers to ensure safety throughout all phases of a project.

The regulations also require clients to appoint a planning supervisor who has overall responsibility for coordinating the health and safety aspects of the design and planning phase. This is a new function, with the planning supervisor having to ensure that a health and safety plan is prepared, monitor the health and safety aspects of the de-

sign, advise the client on allocating resources for health and safety, and prepare a health and safety maintenance manual to assist with ongoing safety management.

"The CDM regulations are a derivative of the E.C. directive, placing increased duties on clients and calling for safety coordinators," said Martin Barnard, director of health and safety for London-based engineering consulting firm Symonds Group Ltd.

All of the E.U. countries except Germany (see story, page G6) have implemented the directive and have seen increased safety management in the construction sector, Mr. Barnard noted. "It has made all parties more aware of their responsibilities. There is now much greater planning and preparation

of safety," he said.

"One of the many things the CDM regulations have done in the U.K. is make people tackle (in a team approach) very ordinary safety problems which often cause the most fatal accidents, such as falls from heights," he said.

The CDM regulations "should make a huge difference to safety," said Margaret Sharkey, a research officer for the Union for Construction, Allied Trades & Technicians in London.

But as deaths in the construction sector increased last year, mainly due to the increased construction work in the country, there is no hard evidence of any improvement at this stage, she noted.

However, a survey of companies involved in the construction indus-



try commissioned last year by the Health and Safety Executive shows that most companies expect the regulations to improve safety despite no evidence yet.

An "Evaluation of the Construction (Design and Management) Regulations 1994" is based on a survey of 234 companies, including 33 clients; 59 designers; 109 contractors and three planning supervisors. About 56% of the respondents had revenues ranging from £500,000 to £50 million (\$818,350 to \$81.8 million).

See **Britain** on next page

## Britain

*Continued from previous page*

According to the survey respondents, benefits of the regulations include increased awareness of safety; having a health and safety plan on site; better planning and coordination; and behavioral changes on site.

Although no participant could produce substantive evidence of improved health and safety, "virtually all interviewees stated that there is a much greater awareness of health and safety at all levels in the construction industry and that minds were now focused on health and safety at the onset of a project," according to the survey.

Many respondents commented that the regulations "have improved and enhanced team working" between the parties in a project.

Other effects noted by the survey included the fact that insurers are carrying out more detailed risk assessment of construction companies and either expanding or narrowing professional indemnity coverage as a result of designers' increased liability under the regulations.

Although in many cases insurers have extended professional indemnity cover to include the function of planning supervisor at no extra premium, some insurance companies have not been willing to assume the

additional risk where a planning supervisor is part of the design team, the survey report states.

The Institution of Civil Engineers, a U.K. professional organization, says the key parties with responsibilities under the regulations are:

- **Clients.** Companies must ensure they deal with competent planning supervisors, designers and principal contractors. Clients also must ensure that sufficient time and resources are available for safe project completion.

- **Designers.** Project designers must cooperate with planning supervisors on health and safety issues affecting all workers engaged in construction and maintenance and people who may be affected by that work.

- **Planning supervisors.** These are responsible for coordinating health and safety plans before, during and after the construction project.

- **Principal contractors.** They must consider health and safety matters in preparing a proposal, coordinate the activities of subcontractors and ensure development of and compliance with the health and safety plan. Principal contractors also have a duty to provide information, training and consultation with employees and the self-employed.

- **Other contractors.** Subcontractors and the self-employed have a duty to cooperate with the principal contractor and to minimize risks to health and safety. ■

## Building sites need attention

### Regulators should target safety: Report

By CAROLYN ALDRED

Construction, more than any other industry, should continue to get the most attention from regulators in European Union countries to improve workplace safety, a report says.

Agriculture, transportation, health care and recycling are other sectors that the Bilbao, Spain-based European Agency for Safety and Health at Work highlighted for attention in its first report from the agency, established in 1997.

The survey looked at attitudes in preparation for possible action later.

Changes in the workplace mean that new employment-related risks—such as workplace stress, ergonomics problems and organizational issues—need to be addressed by safety policies, as well as traditional risks, such as exposure to hazardous materials, accidents and physical strains, according to the agency.

The report, "Priorities and Strategies in Occupational Safety and Health Policy in Member States of the European Union," is based on a survey of representatives of member

states. Now available in English, the report will become available in French, German and Spanish in March.

Although E.U. member states agree that national legislation has been an important tool for improving worker health and safety, there is concern about the quality of legislation, with a need to review, update and improve its effectiveness, the report's authors stated.

Member states also emphasized that attention should be paid to the way in which legislation is implemented in the workplace, allowing employers and employees sufficient flexibility to adapt safety rules and regulations to their unique workplace.

According to the report, member countries of the European Union have paid the most attention to minimizing worker exposure to: hazardous substances and materials, such as asbestos; physical risks, such as back injuries; and machinery risks.

A new development, the report finds, is that member states increasingly are paying more attention to the assessment and analysis of pos-

sible risks stemming from new work patterns.

More attention likely will be paid, for example, to safety issues arising from aging workers, people who work from home, telemarketers and the self-employed, the report predicts.

Padraig Flynn of Ireland, European Commissioner for Employment and Social Affairs, welcomed the report, noting it would be required reading for anybody with an interest in workplace health and safety.

"The Commission would take into account the conclusions of the report when planning future policies on health and safety," he added.

Dr. Janet Asherson, chairman of the Administrative Board of the European Agency, agreed that "the results of the first report of the European Agency will create a useful resource for decision-makers and policy experts in the occupational safety and health field when assessing future policies and strategies."

For information about the report, contact Barbara Nolan, European Agency for Safety and Health at Work, Grab Via 33, E-48009 Bilbao, Spain: 34-4-423-05-01; fax: 34-4-423-76-55.

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# Workers demand Germany adopt safety law

By CAROLYN ALDRED

MUNICH, Germany—In a mass rally in Munich this spring, thousands of construction workers will be calling for German employers and the government to improve health and safety conditions on construction sites.

The April 21 demonstration is being organized by one of Germany's biggest trade unions, the IG Bau, as an "annual memorial day" for workers killed at construction sites, said Bernd Eisenbach, a civil engineer responsible for health and safety in the union's Frankfurt office.

Workers also will demand that the German government implement an E.U. directive designed to improve safety on building sites. Passed in 1992 and implemented in all other E.U. countries several years ago, the directive on "minimum safety and health requirements at temporary or mobile construction sites" is not yet

law in Germany.

The directive aims to reduce building site accidents by ensuring that health and safety is planned and managed effectively throughout all stages of a construction project. It stipulates the appointment of a safety coordinator to improve coordination of all parties involved in the construction—including architects, contractors and clients—while ensuring that each party remains responsible for safety.

Despite widespread concern about the problem and a recent successful manslaughter prosecution of a British subcontractor and a German property developer after the 1995 death of a British construction worker in Leipzig, Germany (*BI*, June 23, 1997) safety standards have not improved, according to Mr. Eisenbach.

Germany, which has had a construction boom since reunification nearly a decade ago, has one of the European Union's highest fatality

rates among construction workers.

According to official statistics supplied by Germany's health and accident insurance companies, there are more than 400 fatal accidents a year on construction sites, said Mr. Eisenbach. However, he said he thinks the problem is far worse, as many accidents are not attributed to building accidents or simply not registered because the injured worker may not be a German citizen and, therefore, not insured by German insurers and probably not by any insurers.

Mr. Eisenbach says "at least another 400 fatal accidents a year" are unaccounted for, primarily because they involve foreign workers.

Germany's position in the center of Europe, the high costs of employing a German citizen and the boom in building all have encouraged an influx of migrant construction workers from less affluent E.U. countries, such as Portugal, Ireland and the United Kingdom, and from coun-

tries outside the European Union, such as Turkey and countries in Asia.

Health and safety precautions are not good enough on many sites in Germany, particularly those employing foreign workers, agreed Jary Hellsten, secretary responsible for health and safety for Brussels, Belgium-based European Federation of Building & Woodworkers.

"The conditions of foreign workers is poor. Language often is a problem; they are extremely dependent on the people sending them to work in Germany; they work long hours, have no benefits and often are simply deported if they are injured," he said.

Martin Barnard, director for health and safety for the London-based engineering consulting firm Symonds Group Ltd., agrees that more should be done to improve safety in Germany's construction industry.

Although multinational construction companies operating in Ger-



many and large German building contractors "have a very high approach to health

and safety, standards on most smaller projects are not as high as in the U.K. and other countries," Mr. Barnard noted.

The implementation of the E.U. directive in other European countries has had a very positive impact on safety on construction sites, making all parties more aware of their responsibilities, said Mr. Barnard. As a result, he said Germany should enact the directive as soon as possible.

A spokeswoman for the German government's Department of Employment said the government hoped to implement the European directive by early summer. **BI**

## Learning from U.S. experience on construction safety

By William D. Moskal and Scott Staffon

TODAY, ROUGHLY 5% of the U.S. workforce is employed in a construction-related activity. These workers have the highest lost-time injury rate and account for nearly 20% of all occupational fatalities.

Work-related injuries and illnesses in the U.S. construction industry occur at a rate 54% higher than all other industries. In many cases, these numbers reflect the construction industry on a global basis. In addition, as construction-related activity worldwide increases, construction worker injury rates around the world may remain high, unless companies take measures to reduce them.

The construction industry has made notable improvements in recent years—and many of these may be applied to construction practices around the world.

The U.S. Bureau of Labor Statistics recently reported a 24% drop in the rate of non-fatal workplace injuries or accidents per 100 full-time workers in the construction industry from 1992 to 1996. Yet, even with this decline, the workers compensation component of construction injuries in the United States has risen to more than \$5 billion annually.

The inverse relationship between the lower incident rates and higher workers comp costs can be traced to the fact that while minor and non-lost-workday injuries are being controlled and eliminated, the frequency of serious and disabling injuries remains the same.

The Business Roundtable, a Washington-based think tank, examined the relationship between workers comp premiums and job-site safety in the construction industry and found the direct and indirect costs of accidents represent

6.5% of all construction costs on average. On a \$100 million project, these costs can total \$6.5 million.

Outside the United States and Canada, it's difficult to quantify the financial impact of injury because medical treatment and associated costs for injured workers are covered under the social security system or socialized medical program. But many of these national systems are undergoing privatization, and employers will assume a larger financial role for job-related injuries. And contractors the world over are exposed to the same indirect costs.

Although indirect costs associated with workers comp often aren't part of a company's expenditure or accounting system, they can be upwards of five times the direct workers comp costs. Indirect costs can include: lost production time; losing valuable employees; retraining of new workers; potential lawsuits; property damage; and accident investigation time.

Many U.S. construction companies now realize that operating safely makes good business sense; it enables them to remain profitable and maintain a competitive edge.

As national health care systems become privatized, global construction companies that can take lessons learned from U.S. contractors and incorporate them into their business practices may gain a competitive advantage.

Generally, companies with the most effective loss control programs are those whose safety initiatives have the backing of top management. The firms must be sure to communicate the commitment of their leadership to safety and loss control throughout the organization.

This approach applies outside the United States as well. The need for safety is the same everywhere; it

### Perspective

requires management commitment. To show its involvement and commitment, top management must:

- Develop goals and expectations to make implementing safety and improving productivity a seamless process.

- Promote a culture where workers understand that safety and production must work hand in hand.

- Establish open communication channels with workers to achieve value-added involvement. Workers who are part of the solution take ownership of the safety initiative and are more willing to embrace a safety culture.

- Establish accountability at all levels of management. Goals for achieving safety need to be tied directly to yearly performance evaluations and bonuses.

- Focus on continuous program evaluation and improvement. As goals are achieved, new goals need to be developed and established to enhance the existing program.

- Allocate resources to develop and implement safety practices.

To achieve safety goals on isolated construction projects, top management must assign accountability. In most cases, top management will place primary accountability for project safety on the shoulders of the job site superintendent, who is directly accountable for the project's safety performance. However, the superintendent faces a dilemma: how to balance site safety with production goals.

The superintendent must delegate responsibility and accountability for safety to the foremen of each work area. The foremen are the front-line promoters of safety with their crew

members and should be given the same level of accountability for safety performance as the superintendent. Both of these individuals have a direct and significant influence on a project's safety culture.

Job site superintendents must have the tools to optimize a project's loss control efforts. Top management must support superintendents in a project's safety initiatives by authorizing a reasonable budget for safety. On large construction projects, a safety budget may cover costs associated with providing one or more full-time, onsite safety professionals, a nurse or emergency medical technician, first-aid stations, safety and personal protective equipment, safety orientations for new hires, and weekly safety talks or safety training sessions for craft workers.

Safety budgets typically are funded by the construction company at the project level or through corporatewide safety accounts covering these charges. In some cases, costs are passed on to the client or owner of a project through a reimbursable cost allocation system.

Top management also can facilitate strong safety performance on construction projects by designing and implementing an effective subcontractor selection process. Site owners that award contracts solely on a "low-bid" basis may not be getting contractors committed to safety, which may jeopardize the safety outcome of the project.

When pre-qualifying subcontractors, criteria to consider include: injury and illness rates; loss cost experience for previous five years; written safety and health policies; alcohol and controlled substance abuse policy; number of fatalities for previous five years;

significant safety-related fines, penalties or sanctions for previous five years; and company viewpoint on safety hazards associated with the project and plans to eliminate or minimize the potential for accidents.

U.S. contractors and subcontractors with poor safety records pay for their performance through high premiums, and they ultimately factor these higher costs into their bid calculations. A low bid from a contractor with significant workers comp insurance costs may indicate the contractor cuts corners on safety to make a profit. Thus, contractors should not be chosen solely on low bid.

The direct result of an organization-wide safety commitment is a reduction in frequency of accidents. The goal always should be zero accidents. This keeps injury expenses to a minimum and eliminates costly related schedule interruptions.

A growing number of construction companies realize the importance of implementing a strong safety process. The benefits of such initiatives include: reduced accidents, lower insurance premiums, improved employee morale and increased production and profit. A company must stay committed to achieving a successful safety culture. Safety is not a part-time function, but an ongoing process that requires the involvement and commitment of management. Safety performance will improve only when workers believe firmly that it is beneficial to themselves, their fellow crew members, and the company, and is an important part of their day-to-day responsibilities. **BI**

William D. Moskal is a vp in Cleveland and Scott Staffon is an assistant vp in Minneapolis with J&H Marsh & McLennan Risk Control Consulting.

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## It's Our Word.

# OSHA

Continued from page 2  
Ford administration.

"It presents a very, very important issue—whether you can force an employer to take certain action that is not required by law," said Mr. Kilberg, noting that the program was not promulgated as a law, standard or regulation.

According to OSHA, the program is instead an "instruction." To participate in the program, an employer must, among other things, agree to implement a formal safety and health plan (BI, Dec. 1, 1997). Other requirements include guaranteeing employee involvement in the safety program, identifying and correcting hazards through regular self-inspections and providing OSHA with data from annual injury and illness records.

The program targeted more than 12,000 worksites in 15 industries.

Critics complained that the worksites were unfairly chosen on the basis of the frequency—rather than severity—of injuries and illnesses. The employer groups sought judicial review last month and won a stay of the program.

"I expect they'll schedule oral arguments in September. You won't have a decision until late fall or early winter" at the earliest, said Mr. Kilberg.

Opponents of the program took heart from the court's move.

"It's important because it reflects the court's determination that we're likely to succeed on the merits of our arguments. Also, it reflects a realization that the cooperative compliance program is an extremely intrusive program," said Susan Mahallati, labor counsel for the National Chamber Litigation Center, which handles litigation for the Chamber of Commerce.

Not surprisingly, OSHA disagreed with that assessment.

"The court did not rule on the merits and we are confident that when the

court does look at this award-winning program, it will agree that this proven way for reducing workplace injuries and illnesses is in the interest of both American workers and business," said Charles N. Jeffress, assistant secretary of labor for occupational safety and health, in a statement issued after the appeals court stayed the program.

A pilot version of the cooperative compliance program, the Maine 200 program that targeted the 200 worksites in the state with the highest incidence of reported injuries, won the Ford Foundation's innovation in government award in 1995.

"The cooperative compliance program targets worksites with at least twice the national average of illnesses and injuries. It's a new way of doing business, based on successful experience in nine states," the OSHA statement said.

"The key to its success is a partnership among business, labor and OSHA that offers the companies with some of the highest injury and

illness rates a chance to partner with OSHA to find and fix those hazards cooperatively, instead of confrontationally. It's the way government should be reinvented," OSHA stated.

Two groups that have not taken a formal position on the program expressed doubt as to its workability.

"The cooperative compliance program is, in a sense, a kind of oxymoron. There are always strings attached to whatever OSHA does. In this case, the strings have strangled the program," said Lance J. Ewing, chairman of the Health and Safety Committee of the Risk & Insurance Management Society Inc. and loss control administrator for the Philadelphia School District.

Mr. Ewing said many RIMS member companies already have programs much like the voluntary programs contained in the proposed SAFE Act, which would institute a number of OSHA reforms.

"But it appears OSHA would rather

use the threat of wall-to-wall inspections," he said.

Keith Lessner, vp-safety and environment for the Schaumburg, Ill.-based Alliance of American Insurers, said: "We have been interested in these programs since they began in Maine. Conceptually I think these programs represent an extraordinary opportunity to promote workplace safety and health. In the real world, they have been fraught with technical problems and communications issues."

"What makes these programs good is they offer employers that have been identified as needing help the opportunity to voluntarily improve workplace safety and health. But starting with Maine there has been and continues to be a problem with picking out those employers that truly need help," said Mr. Lessner.

"These problems are not insurmountable, but they take a lot of work to be resolved," he said. **B**

# Blues

Continued from page 3  
important.

State lawmakers were busy last year dealing with health care issues, said Ms. Laudicina. The most common managed care regulation enacted last year prohibited the use of so-called "gag clauses" in provider contracts. In 1997, 24 states passed laws banning clauses that forbid or restrict providers from discussing alternative courses of treatment with their patients.

Fourteen states passed laws that require health plans to allow subscribers to have direct access to certain specialists—most commonly obstetrician-gynecologists—without referral from a primary care physician.

Nine states last year enacted laws that created a formal external grievance process to review coverage and claims denials.

The most common benefit mandate enacted by states last year was a requirement that health plans cover certain emergency room services, such as initial screening examinations. Twenty states passed some version of such legislation last year.

Fourteen states required plans to pay for a minimum hospital stay for mastectomy patients, while eight states adopted legislation that dealt with mental health parity.

Ms. Laudicina pointed to legislation extending medical malpractice liability to health plans as one of the most likely areas of new debate and legislation this year.

Although 18 states considered such measures last year, only two such measures—in Missouri and Texas—became law. But a survey of Blues plans across the country indicated that bills designed to extend malpractice liability to health plans are likely to be debated in at least 21 states this year, said Ms. Laudicina.

In addition, lawmakers in at least 16 states are expected to consider some form of legislation to create a framework of quality standards for managed care plans.

In addition, 15 states are expected to consider bills that would create mandatory external review mechanisms, and lawmakers in the same number of states—though not necessarily the same ones—are expected to consider proposals that would allow plan participants to self-refer directly to specialists.

Some form of mental health parity legislation is expected to come before lawmakers in at least 19 states in 1998, and 10 states are expected to deal with emergency room-related health care bills this year. **B**

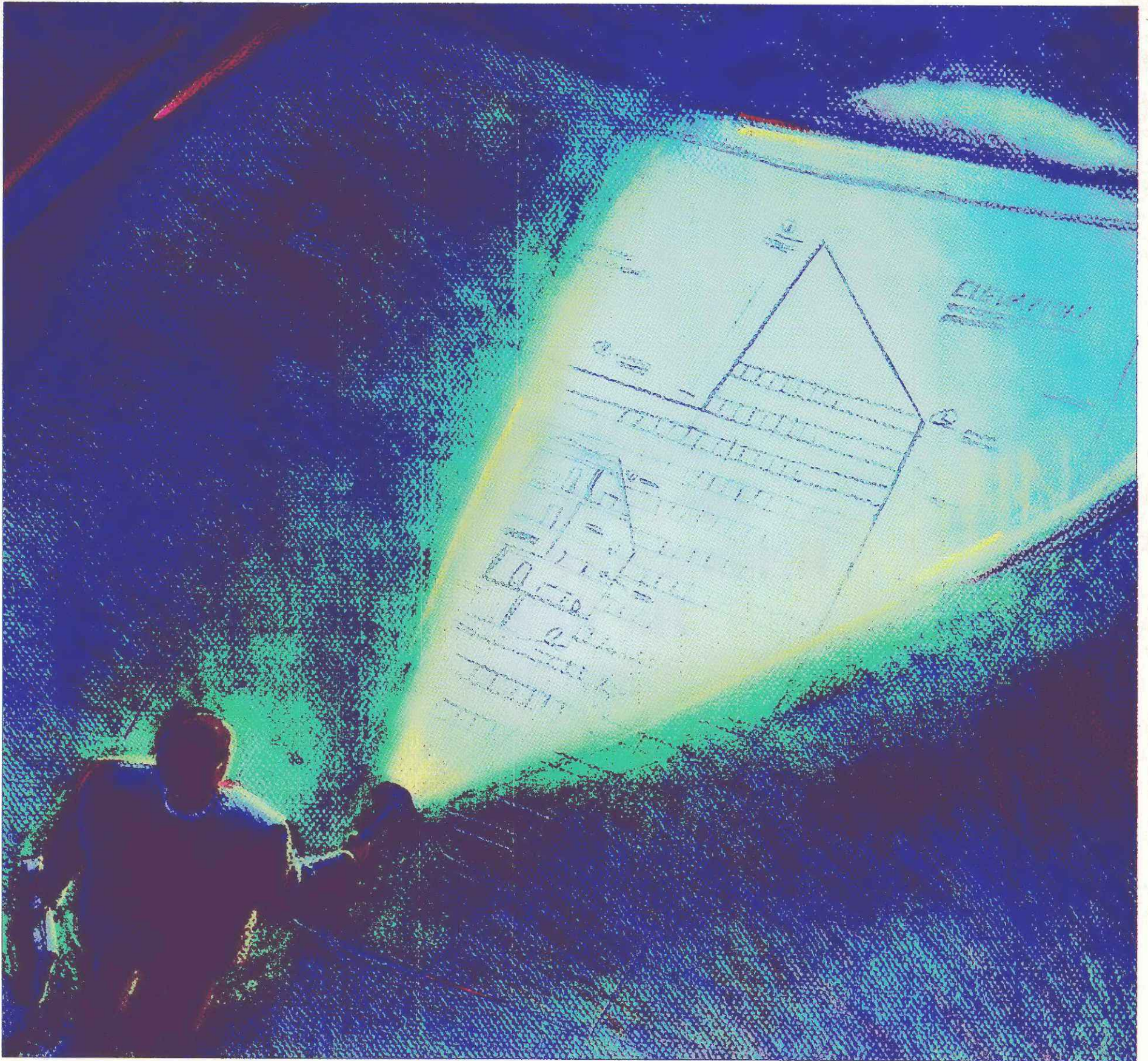
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# RISK MANAGEMENT



## S E R V I C E S

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# ASK A BENEFIT ACTUARY

**Q**

**What is workforce management?**

**A**

This question comes from a benefits manager. The senior management at his organization wants to use employee benefit plans to "manage the workforce." The manager of benefits not familiar with this approach wants a better understanding.

While this column provides a context for workforce management and why it is becoming increasingly important, my next column will focus on some potential hazards of ignoring workforce management issues.

Workforce management is using all human resource programs, including employee benefit plans, to attract and retain the employees with the skills and competencies needed for running the business and facilitate their departure from the organization when those skills are no longer needed. In order to attract and retain employees and provide for their orderly exit, all elements of human resources need to be examined to ensure that each aligns with workforce management objectives. These elements include:

- Organizational structure and design.
- Staffing and succession models.
- Competency models.
- Performance management.
- Communications.
- Compensation and benefit programs.

The benefits manager must assess employee benefit programs in light of how the organization needs to manage its workforce.

At Watson Wyatt Worldwide, we have observed growing concern in the United States about workforce management issues. This concern springs in part from trends in the growth of the U.S. labor force. While the workforce has grown 1.5% per year over the past 20 years—and 2% per year before that—the Department of

Labor now predicts declining rates of growth into the 21st century (see chart). Declining growth rates suggest that tight labor markets and increased competition for workers may well characterize the next century.

A second driver of interest in workforce management is the breakdown in the implicit employment contract that historically has existed between workers and their employers. Thirty years ago, workers devoted an entire career to a single employer, receiving, in exchange, financial security and lifetime employment.

Downsizings and restructurings have shattered that contract. Many of today's employers now need to attract and retain workers for more limited periods of time and cannot promise financial security. These employers need, instead, to provide their workers the tools for building

## Annual growth rate of U.S. labor force



their own financial security and for continued employability at another organization. In this context, organizations now need to examine how all human

resource programs, including employee benefit plans, align with their strategies for attracting, retaining and removing employees from their workforce.

Recent Watson Wyatt research suggests a trend toward viewing benefits as key programs for attracting and retaining employees and away from seeing benefits as merely a cost item. In 1990, 1994 and 1997, Watson Wyatt surveyed employers and listed benefit costs as a choice among several potential top human resources issues that the employer would face. In 1990, benefit costs were listed by 22% of the employers—second only to leadership development, which 26% selected. In 1994, 24% of employers selected benefit costs. However, in 1997, only 14% of respondents selected benefits costs as a top HR issue they expected to confront.

Watson Wyatt also recently completed a survey on competing in a global economy. The survey included

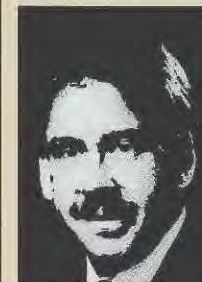
more than 2,000 top executives from 23 countries worldwide and focused on both business and people issues critical to success. More than 37% of survey respondents were chief executive officers.

The survey found that 60% of the respondents worldwide considered employee benefits important or very important in attracting and retaining workers. In the United States, 73% of the respondents considered employee benefits important or very important. This was the most highly ranked among the choices and equal to motivational pay. These results certainly suggest that for senior management around the world, employee benefits represent a key component in the human resource equation for attracting and retaining employees and, ultimately, managing the workforce.

For a free copy of an executive summary of Watson Wyatt's Global Management Survey, call 800-243-1349. **BI**

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

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



**Mr. Miner**

*This column on actuarial issues in the benefits field is written by William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago. Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field. Christopher E. Mandel, director-risk management at PepsiCo Restaurant Services in Louisville, Ky., answers questions on risk management. Dennis J. Nirtaut, managing director of compensation and benefits for Andersen Worldwide S.C. in Chicago, answers questions on employee benefit plans.*

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

## Former investigator takes readers down road of fraud

**"Accidentally on Purpose: The Making of a Personal Injury Underworld in America"**

By Ken Dornstein

Published by St. Martin's Press, 257 Park Ave., S., New York, N.Y., 10010, 212-982-3900 \$26.95

By Kevin M. Quinley

**E**VER WONDER HOW MUCH of your insurance premiums go to cover fraudulent claims? Ever agonize over how much of your self-insured funds go toward bogus or exaggerated claims? According to one author in a recent book, the tab is so high you may not want to know. Some estimates put the cost of insurance scams at \$15 billion to \$20 billion annually.

Accidentally on Purpose is one of the first books to thoroughly document the making of a peculiar U.S. criminal underworld. Not centered on the traditional fare of organized crime—drug dealing, gambling, loan-sharking, prostitution or protection—this unlikely underworld has sprung from the raw material of faked personal injuries.

Author Ken Dornstein worked as a private investigator in Los Angeles, where he specialized in investigating gangs that staged accidents for insurance money.

Mr. Dornstein's book takes readers back to the late 19th century and to the earliest slip-and-fall artists. Risk managers and other readers encounter the "ambulance

### Books & Ideas

chasers" and others of old New York who pioneered the personal injury trade.

Insurance fraud is nothing new. Its venerable history includes accident racketeers of the 1920's, instances of self-mutilation for profit during the Great Depression, and the burgeoning whiplash injury of the 1960's and 1970's.

Mr. Dornstein partitions the book into three major sections. Part One traces the origins of modern insurance fraud through New York through the 1940's. Part Two describes the insurance fraud industry at mid-century. The third and final segment is titled "Underworld: Los Angeles" and chronicles the fraud industry up to the present.

Through original interviews and research, Mr. Dornstein also reports on contemporary gangs whose members cruise streets staging car accidents for insurance money.

In this absorbing chronicle, Mr. Dornstein tells an original story about a culture in which greed, desperation and free-market incentives in the legal system transform accidents into the bedrock of a vast and lucrative secret economy. Scams can range to staged car accidents—where two car drivers smash into each other at a remote location, then drive to a road's shoulder to report the "accident" to police—to legitimate injuries that are exaggerated and milked. Lawyers and doctors often are in on the game, referring clients and patients to each other.

Why isn't more done to combat the problem? the book is

more descriptive than prescriptive. He does not purport to offer many solutions. Certainly the practice of establishing and beefing up special investigative units is laudable.

More and more insurance companies are fighting back.

Perhaps one reason there's not a greater public outcry is because many folks subliminally consider insurance companies "fair game" in getting ripped off. Others fail to see a connection between insurance fraud and the tab all consumers pay in the form of higher insurance premiums. Further, insurance companies who cry fraud can themselves be sued for defamation, making them spend \$100,000 in legal fees to defend a \$10,000 dubious claim.

Accidentally on Purpose can serve as a valuable call to arms to risk managers in raising their awareness of the problem, and it can act as a spur to risk managers to fight fraud and to be demanding of their insurance companies in waging war against bogus claims. **BI**



**Mr. Quinley**

*Kevin M. Quinley is senior vp-risk services for MEDMARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. He holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.*

# High-tech

Continued from page 1

World Wide Web. Mr. Magwood is taking advantage of the multimedia capabilities of CD-ROM technology as well as the Internet.

Ms. Hair and Mr. Magwood already have seen benefits such as greater timeliness of information exchanges and greater efficiency in their offices. Both also were thrilled that paper was eliminated from their renewals.

Mr. Good's system is just going online, but he expects similar benefits.

"These people are breaking new ground in risk management. I think it's a tremendous step," said Mark Dorn, president of risk management information system vendor DORN Technology Group Inc. of Livonia, Mich.

Mr. Dorn expects that those vanguard risk managers will be leading a much larger group of risk managers into the cyberspace frontier this year.

Risk managers are getting over their concerns about the security of information moved across the Internet, according to Mr. Dorn. "They've found the bigger issue is what could happen if they're not using the Internet," he said. The Internet often facilitates quicker and less costly movement of real-time information, which promotes greater efficiency, he said.

Risk managers, brokers and insurers tend to blame each other for the plodding pace of development of high-tech communication tools in risk management.

But, Mr. Dorn said the technological "plumbing" to accommodate these kinds of efforts has become available only within the past year or two.

For example, he said, computer users are just beginning to see improved browsers that allow them to easily navigate both their Intranet systems and the Internet.

And, some word processing and spreadsheet software only recently has been made Internet-ready. Text and numeric documents produced using this software now can be posted to Web sites without having to first manually key in hypertext markup language, or HTML, coding in the documents. That coding allows Web site visitors to view the documents in their intended formats.

Inadequate information systems budgets, pinched by the cost of efforts to make computer systems Year 2000-compliant, also has slowed the pace of development for risk managers, brokers and insurers.

Mr. Dorn said the risk management industry has gone through a natural evolution leading up to widespread use of the technology.

He calls it "the three stages of enlightenment." In 1996, risk managers learned how the Internet could help them. Last year, they assessed their software and hardware capabilities. This year, they are determining when, not if, they will begin using the Internet, Mr. Dorn said.

Along the way, though, some risk managers have been using the Internet for tasks they perceived were safe to entrust to the technology, said David P. Duden, national RMIS practice leader for Deloitte & Touche L.L.P.-Risk Management Consulting Services in Hartford, Conn. Those tasks include researching, networking and recruiting staff, he said.

Only rarely did a risk manager explore beyond those limits.

For example, in 1996 Carol Harrington of Sun Microsystems Inc. pushed her broker to develop a pilot program in which the software maker began transferring key information to Sun's property insurer via e-mail (BI, Oct. 30, 1997).

Ms. Harrington, the director of risk management at Palo Alto, Calif.-based Sun, has since broadened the program. Now, Sun employees who have to provide certificates of insurance before they can gain access to customers' worksites can obtain the documents quickly over the Internet through Sun's Web site.

And, as part of the multiyear property/casualty insurance program Sun hammered out last year, Sun is sending information on its property locations and values electronically to its insurers.

The insurers also have agreed to visit Sun's Web site for the company's latest press releases and financial results. Ms. Harrington said the Web site provides much more information than typically is included in underwriting submissions.

Sun, though, is not providing its insurers

with proprietary company information through cyberspace. Ms. Harrington still is determining how to handle that information exchange.

San Jose, Calif.-based Cisco has taken that step in its D&O underwriting submission, which neatly packages all of the publicly available as well as proprietary information underwriters want to review before rating the account.

Executives in the San Francisco office of Aon Worldwide Resources and the Denver office of Aon Risk Services Cos. Inc. were the driving forces behind Cisco's Internet under-

**Companies can use the World Wide Web to make large amounts of information, such as financial data, available paperless to underwriters. Those underwriters then can download and manipulate data to aid in decision-making.**

Change	High	Low	Open	Volume	Div Date
11:32AM -64 1/4	64 1/2	64 1/4	64 1/4	2,352,700	Dec 16
Day's Range	64 1/2 - 66 1/4	64 1/4 - 64 1/4	64 1/4	11,882,000	Dec 17
52-week Range	30 1/4 - 66 1/4	64 1/4	64 1/4	NA	NA
EPS	1.28	61.54	95.8275	NA	NA

writing submission. Aon Worldwide Resources is the technical consulting unit of Aon Group Inc; Aon Risk Services is the retail brokerage subsidiary.

Last September, in a request for proposal that went out to several brokers, Ms. Hair asked what part of Cisco's D&O program the company should revamp. The program was up for renewal Dec. 10, 1997, so time was critical.

Most of the responses were unimaginative, said Ms. Hair, Cisco's risk and insurance manager and, until recently, the company's entire risk management staff.

Aon, though, responded not only with the idea for submitting the risk to underwriters over the Internet, but also with a functional, secured Web site that already contained much of the voluminous material that must be included in a submission.

A secured Web site can be accessed by only pre-authorized users who have passwords. Aon, which maintains the site, also used a "cookie" to track the computer addresses of those who visit the site.

The approach had several practical benefits.

It allowed Aon to prepare Cisco's submission in the few weeks it had between the time it won the account and Cisco's D&O renewal date.

"We couldn't have done it the old way in the time that was allotted" because of the volume of material Aon would have had to pull together, said Brian Kawamoto, managing director at Aon Worldwide Resources in San Francisco.

The Web site's hyperlinks to various Internet sites and Cisco's home page pulls together much of the publicly available financial information about Cisco that underwriters need, he said.

After clicking on the financial data icon, for example, the user can link with the Yahoo Finance site to obtain numerous pieces of information on Cisco's stock performance within the past 15 minutes during a trading day.

The near real-time updates on Cisco stock movement is an especially attractive feature, Mr. Kawamoto said. "The volatility of stock of high-tech companies is something underwriters want to assess."

Another hyperlink allowed the user to review Cisco's Securities and Exchange Commission filings.

Additional icons directed underwriters to other information about Cisco's business, management, brokerage team and the Web site.

"We said, 'Fill in the blanks, and we're ready to go,'" Mr. Kawamoto said.

Ms. Hair was left with only filling in propri-

etary information such as material on previous coverage, merger and acquisition activities and the Year 2000 compliance status of Cisco's computer systems. Ms. Hair said she easily "soft-copied" that material from the company's Intranet to the Web site.

Executive Risk Management Associates, the underwriting manager for Simsbury, Conn.-based Executive Risk Inc., is among the underwriters that won a portion of the account. ERMA writes a catastrophe layer.

Stu Perry, a senior underwriter with ERMA, praised Cisco's submission. "It makes it easier to package it all together in my mind when I'm trying to make a decision on a risk."

In addition, he appreciated the flexibility of being able to access the Web site away from the office.

The Internet submission also directly fosters Cisco's primary business goals.

"Anything we can do to help drive business through the Internet is very attractive to us," said David Rogan, vp and treasurer at Cisco. "It's a very real world application as far as how you can use the Internet to run your business more efficiently."

The cost of the Internet submission was on par with the cost of submitting the risk the traditional way, Ms. Hair said. Cisco realized some minor cost savings by posting underwriters' last-minute requests for information on the Web site instead of sending the information via overnight delivery.

Ms. Hair plans to use the Internet for insurance submissions of other Cisco risks. "This was just the beginning of where we want to go with underwriting submissions across the Internet. It was time-efficient. It was cost-efficient. It was information efficient."

At Hamilton, Ontario-based Philip Services, Mr. Magwood opted to present the company's October 1997 global property renewal submission in a far more costly CD-ROM format. Mr. Magwood, senior vp-insurance and risk at Philip, judged that a CD-ROM—with

its multimedia capabilities—would be ideal for explaining Philip's changing risk profile to underwriters.

In the span of just about three years, Philip has metamorphosed from a solid-waste management company that owned landfills to an industrial services and metals recovery concern. Its industrial services include in-plant high-tech cleaning and maintenance for the petrochemical, automobile and airline industries. Philip also recovers scrap metal, aluminum and copper. The company sold its solid waste division in 1996.

Mr. Magwood said meeting face to face annually with the company's underwriters, who are based in Europe, is crucial to maintaining a strong relationship with them.

But, that has become cumbersome in recent years. In 1996, for example, he brought 10 boxes of material to the meeting.

Traditional submissions are "as big as a phone book," said John Bugalla, the broker who directed the CD-ROM submission project.

"Some people think the Internet will take

the place of this material," he said.

The problem is that while the Internet is convenient for downloading data files, downloading graphics such as videos and pictures from the Net is far too time-consuming, explained Mr. Bugalla, managing director of the Advanced Risk Management Services division of Nashville, Tenn.-based Willis Corroon Americas.

And, Mr. Magwood wanted videos, originally used by Philip's marketing department, to explain the company's new business direction. He also wanted to show the underwriters pictures of Philip's new processes.

The CD-ROM disk also contained financial information, a map of Philip's operations and their values, loss control information, two years of engineering reports, previous policy wording and a hyperlink to the company's home page.

Underwriters can download and then manipulate much of the material.

With all of that, Mr. Magwood brought to his underwriters meeting last October a CD-ROM for each underwriter and a handful of engineering reports that turned out to be unnecessary.

The approximate \$20,000 price tag to put the multimedia presentation on disk was steeper than the cost of preparing a submission the traditional way. And, it would have been even more expensive if he had had to generate the videos and pictures from scratch.

In a few years, after he has finished refining the presentation, Mr. Magwood expects the cost of producing the submission will drop considerably.

In the meantime, he is convinced the CD-ROM was an invaluable public relations tool. It delivered the message about Philip's risk profile, and underwriters were visibly impressed with the company's sophistication, he said.

At future renewals, the CD-ROMs alone will suffice. And, because each one can hold two or three previous submissions as well, eventually Mr. Magwood will be able to provide each underwriter with a 10-year risk management history in a handful of disks.

This fall, Mr. Magwood hopes to produce the company's casualty and environmental impairment liability insurance renewal submissions on CD-ROM.

Mr. Good at Philadelphia-based Rohm & Haas is making only the most critical element of his property insurance submission available over the Internet.

Property inspection reports will be available to his insurers' property inspectors and to designees at Rohm & Haas' 50 plants worldwide via a Web site maintained by Willis Corroon.

The streamlined property inspection and reporting system begins with the insurers' agreement to divvy up inspection responsibilities so Rohm & Haas plant sites undergo only one inspection annually. The insurers send the reports to Willis Corroon's Boston office, where the reports are entered into the Web site.

Hartford Steam Boiler Inspection & Insurance Co. maintains another Web site for Rohm & Haas' boiler and machinery inspection reports.

Designated Rohm & Haas engineers or other designated property loss control experts then can access the Web site to answer inspectors' questions.

The Rohm & Haas property experts currently have 60 days to respond to inspectors' concerns. But, because his personnel no longer have to build document preparation and mailing time into their response time, Mr. Good plans to halve that response time.

The property insurer inspectors have only reading privileges on the Web site, though they can download and then manipulate data.

Some of the company's excess casualty insurers in Bermuda also will have access to the Web site, Mr. Magwood noted.

The Web sites eliminate reams of paper and facilitate more timely responses from Rohm & Haas that insurers will more likely see throughout the year.

The setup also helps Rohm & Haas engineers and insurance inspectors worldwide work more efficiently, said Joe Tarbell, an executive vp for Willis Corroon in Boston and the Rohm & Haas account executive.

They do not have to wait for someone located several time zones away to answer questions about a site. They can access the Web sites as early as they need to in their work-days.

## Global Briefs

**Reliance National Insurance Co. (Europe) Ltd.**, a subsidiary of Reliance Group Holdings Inc. of New York, has joined the Institute of London Underwriters, which represents non-Lloyd's marine, aviation and energy underwriters in London. Reliance National (Europe) will begin underwriting marine hull, cargo and energy and excess-of-loss business from the ILU beginning Feb. 23. Carl Bach, managing director of Reliance National in Europe, said the move "will strengthen both our own and the ILU's position in the evermore competitive world of marine insurance"... Standard & Poor's Corp. has assigned an A claims-paying ability rating to Norwegian marine and energy insurer **Zurich Protector Forsikring AS**, a unit of Zurich Insurance Co. S&P said the ratings reflect ZP's niche position in Norway, its strong level of capitalization, and a good operating performance, offset by its exposure to volatile earnings and strong reliance on group reinsurance... **Willis Corroon Group P.L.C.** has recruited two executives to its Global Financial Risks division set up at the start of the year. Richard Brickwood has joined from the client service division of Marsh & McLennan FINPRO to assume responsibility for developing financial institution business within the United Kingdom and Europe, and Debra Willets has joined from the London-based special risk services team at Aon Group Inc... **Sedgwick Group P.L.C.** has shed 90 people as part of streamlining efforts at its U.K. insurance and reinsurance operations. Chief Executive Rob White-Cooper said the costs of the redundancies will be met from profits on the recent sale of two underwriting agencies in the Netherlands... **New York-based Metropolitan Life Insurance Co.** and Paris-based **AXA Group** have formed **MAXIS**, a global employee benefits network comprising insurers from more than 50 countries. MAXIS aims to provide benefits and administration services to multinational clients, MetLife and AXA said in a statement. Through multinational pooling, MAXIS partners will aggregate the experience of a client's benefit plans in two or more countries, generating economies of scale, reduced risk and administration charges, and passing on savings to the client in the form of an international dividend... The London-based insurer of **Cebu Pacific Air Skyliner Services Corp.** will pay all claims from an air crash into a Philippines mountain Feb. 2, a spokesman for the Manila-based airline said. He would not identify the insurer. Compensation for victims' families will be calculated individually. One hundred and four people died when the airliner crashed into Mount Sumagaya, only minutes from the Cagayan de Oro airport, 500 miles south of Manila, Philippines... Liability claims from the February 1996 crash of a **Birgenair Boeing 757** near the Dominican Republic (*BI*, Feb. 12, 1996) were settled this month with families of German victims. Families of 148 victims will receive minimum payments of 107,000 deutsche marks (\$59,085), which would make the total settlement value at least \$8.7 million. Seattle-based Boeing International Inc. and other parties have reached agreement to settle most of the German claims, a Boeing spokesman said. Details are still under discussion, he said. A representative for the victims said 20 families without lawyers would have to renegotiate to get more than the 35,000 deutsche marks (\$19,327) already paid to all victims' families from Birgenair's insurers. Most of the 189 victims booked their flights with Hamburg, Germany-based Oeger Tours. Oeger was not involved in the settlement, a spokesman for the tour organizer said.

# Violence not rattling risk managers

By MARIA KIELMAS

European risk managers are determined to stay calm amid signs that violence on the continent could be on the increase.

Recent killings in Corsica and Spain, rising tension in the Middle East and increased activity by organized crime are focusing corporate attention on exposure to risks.

At the same time, risk managers and political risk experts acknowledge that the lines between political terrorism, organized crime and drug and arms dealers are becoming increasingly blurred and hard to discern. As a result, identifying the source of threats to European companies and their employees is becoming more complicated.

In France, authorities are worried about the possible increase of violence after the government's most senior official on the island of Corsica, Claude Erignac, was shot and killed Feb. 8. The island, a popular vacation spot about 50 miles off the Mediterranean coast of France, has an element of

self-government though it is officially part of France. Separatist groups have been waging a 20-year bombing campaign, though it mainly has been directed against public buildings and never at individuals.

The recent killing of the official, however, is said to have been perpetrated by a previously unknown group calling itself Sampieru. No one knows if this group is politically motivated or connected with organized crime or drugs dealers. Similar problems with identifying the source of attacks exists throughout Europe.

Despite government concern, the exposure to private companies is not expected to increase as a result of the killing in Corsica.

"I don't think so," said Thierry Van Santen, head of risk management at Paris-based foods conglomerate Groupe Danone. "Corsica is a very specific long-term problem. This is the first time there has been terrorism against people. We think some groups in Corsica are becoming more aggressive."

The shooting "has been shocking for ev-

erybody, but there have been a lot of terrorist acts there for 20 years. The attitude of the French is whether to decide to go on holiday in Corsica or not," said Louis Habib-Deloncle, president and chief executive officer of Paris-based political risk insurer UNISTRAT Assurances.

Insurance against physical damage and business interruption caused by terrorist acts is generally available as an endorsement to property policies in most European countries.

The only exception is the United Kingdom, where losses from bombing campaigns by the Irish Republican Army have caused terrorism risks to be excluded from property policies. Companies with operations in the United Kingdom can buy a specific policy for terrorism risks through London-based Pool Reinsurance Co. Ltd., which was created by the U.K. government in 1993. Pool Re's premiums are collected by direct insurers and ceded to the reinsurance pool.

See Terrorism on next page

## Consolidation hits Scandinavia

Market activity 'long overdue': Analyst

By GERARD O'DWYER

Growing interest by foreign companies has led to a series of mergers and acquisitions in Scandinavia's insurance market, and analysts expect the trend to continue.

Consolidation in the Nordic insurance market has been triggered by international insurance groups that view such deals as a cost-efficient way to gain a foothold in the region.

While foreign companies such as U.S.-based broker J&H Marsh & McLennan Inc. have purchased several Nordic brokerages, the region's insurers also are seeking other domestic companies to buy.

"What is happening has been long overdue. There are too many small players in the Nordic non-life insurance market, and many have now realized that to survive, they must find allies, acquire or seek to secure their operations by selling out to domestic or international groups," said Kari Sundstrom, a senior M&A analyst with the Finnish investment group LR Europe in Helsinki.

Among the recent acquisitions is a strategic takeover by J&H Marsh & McLennan of Bonnor & Co. A/S, Denmark's second-largest broker.

"We are now part of a major dynamic group and certain to play an important role in J&H Marsh & McLennan's plans for the Nordic region," said Bonnor Chief Executive Officer John Bonnor.

The merged company will be called Bonnor Marsh & McLennan, and Mr. Bonnor will be its chief executive officer. Bonnor's revenues are about 400 million Danish kroner (\$58 million) on behalf of some 450 companies. The company's headquarters are in Copenhagen.

J&H Marsh & McLennan also has focused on the Finnish market, paying an unspecified amount Jan. 12 for all shares in Helsinki-based Interbrokers Oy, the third-largest broker in Finland, with

See Consolidate on page 21

## U.K. employers shifting pensions

By EDWIN UNSWORTH

LONDON—More U.K. employers are offering retirees defined contribution pension plans, which may give companies greater certainty amid changes in government pension policy, according to the National Assn. of Pension Funds.

A recent NAPF survey of 613 public and private employers operating 833 pension plans with total assets worth more than £370 million (\$604.2 million) found more employers are offering defined contribution plans in place of traditional defined benefit pensions.

Ann Robinson, the NAPF's director-general, said that employers tend to contribute less per employee in defined contribution plans than under defined benefit plans, with the result that less may be available for employees' retirement.

Employers increasingly prefer defined contribution pensions because they allow an employer to determine its likely pension costs more easily than under defined benefit plans at a time when the U.K. regulatory environment is becoming more uncertain, according to Ms. Robinson.

Uncertainty first was generated by the Pensions Act 1995, which increased the costs of administering pension funds, and increased with the abolition last July of tax relief on dividends earned by pension funds, which reduced the ultimate earnings of the funds.

The NAPF says pension fund managers now are concerned about what measures might emerge in the budget the U.K. government will propose next month. Ms. Robinson said employers are particularly concerned that Chancellor Gordon Brown might try to increase the tax payable on funds' capital gains.

See NAPF on page 22

## U.K. group suggests spill assessments

Compensation fund opposes idea from government-appointed committee

By EDWIN UNSWORTH

LONDON—An oil spill compensation fund opposes a recommendation that it or the responsible parties should pay to set up "Impact Assessment Groups" for all future spills in Britain.

The U.K. government-appointed Sea Empress Environmental Evaluation Committee says in its final report published this month that the International Oil Pollution Compensation Fund should consider "the possibility of funding properly designed and coordinated environmental impact assessments following major tanker spills." If that effort fails, however, those responsible for any future spill should be responsible for the costs of such assessments, the report says.

Members contribute to the London-

See Oil spill on page 22



Oil tanker Sea Empress, center, spilled more than 20 million gallons of crude oil as a result of running aground in February 1996 near a refinery at Milford Haven, Wales.

PHOTO: AFP

# Terrorism

Continued from previous page

"We buy various global policies and arrange a specific terrorism cover, which backs into the Pool Re. In Europe we maintain existing business interruption arrangements," said Scott Hobson, group insurance strategy manager at Farnborough-based aircraft manufacturer British Aerospace P.L.C.

As British Aerospace works on many government contracts, the company maintains specific security arrangements against terrorist threats. "A lot of our activities are subject to governmental considerations as well as having to look after our own. We have security experts who liaise with government as the threats change," Mr. Hobson said.

Continued killings in Northern Ireland have raised fears in the United Kingdom that ongoing Irish peace talks could be jeopardized and that the U.K. mainland again could be subject to a protracted IRA bombing campaign.

Nevertheless, because a Northern Ireland cease-fire held throughout 1997 and Pool Re did not suffer any losses, the facility's policyholders will receive a rate discount this year, said Leslie Lucas, chief executive officer of the terrorism insurance pool.

Pool Re divides the United Kingdom into four risk zones: zones A and B are mainly London and other large cities and, thus, face a higher risk of terrorist attack; Zones C and D are the remaining areas and are at lower risk. Pool Re's rates in zones A and B have been cut by 20% this year, while rates for risks in zones C and D have been cut by 40%.

The terrorism insurer's greatest losses occurred in 1996 with the IRA bombing of Canary Wharf in London's commercial district and another bombing that destroyed a large part of the Manchester city center.

"Manchester was a big shock.

There was a perception that this only happens in London," Mr. Lucas said.

There have been fears that any renewed military action by the West against Iraq could trigger a bombing campaign in London by Middle East terrorist groups.

Mr. Lucas said it is impossible to determine if there currently is a greater demand for terrorism coverage because of rising Middle East tension.

Terrorism by Middle East groups, though, historically has not caused much physical damage in the United Kingdom.

"Virtually all the bombings were IRA-related, with the exception of a June 1994 bomb at the Israeli embassy in London," Mr. Lucas said.

In Spain, the Basque separatist group ETA has been conducting an ongoing campaign of assassinating local officials belonging to the governing Partido Popular party and those from the public authorities. Recent killings have triggered large public demonstrations against the ETA actions in the northern town of San Sebastian and the southern city of Seville.

Spanish corporations view the risk of ETA terrorism as an ongoing concern, though their employees face a greater exposure than businesses.

"The threat is the same as it has been for the last two years," said Pedro Lasso, director general of Acideka S.A., a Bilbao-based chemicals company. "The threat is not so much against the companies but against businessmen," he noted.

The ETA has perpetrated a kidnapping and extortion campaign against individual businessmen for nearly 20 years.

"It is an issue, and you have to consider it as a risk that you have to manage," said Ramon Alvarez Pedrosa, insurance manager for Repsol S.A., a Madrid-based oil and petrochemicals company.

Spanish companies can buy ter-

rorism insurance from a state-owned reinsurer of last resort, Consorcio de Compensacion de Seguros.

Kidnapping and ransom insurance is available, but it is frowned upon by some European governments that contend it increases the risk of kidnappings.

"This is a gray area. (K&R coverage) is not forbidden, but it is not authorized" in Spain, said Mr. Alvarez.

Similarly, in France companies are not allowed to buy K&R insurance for employees based in the country, though they may buy the coverage for employees who are based abroad. The same applies to foreign-owned companies.

"The law is not in favor of this because it is seen as a kind of incentive. A group will attack if they know they can get away with it," said Mr. Van Santen of Group Danone.

Security experts stress that in today's Europe it is increasingly difficult to tell what kind of group is threatening who and why.

"One of the problems is that all of the standard guidelines to identify these groups have gone. Since the end of the Cold War, the ideological basis and state backing (for terrorism) has gone. A lot of groups are involved with drugs or weapons dealing. The situation is much more complex, and it's very murky," said Alison Jameson, a Perugia, Italy-based consultant in organized crime and political terrorism.

One of the more sinister developments on the terrorism front has been a recent upsurge in kidnappings in Italy after a long period of calm.

This has caused considerable alarm as Italy has a law that forbids the payment of ransoms and also outlaws kidnap and ransom insurance. In the 1970s, before the law was enacted, there were about 85 reported kidnappings annually, Ms. Jameson noted. Some of these were done by leftist groups like the Red Brigade, while the majority are attributed to the Mafia.

Kidnapping in Italy was never a lucrative occupation, however, and the rate of kidnappings declined as many groups chose instead to go into drugs and weapons smuggling, she said.

"You don't want the authorities looking for a hostage in the mountains when you are setting up a little heroin refinery," she added.

But for unknown reasons there was a resurgence of kidnappings, with some demanding ransoms as high as 50 billion lire (\$27.9 million).

Ms. Jameson said the threat of violence in Europe has become even more alarming as gangs from Eastern Europe's underworld work together with organized crime rings in Western Europe.

Kidnapping and extortion is a danger for corporate executives especially in Eastern Europe today.

But it is important to recognize the difference among various factions of organized crime in Eastern Europe, said Mr. Habib Deloncle of UNISTRAT.

"There are the mafias, which control large sectors of industry. Even before (the Bolshevik revolution of) 1917, large families or clans controlled products such as iron and oil. They have been part of the industry and family structure for 75 years," Mr. Habib Deloncle said. "That has nothing to do with the Azeri and Uzbek criminal gangs who burst into shops and shoot people," he added.

There is a limit to what the insurance industry can offer as protection against terrorism, said Mr. Deloncle. **BI**

# Canceled match a sticky wicket for organizers

By MATTHEW MacDERMOTT

KINGSTON, Jamaica—Organizers of an international cricket match face financial losses and possible legal action as a result of the cancellation of a recent Test match because of a dangerous playing surface.

It was the first time in the 120-year history of international cricket that an international match was abandoned because of the dangerous state of the playing surface, according to a statement by David Richards, chief executive of the London-based International Cricket Council, the game's governing body.

West Indies Cricket Board officials were unavailable for comment, but a specialist sports insurance broker said the unusual circumstances of the abandonment of the Test match last month in Jamaica between cricket teams representing the West Indies and England means it is unlikely the WICB will have coverage for resulting losses.

Sporting organizers can insure themselves against "anything outside their control," noted Jonathan Ticehurst, director of sports insurance at London-based Windsor Insurance Brokers Ltd. But the preparation of a suitable playing surface, known in cricket as a pitch, was something the WICB could control, he said.

"You could insure against the weather or even if the pitch was vandalized, but I'm not sure if you could ever insure against a pitch not being properly prepared," he said. "I don't think they (the WICB) would have any cover."

Tim Lamb, chief executive of the England & Wales Cricket Board, said the Jamaican abandonment was a "very complicated situation."

He said the EWCB has an insurance policy to cover the risk of cancellations due to adverse weather but said he was "unsure" about whether it would be protected for abandonment due to an unsuitable pitch.

Last year, one day of no play and two days of partial play due to rain at an England vs. Australia cricket match in London cost the EWCB and its insurers £1.3 million (\$2.2 million) in ticket refunds (BI, July 14, 1997).

The abandoned match in Jamaica, which had been scheduled to last five days, was the first of a five-match Test series between the West Indies and England being hosted by the West Indies from January to March.

The match was being played at Sabina Park in Kingston, Jamaica, but was abandoned after only 66 minutes of play on the first day, Jan. 29.

The pitch clearly was underprepared, and its cracked and corrugated surface created uneven and dangerous bounces for the ball. England batsmen received blows on the hands and arms on six separate occasions.

Umpires and team captains agreed to abandon the game on safety grounds.

The WICB, the series organizer, moved quickly to preserve the five-match series by rescheduling the abandoned Jamaican match for Port of Spain, Trinidad, on Feb. 5.

Newspaper reports claim ticket

refunds from the abandoned match will cost the WICB £900,000 (\$1.46 million).

Mr. Ticehurst said the WICB would have to absorb some losses from the abandoned match, such as hospitality facilities, catering, staff and program costs, but he said he thinks much of the ticket refunds "would be very largely diminished by the rescheduling," as new tickets would be sold for the Trinidad match.

However, the WICB faces further financial loss in the form of a rebate to its principal sponsor, British telecommunications company Cable & Wireless P.L.C. of London.

Cable & Wireless is halfway through a six-year, \$2.1 million annual sponsorship contract with the WICB.

Sony Peart, marketing and communications manager of subsidiary Cable & Wireless West Indies Ltd. of Grand Cayman, said Cable & Wireless would apply for a rebate on its sponsorship as a result of the

**'I'm not sure if you could ever insure against a pitch not being properly prepared,' says Jonathan Ticehurst.**

abandonment despite the rescheduling. He would not disclose the amount of the rebate being sought.

"In our contract with the WICB, there is a provision for such an occurrence. We are entitled to a partial rebate of sponsorship money for the series if any game is abandoned within two days."

The WICB is also facing potential legal action from English travel operators that organized tours for English cricket supporters to attend the match.

Mr. Lamb of the EWCB said between 800 and 900 English cricket supporters attended the abandoned match in Jamaica.

The EWCB's designated tour operator, London-based Sports Abroad Ltd., had 60 supporters at the abandoned match.

Mr. Lamb would not comment on the possibility of legal action from supporters, but he said tour operators had made it clear they are "not in any way responsible."

International Travel Connection Ltd. of Chester in northwest England had about 100 supporters at the match through its two subsidiary companies ITC Sports Ltd. and Caribbean Connections Ltd., both of Chester.

An ITC spokeswoman said it was too early to say if there would be any legal action against the WICB from disgruntled English supporters.

"I think supporters will wait until they get back home before deciding if they want to take it any further."

She said the ITC would do everything it could to help its clients and had started seeking legal advice in the event of supporters wanting to seek damages from the WICB.

"We understand any claim would have to be pursued in a Jamaican court, which would be a slow process," she said. **BI**

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**INTERNATIONAL**

**Nordic**

Continued from page 19  
revenues of \$21 million.

Also in January, M&M completed its acquisition of Stockholm's Max Matthiessen A.B., Sweden's largest insurance broker. Max Matthiessen had premium volume of 2 billion Swedish kronor (\$247.8 million) in 1997, while revenues for the year rose 5% to 200 million Swedish kronor (\$24.8 million). The broker employs 230 people.

Shares in Max Matthiessen were bought from the company's founders, the Groth family, which held 50%; management and employees, 25%; and U.S. broker Johnson & Higgins, 25%, which Marsh & McLennan Cos. Inc. has since acquired. The U.S. broker's interest in

Pohjola, a stake the company intends to divest in 1998.

While the deal is pending, Suomi agreed not to sign on any new policies, in return for a one-time 54 million Finnish markka (\$9.8 million) cash payment from Pohjola.

"The deal will help give our non-life business greater size, bolstering our ability to offer more competitive products in a more aggressively priced market," said Pohjola CEO Iiro Viinanen. "The vast bulk of the acquisitions activity in the Nordic region is motivated by the need to improve competitiveness," he added.

Significant acquisitions in 1997 involved Germany's Hannover Reinsurance Co.'s takeover of Skandia International Insurance Co.'s reinsurance subsidiary, followed by the opening of two new representative offices in Stockholm and Gothen-

**Oil spill**

Continued from page 19

based IOPC fund in proportion to the amount of oil they import. The IOPC is an international fund that compensates signatory countries if they suffer environmental damage from an off-shore oil spill.

However, IOPC fund Director Hans Jacobsson says the fund has no liability for costs associated with environmental impact studies after an oil spill. He said the IOPC is liable for the financial consequences of a spill, such as pollution damage and cleanup, but not for the costs of a study into the consequences of the spill.

The fund is waiting to see what happens. If the recommendation is implemented and the IOPC does not fund the assessment groups, tanker operators could look for their protection and indemnity clubs, which provide much of the liability insurance of ship operators, to meet the costs.

Lloyd Watkins, secretary of the International Group of P&I Clubs, said the clubs need more time to study the report's assessment group recommendation before making a specific comment.

However, he said P&I clubs meet their members' legitimate legal liability costs, and if the recommendation became a legal requirement that tanker operators fund the IAGs, "then obviously the clubs would have to give consideration to meeting that legal responsibility."

However, this inevitably would add to increased P&I contributions for ship operators, particularly if other countries followed the United Kingdom's lead.

Dagfinn Lunde, managing director of the Oslo, Norway-based International Assn. of Independent Tanker Owners, said there had been no opportunity yet for the 264-member group to discuss the report's recommendation.

However, he said initially it leaves

him with two main concerns: the possibility of establishing a principle of making tanker operators pay for such studies, and that the practice could become a general rule in other countries.

A spokesperson for the Department of the Environment, Transport and the Regions said the government is considering the report's recommendations and expects to respond in the spring.

The report, "The Environmental Impact of the Sea Empress Oil Spill," concludes that after every serious

tanker oil spill, an environmental Impact Assessment Group should be set up to examine such things as the concentrations of oil in the environment, the fate of the oil over time, the environmental effects and cleanup responses.

The report says that while Britain has contingency plans at national and local levels for responding to oil spills, there are no comparable response plans for assessing environmental impact. Therefore, a key feature of the groups is that they would be set up as

See Oil spill on next page

**'The vast bulk of the acquisitions activity in the Nordic region is motivated by the need to improve competitiveness,' says Iiro Viinanen of Pohjola.**

taking a majority stake in Max Matthiessen was sparked by the Johnson & Higgins takeover.

On the insurer front, Stockholm-based Lansforsakringar A.B. signed a letter of intent Jan. 20 to acquire and merge WASA Forsikring of Stockholm into its group organization, which comprises insurance and venture capital associates, and stockholdings in more than 340 Swedish and international companies.

The deal, expected to be completed at the end of March, will raise LF's premium volume 10.9 billion Swedish kronor from 2.7 billion Swedish kronor (to \$1.35 billion from \$334.8 million).

In Sweden, Trygg-Hansa A.B. bought Norwegian non-life mutual insurer Rutebileiernes Forsikrings-selskap, which specializes in commercial auto insurance for bus and truck operators. Rutebileiernes will do business as Trygg-Hansa Forsikring AS and will have an estimated 1997 premium volume of 86.8 million Norwegian kroner (\$11.4 million).

Across the Baltic Sea in Finland, mutual insurer Suomi Oy sold its life/health subsidiary Salama Oy to Pohjola Group in a cash deal valued at 537.3 million Finnish markkaa (\$97.7 million). Suomi holds 40% of

burg, Sweden.

The Stockholm office, Inter Hannover Stockholm Aviation Branch, will operate under the wing of Hannover Re's British subsidiary International Insurance Co. of Hannover and will specialize in aviation reinsurance operations. The reinsurance operations and staff within Skandia's aviation and space division have been transferred to this new unit.

The second Swedish branch office will operate directly under Hannover Ruckversicherungs A.G., handling reinsurance operations in connection with the life assurance market. This division will do business as Hannover Re Stockholm Branch. **BI**

UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE:

Petition of Gareth Howard Hughes, Nigel James Hamilton and Jacqueline Barbara Stephenson, as Joint Provisional Liquidators of Municipal General Insurance, Limited

Debtor in Foreign Proceedings

CASE NO. 94-B-41329 (GB)

PRELIMINARY INJUNCTION ORDER

This matter has come before the Court on the above Petitioners' request for a Preliminary Injunction Order pursuant to Bankruptcy Rule 7065 and Federal Rule of Civil Procedure 65(b). The Court (a) has considered and reviewed the Petition filed in this case, the Affidavit of Ronald DeKoven, Petitioners' former counsel, the Declaration of Gabriel Moss, Q.C., the Declaration of Gareth Howard Hughes, the Affidavits of Jacqueline Barbara Stephenson, one of the Petitioners herein, and the Memorandum of Law in support of the application, and any responses filed thereto, and (b) the Court has further considered and reviewed the Limited Objection of Michigan Municipal Risk Management Authority to Continuation of Preliminary Injunction Order dated November 17, 1996, the Supplement to Limited Objection of Michigan Municipal Risk Management Authority to Continuation of Preliminary Injunction Order dated January 30, 1996 and all other pleadings or other materials filed or submitted in this case; and the Court has held hearings and heard arguments by counsel on the 29th day of March, 1994, the 27th day of July, 1994, the 8th day of December, 1994, the 11th day of April, 1995, the 31st day of January, 1996, the 31st day of January, 1997 and the 30th day of January, 1998, and based on the foregoing, the Court finds and concludes as follows:

1. Petitioners have demonstrated a substantial likelihood of success or have raised serious questions on the merits of the contentions that: (a) Municipal General Insurance Limited ("MGI") is subject to "foreign proceedings" within the meaning of Sections 101(23) and 304(a) of the United States Bankruptcy Code (the "Bankruptcy Code"), 11 U.S.C. §§ 101 et seq.; (b) Petitioners are the "foreign representatives" of MGI within the meaning of Sections 101(24) and 304(a) of the Bankruptcy Code; (c) (i) the commencement or continuation of any judicial, administrative or regulatory action or proceeding against MGI, any of its property in the United States, or any proceeds thereof, (ii) the enforcement of any judicial, administrative or regulatory judgment, assessment or order, and the commencement or continuation of any judicial, administrative or regulatory action or proceedings, to create, perfect or enforce any lien, set-off or other claim against MGI, any of its property in the United States, or any proceeds thereof, and (iii) the drawing down of any letters of credit established by MGI in excess of what is expressly authorized by the terms of the contracts and any related trust or other agreements pursuant to which such letters of credit have been established, should be enjoined pursuant to Section 304(b) of the Bankruptcy Code to permit the expeditious and economical administration of the foreign estate in the pending proceedings brought under foreign law (except as otherwise expressly provided in the decretory paragraphs of this Order); and (d) the relief provided herein will not cause hardships to parties that are not outweighed by the benefits.

2. Unless an injunction is issued, it appears to this Court that one or more parties in interest will transfer, relinquish or dispose of assets of MGI in the United States, or proceeds thereof, commence or continue the prosecution of judicial, administrative or regulatory actions against MGI, its assets, or proceeds thereof, or draw upon letters of credit established by MGI in excess of the amount to which such parties are contractually entitled, thereby interfering with, and causing harm to, the Petitioners' efforts to administer the MGI estate pursuant to the foreign proceedings, and that, as a result, the Petitioners will suffer immediate and irreparable injury for which they will have no adequate remedy at law (except that the authority granted by this Court to continue certain litigation only as set forth in the decretory paragraphs below will not cause such harm).

3. Unless the injunction (to the extent provided below) is issued, Petitioners will be unable to acquire sufficient information about pending and potential litigations against, and U.S. assets of, MGI to properly protect the interests of MGI in the United States, resulting in the further depletion of MGI's limited assets.

4. The interest of the public will be served by this Court's grant of the relief provided herein.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1410.

NOW, THEREFORE, IT IS:

ORDERED that all persons (except as provided in the New York Superintendent Order) are hereby enjoined and restrained from:

(1) transferring, relinquishing or disposing of any property of MGI in the United States, or any proceeds thereof, to any persons or entities other than Petitioners;

(2) commencing or continuing any judicial, administrative or regulatory action or proceeding against MGI, any of its property in the United States, or any proceeds thereof;

(3) enforcing any judicial, administrative or regulatory judgment, assessment or order, or commencing or continuing any act or any judicial, administrative or regulatory action or proceeding, to create, perfect or enforce any lien, set-off or other claim, against MGI, any of its property in the United States, or any proceeds thereof; and

(4) drawing down any letters of credit established by MGI in excess of what is expressly authorized by the terms of the contracts and any related trust or other agreements pursuant to which such letters of credit have been established; and it is further

ORDERED that nothing in this Preliminary Injunction Order shall in any respect prevent the continuance or commencement of proceedings against or involving other London Market insurers or any other insurance company defendant; and it is further

ORDERED that, pursuant to Bankruptcy Rule 7065, the security provisions of Fed.R.Civ.P. 65(c) be, and the same hereby are, waived; and it is further

ORDERED that, notwithstanding any other term of this Order, the action entitled Michigan Municipal Risk Management Authority v. Municipal General Insurance Company, Wayne County Circuit Court Case No. 94-400330-CK, is permitted to proceed, but this provision shall not be construed to permit enforcement of any judgment obtained by Michigan Municipal Risk Management Authority ("MMRMA") in the immediately above-referenced Michigan action against MGI or any of MGI's property located in the United States; and it is further

ORDERED that this Order shall be served (A) by hand delivery or U.S. mail, first class postage prepaid, on or before February 9, 1998 upon the parties in interest appearing in this case (or their counsel, where known); (B) by publication of a summary of this Order in Business Insurance Magazine on or before March 21, 1998; and that service pursuant to this paragraph shall be deemed good and sufficient service and adequate notice; and it is further

ORDERED that the time to answer or move with respect to the Petition is extended sine die, but that parties wishing to move for modification of or relief from this Preliminary Injunction Order or otherwise may do so in accordance with the schedule set forth by the Court herein and in any subsequent Scheduling Order entered by the Court in this case; provided, however, that, notwithstanding any other provision of this Order, MMRMA shall have the right to a hearing on a motion to this Court for modification of or relief from this Preliminary Injunction Order on ten (10) days' notice to the MGI attorney specified in the last decretory paragraph thereof; and it is further

ORDERED that this injunction shall remain in effect pending further order of the Court after a hearing to consider whether the injunction shall be continued, which hearing is scheduled to be held in Room 601 of the Alexander Hamilton Custom House, One Bowling Green, New York, New York on January 29, 1999 at 2:00 p.m.; and it is further

ORDERED that all papers submitted for the purpose of controverting the Petition or opposing continuation of the relief provided for in this Preliminary Injunction Order shall be filed with the Court with a copy to Chambers and delivered by overnight mail or so as to be received by Peabody & Arnold, 50 Rowes Wharf, Boston, MA 02110 (attention: Deborah S. Griffin or Randolph L. Smith), Attorneys for Petitioners, on or before January 14, 1999 at 5:00 p.m.

Dated: New York, New York  
January 30, 1998

Cornelius Blackshear  
United States Bankruptcy Judge

\*Petitioners' request for relief, and the terms of this Order, are subject to the provisions of any temporary restraining order or order of conservation obtained by the New York Superintendent of Insurance (the "New York Superintendent Order").



MORRISON, MAHONEY & MILLER  
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## Claims

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compared with 137 in 1991 and 85 in 1992.

This is most likely due to budget cuts that have reduced the division's staff, Sen. Solis' background paper pointed out.

"The division has a staff of 23 professional auditors to cover approximately 625 potential auditing subjects. The division has lost a total of approximately nine auditors from the various budget reductions since 1992," the paper said. "In 1996, the division audited less than 9% of the potential auditing subjects."

However, in an analysis of the background paper conducted by the San Francisco-based California Workers' Compensation Institute, a research organization funded mainly by insurers, CWCI President Edward C. Woodward asserts that "the current staffing levels result from choices made by the administrative director (of the Division of Workers Compensation), not budgetary constraints."

Furthermore, "the purpose of the Annual Audit Report is to summarize

the results of the audits of individual adjusting locations," Mr. Woodward said in the analysis, conducted at the request of the AIA.

"One cannot generalize from the aggregate audit statistics to gauge the performance of insurers, employers and third-party administrators, let alone the entire system. The audit statistics are not representative of the workers compensation system as a whole even though the Senate Analysis assumes otherwise," the CWCI review states.

Charging that the lawmaker is biased against insurers, the Assn. of California Insurance Cos., whose membership comprises mostly workers compensation insurers, declined Sen. Solis' invitation to appear at the Feb. 11 hearing.

"Unfortunately, comments by you to a gathering of applicant attorneys... have cast a pall over this process and needlessly converted the hearing into an election year 'pep rally' for our adversaries," ACIC President Barry Carmody wrote in a letter to Sen. Solis.

In a speech during the California Applicant Attorneys Assn.'s winter meeting Jan. 23 in Rancho Mirage,

Sen. Solis said: "On the 11th we are going to put the screws to the insurers... Insurers are avoiding their responsibility to pay benefits on time, and the employers agree."

While Mr. Carmody said the ACIC supports "any and all efforts by the committee to review the problems facing injured workers and employers who must deal with the system," the background paper prepared by Sen. Solis' staff for the hearing "seems to focus entirely on a misperception of the audit process and conveys opinions that do not appear to be supported by the facts," he said.

No employer representatives were at the Feb. 11 hearing to back Sen. Solis' claims of having their support.

However, a spokeswoman for Californians for Compensation Reform, an employer coalition based in Sacramento, said its members have expressed concerns about insurers' claims-paying habits.

Other hearing participants included Casey Young, administrative director of the Division of Workers Compensation and spokesmen from the California Applicant Attorneys Assn. and the California Labor Federation. **BI**

## Treatment

Continued from page 3  
now a statutorily authorized activity under the labor code as part of the 1993 workers comp reforms rather than competitive pressures," he said.

The amount insurers spent on occupational therapy dropped to \$108.2 million in 1996 from \$126.5 million in 1995, according to the most recent data available from the California Workers' Compensation Institute.

The competition for employers' dollars has been very intense in California, and insurers have lowered their premiums, said Sara Pazell, chair of the Third Party Reimbursement Committee for the Sacramento-based Oc-

cupational Therapy Assn. of California. That, in turn, has meant cost-cutting in provider services.

Consequently, there has been "incredible change," within therapists' practices, Ms. Pazell said. In some cases, quality of care has been compromised, and treatment has not been authorized in situations where it should have been, she said.

But overall, closer insurer scrutiny has had a positive impact, forcing occupational therapists to streamline and improve their services while they continue delivering quality care, Ms. Pazell said.

"I'm finding them very creative and very innovative working in an efficient manner beyond what they even perhaps believed they were capable of

doing," Ms. Pazell said.

Whether injured employees are returning to work faster remains unknown. Insurers likely would say, "No, it has not," while medical providers likely would disagree, Mr. Webb said.

Lacking research, Ms. Pazell said she does not know. But she said that as therapist workloads have grown and insurers have rejected more treatments, it has become important for workers to become their own advocates, something she supports.

"They have to be more empowered to really question their own care and to become well-informed and request all procedures to be authorized," she said. "They need to take an active role." **BI**

## Air crash

Continued from page 3  
\$1.25 billion from \$1 billion.

All 182 passengers and 15 crew died in the accident, as well as six people on the ground. Eyewitnesses differ on the conditions, with some saying visibility was good despite a light drizzle, while others said heavy fog blanketed the area at the time of the crash.

Other reports suggest the aircraft had aborted a first landing and was making a second approach. According to local media, Chang Kuo-cheng, deputy director of Taiwan's Civil Aeronautics Administration, said that accident investigators have been puzzled by an air traffic control query asking if the pilot wanted to make a "go-around," which received no reply.

Mr. Stevens said he could not comment on the accident circumstances until a full report has been prepared. Aviation adjuster Airclaims Ltd. is at the scene of the crash to assess the hull claim, and lawyers Beaumont & Son are advising on the liability aspects.

Investigators from Australia's Bureau of Air Safety Investigation have started to decode the two flight safety recorders and are assessing the disaster with help from technical advisers from China Airways and three representatives from the Bureau Enquete Accidents, the French government's air accident investigation bureau. In addition, five investigators from Airbus Industrie S.A., the French manufacturer of the twin-engine aircraft delivered to the airline in 1990, have traveled to the accident site.

Because Taiwan is not recognized as an independent country by the United Nations, its national carrier has not become a member of the International Air Transport Assn. and

has not signed IATA's Intercarrier Agreement on Passenger Liability, under which airlines voluntarily waived passenger liability limits set under the Warsaw Convention for international flights.

The Warsaw Convention sets strict limits of liability up to 100,000 Special Drawing Rights (\$134,670). But market sources say the airline may have contracts in place enabling the basic limits of the Warsaw Convention—about \$10,000 per fatality—to apply.

Mr. Stevens declined to comment on liability issues until the adjuster's full report has been filed, though he confirmed the policy covers all third-party liability claims. He said the report could take several months.

Although all but seven of the passengers were Taiwanese, liability claims still could be high if the full Warsaw Convention limits apply, according to aviation insurers.

Among the dead were Sheu Yuan-dong, governor of Taiwan's Central Bank and four other bank officials returning from a conference. Other passengers included five Americans, one French citizen and an Indonesian.

Additional claims likely will arise from buildings destroyed as a result of the crash, and other expenses.

Taiwanese government officials have ordered the grounding of China Airlines' nine other Airbus A300-600R aircraft until they have been guaranteed airworthy.

But, insurance market sources said the airline is unlikely to be covered for any contingent losses stemming from the government's action, unless the airline had bought business interruption coverage. Mr. Stevens confirmed that the hull and liability coverage in place will not pay for the grounding.

China Airlines' last major accident occurred in April 1994, when an Air-

bus A300-622R crashed after aborting a landing at Nagoya Airport in Japan, killing 264 people. Investigators found that the pilot had incorrectly tried to override the autopilot system. As a result, Airbus changed the system to prevent such mistakes.

Five months before the Nagoya incident, a China Airlines Boeing 747 overshot the runway at Hong Kong's Kai Tak Airport, plunging into the harbor and resulting in a \$145 million loss, though no one was injured.

The China Airlines loss is the fourth confirmed jet total loss this year, said Paul Hayes, director of aviation adjuster Airclaims Ltd. The others are: January's Turkish Airlines Avro RJ100 incident; the Cebu Pacific Air DC9 crash in the Philippines early this month; and an American Airlines Boeing 727 overshooting the runway at Chicago's O'Hare Airport a week before the China Airlines accident.

Despite the losses, insurers are unwilling to say aviation rates could rise.

Aviation rates showed reductions of up to 30% for liability coverage and 35% for hull at the last renewals season. China Airlines was among those receiving rate reductions of about 25% to 35%, said Mr. Stevens. AIG has led the business for three years, he said, and during that time the airline's claims record has been "totally clean."

"Underwriters in 1997 continued to ignore the loss pattern, and the loss pattern in 1998 is greater than the loss pattern for the same period in 1997," said Graham Nichols, chief executive of Westminster Aviation Insurance Group in London.

Mr. Stevens said he is not confident that the loss experience this year would be enough to start raising rates.

Dave Lenckus contributed to this story.

## Updates

### Illinois set to revise tax

SPRINGFIELD, Ill.—Illinois insurance officials will ask lawmakers this spring to approve a restructured plan for taxing all insurance companies and health maintenance organizations.

The restructured plan would spread premium taxes more broadly among companies providing coverage in the state, imposing a 0.4% premium tax on all health insurers and HMOs and a 0.5% tax on all other insurers.

It is up to insurers to decide whether to pass any higher costs on to customers, but no large impact is expected, an Illinois Insurance Department spokeswoman said.

The new system would replace a 2% "privilege" tax on premiums written by non-Illinois insurers, which the Illinois Supreme Court ruled unconstitutional in October 1997. Illinois-domiciled insurers pay other types of taxes and fees.

State insurance officials devised the plan during the past several months and "have now reached a consensus with the vast majority of Illinois insurers," Illinois Insurance Director Mark Boozell said last week.

The proposed tax plan is designed to generate about \$162.5 million annually for the state. That is the same amount collected under the previous system, he said. The now-illegal privilege tax accounted for about \$125.2 million of that.

The measure also would eliminate a valuation fee charged life insurers and continue a retaliatory tax for those insurers whose home states tax Illinois insurers at a higher rate.

### Florida to review ABIG bids

TALLAHASSEE, Fla.—The Florida Insurance Department says it will separately review competing bids by Cendant Corp. and American International Group Inc. to acquire American Bankers Insurance Group.

Florida regulators rejected Cendant's request to consolidate the regulatory approval proceedings. Hearings have been scheduled for March 17 on AIG's application and March 19 on Cendant's.

Meanwhile, the fight between the two bidders has grown nastier, with Cendant suing AIG for canceling Cendant's directors and officers liability coverage and AIG labeling Cendant undercapitalized and overleveraged in a letter to six state insurance commissioners.

Cendant filed a breach of contract suit Feb. 13 in federal court in Newark, N.J., charging that AIG subsidiary National Union Fire Insurance Co. of Pittsburgh, Pa., canceled Cendant's \$25 million D&O policy in retaliation for its bid for American Bankers. The suit claims an AIG official told Cendant's broker, Aon Risk Services Inc., that "he would be fired" if he reinstated the coverage, which was to go into effect Dec. 17.

AIG officials have said the policy was canceled for late payment of an \$850,000 premium.

Cendant also has amended a lawsuit it filed earlier in federal court in Miami to charge that AIG's proxy solicitation of American Bankers shareholders is misleading.

AIG, meanwhile, urged six state regulators in a Feb. 11 letter to reject the Cendant bid. The letter charged, among other things, that Cendant has a negative tangible net worth and a "highly overleveraged balance sheet," and that its financial condition presents "grave risks" to American Bankers policyholders.

Officials of both companies have denied each other's charges.

### Blues merger to proceed

RICHARDSON, Texas—Blue Cross & Blue Shield of Texas and Blue Cross & Blue Shield of Illinois are preparing to move ahead with long-delayed plans to merge after a judge last week rejected objections by Texas' attorney general.

Travis County District Judge Joseph Hart turned down Attorney General Dan Morales' request for an injunction to block the merger. Mr. Morales had argued that the Richardson, Texas-based Blues plan was a public charity whose assets would be taken over illegally as it was folded into the Illinois plan. He also accused the Illinois Blues of not fulfilling Texas' legal requirements for a non-profit company. Judge Hart rejected both arguments.

A spokeswoman for the attorney general's office said it had not decided yet if it would appeal.

The plans announced in January 1996 that to compete effectively against for-profit health plans, they planned to affiliate with an intent eventually to merge. They signed a merger agreement in July 1996. Mr. Morales sued the Texas Blues in November 1996.

When merged, the plans would form a company with almost 5 million members and \$6.8 billion in annual revenues.

### Briefly noted

The Clinton administration said last week it will impose **new employee protections**—including greater access to specialists for patients with serious medical problems—for health plans covering federal employees as well as the Medicare and Medicaid programs. . . . A.M. Best Co. has **lowered its rating** of Business Insurance Co., the parent of California Compensation Insurance Co., to B++ from A- based on the company's projected underwriting loss. The agency also said it is concerned with the impact on the company of California's competitive premium pricing environment combined with the decision by its parent, Woodland Hills, Calif.-based Foundation Health Systems Inc., to divest its workers compensation business. . . . Standard & Poor's Corp. said it has given a AAA rating to Bermuda-based financial guarantee reinsurer **RAM Reinsurance Rating Ltd.**, while Moody's Investors Service Inc. said it has assigned a Aa3 rating, its fourth-highest, to the reinsurer (*BI*, Feb. 16). Moody's said RAM Re announced the launching of its operations on Friday through an \$88 million privately placed common stock issuance to an investor group led by Greenwich Street Capital Partners, the PMI Group and Continental Illinois Venture Corp. The reinsurer initially plans to focus on reinsuring municipal transactions on a facultative basis, according to Moody's.

## For the Record

### Ex-stockbroker indicted in insurance fraud scheme

NEWARK, N.J.—A former Paine Webber Inc. stockbroker is facing charges that he provided bogus confirmations misrepresenting the assets of a now-defunct Illinois insurer.

Federal prosecutors in Newark this month unsealed a two-count wire fraud indictment against Craig B. Aalseth, a former San Diego-based Paine Webber account executive caught in a 1992 FBI sting operation.

According to the indictment, Mr. Aalseth was contacted in 1992 by officials of Wesley Management Group of Linwood, N.J., about lining up assets for the now-insolvent Prestige Casualty Co. of Skokie, Ill. Wesley purported to represent the company.

In fact, Wesley was an FBI front company formed to investigate insurance fraud, and its officials were undercover FBI agents, the indictment says.

Agreeing to aid a scheme to mislead Illinois regulators about purported Prestige assets, Mr. Aalseth arranged to have 600,000 shares of a company called National Building Supply placed in an account he set up for Wesley, the indictment alleges. The stock was not registered with the Securities and Exchange Commission, and its sale was restricted under SEC rules.

Prosecutors charge that he then:

- Produced a doctored account statement that deleted a notation about the restrictions on the stock, making the shares appear free-trading.
- Told an FBI agent posing as an Illinois Insurance Department official that the stock was not restricted and that it could be freely sold to pay Prestige claims.

Mr. Aalseth pleaded not guilty at an arraignment Feb. 13 and was released on \$100,000 bond secured by his San Diego house, said Assistant U.S. Attorney Noel Hillman. If convicted, Mr. Aalseth faces a statutory maximum of five years in jail and a \$250,000 fine on each count.

While not mentioned in the indictment, Mr. Aalseth and Paine Webber also were charged with civil racketeering in a 1996 suit by the U.S. bankruptcy trustee of the allegedly fraudulent First Assurance & Casualty Co. Ltd. Mr. Aalseth falsely confirmed that First Assurance assets deposited at Paine Webber had substantial value when they were worthless, the suit charged.

Paine Webber last year paid \$7 million to settle the litigation (BI, Jan. 6, 1997).

First Assurance collapsed in 1993 under an avalanche of claims from the 1992 Los Angeles riots, and has left \$16.6 million in adjusted unpaid claims (BI, March 7, 1994).

### Utility settles lawsuits alleging bias in restructuring

DETROIT—The Detroit Edison Co. will pay at least \$17.5 million and no more than \$65 million to settle three class-action lawsuits alleging its departmental restructuring during 1991 through 1995 was discriminatory.

The comprehensive settlement agreement, reached earlier this month, calls for binding arbitration to resolve the alleged age, race and national origin discrimination issues. An outside arbitrator, to be chosen by both sides, is expected to begin hearing the case this summer and will determine the amount of money the current and former employee class members will get.

While it was unclear if the company has insurance to pay the settlement, a spokeswoman said it reserved \$17.5 million in 1997.

In addition, the utility company agreed to strengthen certain existing programs and create new ones on career development, job opportunities and a supportive environment. Detroit Edison also will establish a program for the possible re-entry of former employees who accepted voluntary separation offers, and for career development and job movement for class members who are current employees.

John E. Lobbia, Detroit Edison's chairman and chief executive officer, said in a statement that the company "recognized that a long, drawn-out process of litigation would not be in the best interests of any of the parties involved."

He also said that "future competition in the electric utility industry demands that we invest in our employees so they have the skills and the opportunities to grow and contribute."

### Insurance departments' budget growth slowing

State insurance department budgets for fiscal 1998 will be 1.1% larger than last year, the smallest amount of growth in the past 10 years.

Annual budget growth rates in other years ranged from a high of 14.3% in 1990-91 to a low of 2.5% in 1991-92 for insurance departments in the 50 states plus the District of Columbia, according to new data from the National Assn. of Insurance Commissioners.

Overall, these jurisdictions will spend an estimated \$748 million in fiscal 1998, up from \$740 million in 1997.

The California department's budget is projected as the largest, at \$122.35 million, while New York's was second, at \$96.42 million, according to the "1996 Insurance Department Resources Report," which the NAIC recently released.

In addition, 11 state insurance departments reported 1998 budget amounts decreasing from their reported 1997 budgets.

NAIC President Glenn Pomeroy said he is taking a wait-and-see attitude about recent findings that state insurance department spending has increased only negligibly this year, after 10 years of greater growth (BI, Feb. 9). Although the rate of budget increase is unusually low, states have not been complaining that they lack money for essential services, he said.

Other report data show stable staffing levels for full-time equivalent personnel.

In addition, revenues collected from the insurance industry grew 4.1% overall to nearly \$9.7 billion. Total taxes collected rose 3.7%, while fees and assessments increased 5.4%. At the same time, fines and penalties jumped 36.7%.

### Honeywell settles strike over planned benefit cut

MINNEAPOLIS—A strike that put about 2,500 employees of Honeywell Inc. temporarily out of work was settled last week when the company dropped its plans to reduce health benefits for newly hired workers.

The 14-day strike was called by St. Paul, Minn.-based Teamsters Local 1145 after the union rejected a proposed four-year contract that would have covered seven Honeywell factories in the Twin Cities area. It affected production and maintenance workers and was the first work stoppage by the company's Minnesota rank-and-file since 1967.

The vote accepting a revised contract passed by a mere eight votes, 1,024 to 1,016.

Originally Honeywell had proposed a new medical program by which new hires, in addition to their premium contributions, would pay 20% of their medical costs, and the company would pay 80%. Honeywell officials argued that newly reduced medical premiums would probably mean many of these employees would end up paying less for medical care during a year.

Nonetheless, the possibility of a two-tier health plan was new to Honeywell workers and became "a flash point" alienating the two sides, said Jim Holte, president of Local 1145.

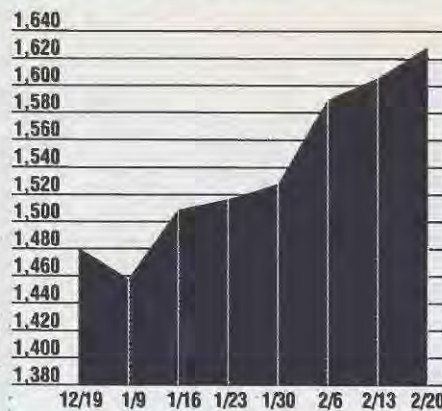
The newly adopted contract gives workers an increase of 22% in basic pension benefits and introduces a mandatory cash balance pension plan for new employees. Current employees may join the cash balance plan as an option.

The union also won improvements in its dental plan and an agreement by Honeywell to pay for prostate cancer testing. The union agreed to drop other demands for benefit improvements.

"Did we get everything we wanted?" Mr. Holte asked. "Certainly, in any contract negotiation you never get what you want."

The company said it was eager to see all its workers back in the plants soon after the contract was ratified.

## BI Insurance Index



Base=100 on Dec. 29, 1978  
Source: Nordby International Inc. (nordby.com) Boulder, Colo.

### PCS catastrophe options

As of Feb. 20		Call spread		Price bid/ask					
National Annual 1998	40/60	9.8/12.0	—/2.3	California Annual 1998	40/60	—/3.0	150C	—/3.0	
Eastern September 1998	20/40	3.5/5.5	—/—	Western Annual 1998	40/60	1.3/2.5	80/100	—/—	
	40/60	3.0/3.5	—/—		150C	2.2/3.0	Florida September 1998	40/60	1.4/2.4
Southeastern September 1998	40/60	2.5/3.3	—/—						
Northeastern September 1998	100/150	—/1.4	—/—						

Total volume: 10 Total open interest: 18,236

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
Comml Union	1120	16.8	35.8	3.3	1125-630
Genl Accident	1345	8.9	35.4	3.3	1355-772
Gdn Royal Exch	453	6.3	12.2	2.8	465-257
Legal & Gen	720	18.6	11.6	2.0	750-377
Royal & Sun	768	25.8	19.7	3.3	768-429

### Brokers

Brokers	Price	P/E	Div. pence	Yield %	52-week high-low
Lmbt Fenchurch	105	7.7	8.4	9.7	138-101
Lloyd Thompson	160	13.0	10.8	8.6	206-151
Sedgwick Grp	147	11.3	7.0	4.9	171-115
Willis Corroon	139	11.2	6.6	5.9	165-116

Note: Prices are Feb. 20 closings; other numbers from Feb. 19.

Source: Nordby International Inc. (nordby.com) Boulder, Colo.

## BI Industry Stock Report FEB. 16, 1998, THROUGH FEB. 20, 1998

BROKERS						INSURERS/REINSURERS						HEALTH MAINTENANCE ORGANIZATIONS											
Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)	Company	Price	Weekly % change	Year to date % change	Year to date High	Year to date Low	Vol.(000)			
Aon Corp.	NYS	57.94	3.46	-1.17	58.88	40.25	1622	ESG Re Limited	NDO	25.25	0.00	7.45	26.13	20.88	312	Risk Capital Holdings	NDO	22.75	2.25	2.25	24.00	16.00	36
E.W. Blanch Holdings Inc.	NYS	37.06	4.04	7.62	37.06	21.25	179	Enhance Financial Services	NYS	59.31	3.15	-0.32	62.13	34.25	287	RLI Corp.	NYS	50.06	0.88	0.50	51.00	30.50	43
Gallagher Arthur J. & Co.	NYS	38.38	-2.69	11.43	39.50	30.38	112	Everest Reinsurance	NYS	38.19	0.16	-7.42	43.00	26.75	388	St. Paul Companies	NYS	88.56	1.80	7.92	88.56	63.00	1251
Hilb, Rogal & Hamilton	NYS	18.56	12.50	-3.88	19.63	12.50	202	Executive Risk Inc.	NYS	73.00	1.39	4.57	75.75	43.25	66	SCOR	NYS	51.25	-1.44	7.33	53.50	37.38	5
Kaye Group Inc.	NDO	7.63	10.91	15.09	9.00	4.38	7	EXEL Ltd.	NYS	63.63	-1.74	0.39	65.25	39.00	358	SAFECO Corp.	NDO	52.00	3.74	6.67	55.38	38.50	1277
Marsh & McLennan	NYS	84.69	6.19	13.58	84.69	56.50	1740	Frontier General Corp.	NYS	53.81	1.29	-1.71	55.50	26.38	482	SCPIE Holdings Inc.	NYS	30.50	0.83	5.40	32.13	19.13	NA
Poe & Brown	NYS	49.69	7.72	11.34	49.69	25.50	13	Frontier Insurance Group	NYS	24.56	-1.26	7.38	39.25	20.00	933	Seibels Bruce Group	NDO	7.50	1.69	0.00	8.94	5.88	32
Sedgwick Group PLC	NYS	12.38	5.32	0.51	13.25	9.38	28	Gainsco Inc.	NYS	8.25	1.54	-2.94	10.19	7.88	214	Selective Ins. Group	NDO	26.94	1.41	-0.23	28.63	19.75	102
Willis Corroon Corp.	NYS	11.63	0.00	-5.58	13.50	9.75	261	General RE Corp.	NYS	213.69	1.30	0.80	221.25	151.50	514	Terra Nova Insurance Co. Ltd.	NYS	28.00	3.23	6.67	30.00	18.00	163
BROKERS AVERAGE			5.50	6.26				Gryphon Holdings	NDO	15.25	-1.61	-8.96	17.75	13.88	10	TIG Holdings	NYS	25.94	-1.43	-21.85	38.00	24.56	1347
ACE Ltd.	NYS	98.75	-3.83	2.33	104.00	57.63	524	Harleysville Group	NDO	24.38	0.52	1.56	27.50	15.00	135	Tokio Marine & Fire	NDO	54.50	-3.11	-5.63	66.00	41.25	53
Acceptance Insurance Cos.	NYS	24.38	-3.94	0.78	28.63	17.75	136	Hartford Steam Boiler	NYS	62.69	1.93	13.59	62.88	44.00	241	Torchmark Corp.	NYS	43.06	3.45	2.07	44.25	26.25	2639
AEGON N.V.	NYS	103.00	5.10	14.92	103.75	63.88	181	HCC Insurance Holdings	NYS	20.75	-0.90	-2.35	32.69	15.63	860	Transatlantic Holdings	NYS	74.19	2.15	3.76	76.56	53.38	673
Aetna Life & Casualty	NYS	86.06	2.15	21.97	118.13	66.31	2996	ING Groep N.V.	NYS	50.38	4.95	19.05	53.00	38.88	445	Travelers Property	NYS	40.50	2.05	-7.95	46.06	31.38	845
AFLAC Inc.	NYS	61.06	1.88	19.44	61.88	37.50	827	IPC Holdings Ltd.	NDO	30.31	0.21	-5.83	32.88	22.38	95	Travelers Corp.	NYS	56.06	2.63	4.06	57.38	30.88	9466
Allied Group Inc.	NYS	30.69	0.61	7.21	35.75	21.50	107	Hartford Financial Services	NYS	94.00	0.20	0.47	94.56	68.13	1200	Trenwick Group Inc.	NDO	35.88	-0.35	-4.65	39.63	31.88	666
Allstate Corp.	NYS	93.00	0.74	2.76	94.88	58.63	4653	LaSalle Re Holdings Ltd.	NYS	30.00	2.94	-1.06	36.13	27.25	44	Unico American Corp.	NDO	12.38	0.00	1.02	14.13	9.63	NA
AMBAC Indemnity Corp.	NYS	53.50	4.77	16.30	54.13	31.00	1852	Life Re Corp.	NYS	62.25	-3.95	-4.51	67.63	37.38	98	United Fire & Casualty	NDO	42.50	0.00	-3.95	47.00	30.00	22
American Bankers Ins.	NDO	55.89	0.22	21.22	56.38	24.38	3114	Lincotn National	NYS	82.63	3.28	5.76	83.13	49.00	1032	Unitrin	NDO	67.50	0.19	4.45	69.00	48.50	38
American Financial Group	NYS	38.75	-1.27	-3.88	49.25	32.38	194	MAIC Holdings Inc.	NYS	26.75	-4.04	-0.13	29.50	15.06	32	UNUM Corp.	NYS	50.81	0.37	-6.55	54.63	33.63	1448
American General	NYS	58.81	3.41	8.79	59.38	36.50	2813	Markel Corp.	NYS	170.00	-4.02	8.89	177.50	102.50	9	USF&G Corp.	NYS	24.38	1.56	10.48	25.50	15.63	3282
American Heritage Life Ins.	NYS	40.31	-2.57	11.98	41.69	23.50	38	MBA Insurance Group	NYS	70.63	2.54	5.71	70.75	45.44	1358	Vesta Insurance Co.	NYS	60.31	1.69	1.58	64.75	32.75	160
American Indemnity/Fin'l	NDO	9.75	-18.75	-29.73	15.50	9.75	16	Meadowbrook Insur. Group	NYS	30.56	4.71	17.27	31.25	21.38	89	Zenith National Ins.	NYS	25.81	-1.43	0.24	28.75	24.50	47
American International	NYS	118.19	0.59	8.68	119.19	75.13	3200	MIMI Cos. Inc.	NYS	25.50	-1.21	1.49	30.00	20.75	98	INSURERS/REINSURERS AVERAGE			0.55	3.41			
Argonaut Group	NDO	36.00	2.67	6.27	38.13	26.75	150	Mutual Risk Mgmt. Ltd.	NYS	30.31	1.89	1.25	30.50	16.75	628	HUMANMAINTENANCE ORGANIZATIONS							
AXA-UAP Group	NYS	47.50	8.73	21.79	47.50	29.25	415	NAC Re Corp.	NYS	52.75	3.69	8.07	52.88	35.38	269	Humana Inc.	NYS	25.31	3.85	21.99	25.31	18.44	3976
Baldwin & Lyons Inc.	NDO	20.50	-10.87	-15.03	28.75	17.38	6	Navigators Group	NDO	18.00	3.60	-4.16	22.50	15.75	6	Oxford Health Plans	NDO	20.19	4.87	29.72	89.00	13.75	11238
Berkley W.R. Corp.	NDO	46.25	5.26	5.41	46.38	31.19	194	Nobel Insurance Ltd.	NDO	13.25	-0.47	0.95	15.38	11.88	13	Pacificare Health Sys.	NDO	58.94	-0.74	17.29	85.63	46.75	62
Berkshire Hathaway Inc.	NYS	54900.00	1.86	19.35	55000.00	30000.00	1	NYMagic Inc.	NYS	28.38	2.25	2.95	29.81	18.38	18	Safeguard Health Enter.	NDO	10.00	-11.11	-25.93	15.63	8.13	14
Capital RE Corporation	NYS	63.44	-1.55	2.22	65.75	38.75	119	Ohio Casualty Corp.	NDO	46.38	-2.88	3.92	51.00	35.50	202	Sierra Health Services	NYS	35.69	-3.22	6.13	41.63	23.75	281
Capitol Transamerica Corp.	NAS	20.38	-1.81	-4.40	28.13	19.25	56	Old Republic Int'l	NYS	41.88	0.45	-2.61	42.00	24.63	523	United Healthcare Corp.	NYS	58.63	0.75	17.99	60.13	42.44	5067
Centris Group Inc.	NYS	24.94	-2.68	11.76																			

**SHOCK AND ANGER ARE  
NORMAL RESPONSES TO SEXUAL MISCONDUCT.  
ESPECIALLY WHEN YOU FIND OUT  
YOUR COMPANY'S NOT INSURED FOR IT.**

Did you know that in cases of sexual misconduct involving children, your company could be held liable for the actions of an on-site day care facility, including one run by an outside firm? What's just as shocking is that your general liability policy may not protect you in the event of this type of claim. That's why we created Lexington's Sexual Misconduct Liability Coverage. It protects companies and organizations that provide facilities where children are in the care of adults. Plus, we can customize coverage and make available a valuable 12-point loss control program to help ensure stability to your bottom line. Call your surplus lines broker to find out how the largest U.S.-based excess and surplus lines company can help you.

**LEXINGTON INSURANCE COMPANY PIONEERS IN REVOLUTIONARY COVERAGE**