

Business Insurance

Sedgwick still ahead of RHH in ranking of world's brokers

LONDON—Sedgwick Group P.L.C. was the second-largest brokerage in the world in 1994 in terms of gross revenues—but by only a thin margin.

The broker's 15% increase in gross revenues—to £931.3 million last year from £809.7 million in 1993—also helped produce a 34% increase in pretax profits, Sedgwick reported last week.

Converted with average currency exchange rates, Sedgwick's 1994 revenues in dollars were \$1,426,500,000—a slim \$4.4

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

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Canadian members angered by RIMS

By ROBERTO CENICEROS

A recent decision by the Risk & Insurance Management Society Inc. to eliminate a Canadian coordinator position and hike by 40% dues for Canadian risk managers has some members fuming and renewing old cries for secession from the group.

Canadian members said the timing of the announcement by RIMS has strained relations and shows an indifference toward a "politically sensitive" and "awkward" situation. The changes occurred just as the Canadian members were completing an evaluation of their leadership and relationship to the New York-based group.

But RIMS leaders contend it had to move because it was only fair to eliminate a disparity between the fees paid by Canadian risk managers and their U.S. counterparts as soon as possible.

They also said they intend to deliver additional value by providing Canadians with their own governmental affairs services and representation—a service that Canadian members have sought in

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Product liability vote nears

By MARK A. HOFMANN

WASHINGTON—The full House of Representatives could vote, for the first time ever, on sweeping product liability legislation within the next few days.

The question is: Which sweeping product liability bill? It's now up to the House Rules Committee to decide which of two similar reform bills voted out of committees will go to the House floor.

Aided by a parliamentary ruling, the House Judiciary Committee got a jump on the Commerce Committee and approved a product liability bill last Thursday morning after more than a day of sometimes vitriolic debate.

Later that day, the Commerce Committee followed suit. But only

House could take historic step this week

after Chairman Tom Bliley, R-Va., assured members he intended to vote on the bill, even if it meant going well into the night.

Thursday also marked the beginning of debate in the full House on H.R. 450, the Regulatory Transition Act, which would place a moratorium on many new federal regulations (BI, Feb. 20).

Shortly before debate, President Clinton indicated that the bill might be a veto target when he pronounced the measure "not acceptable." However, the House on Friday approved the measure Friday by a 276 to 146 vote.

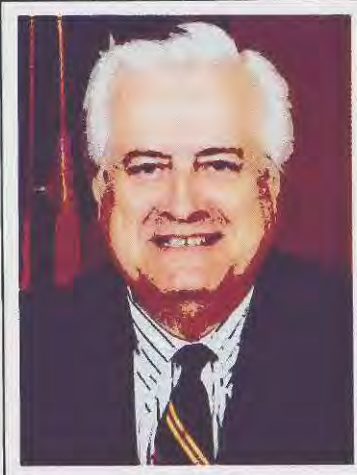
House action on product liability bills is important because

"many senators have ducked this issue for 18 years on the grounds that a bill could never pass the House," said Victor E. Schwartz, counsel to the Arlington, Va.-based Product Liability Coordinating Committee, a pro-business lobbying group.

In the Senate, Sens. Slade Gorton, R-Wash., and John D. Rockefeller IV, D-W.Va., are expected to unveil a product liability reform bill soon, perhaps within the

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Rep. Henry Hyde's Commerce Committee was one of two House panels to approve product liability legislation.



Utah plan bucks conventional wisdom

By CHRISTINE WOOLSEY

Question your assumptions.

That is one lesson to be learned from the Utah Public Employees Group Health program.

Most benefit managers assume, and most managed care experts agree, that health plans which rely on "gatekeepers" and capitation to control costs and utilization are the most cost effective.

Yet Utah benefit officials are reaching exactly the opposite conclusion.

In fact, administrative costs are consistently lower—and claims

experience apparently better—in the state's self-insured managed indemnity plan than in the commercial managed care plans offered to employees.

"We are getting better prices than typical managed care plans and at the same time reducing our administrative costs," said Linn Baker, director of the Public Employees Group Insurance program, which covers more than 75,000 employees, dependents and early retirees who are not yet Medicare-eligible.

Under the state's group health program, employees and retirees

can enroll in a self-funded traditional indemnity plan or—at a lower cost—a self-funded managed indemnity plan with a preferred provider feature. Employees also can choose from two health maintenance organizations.

Jane Ogden, the state's actuary, estimates costs for employees enrolled in the state's "Preferred Care" plan at \$85 per member per month. Costs are about \$102 at FHP of Utah Inc., an HMO the state offers.

What makes that comparison even more striking, she said, is the

fact that, unlike commercial health plans, Utah does not medically underwrite its public employee health plan and the plan takes all comers—so it is subject to adverse selection.

Utah owes much of its success to a comprehensive approach to medical cost management. And employers may be able to learn some important lessons from that approach, even if the state's experience may not be easily duplicated elsewhere.

"Utah is saying it's done a better job" managing costs without

Continued on page 4

Shaking up complacency

L.A., Kobe quakes aid risk managers in disaster planning

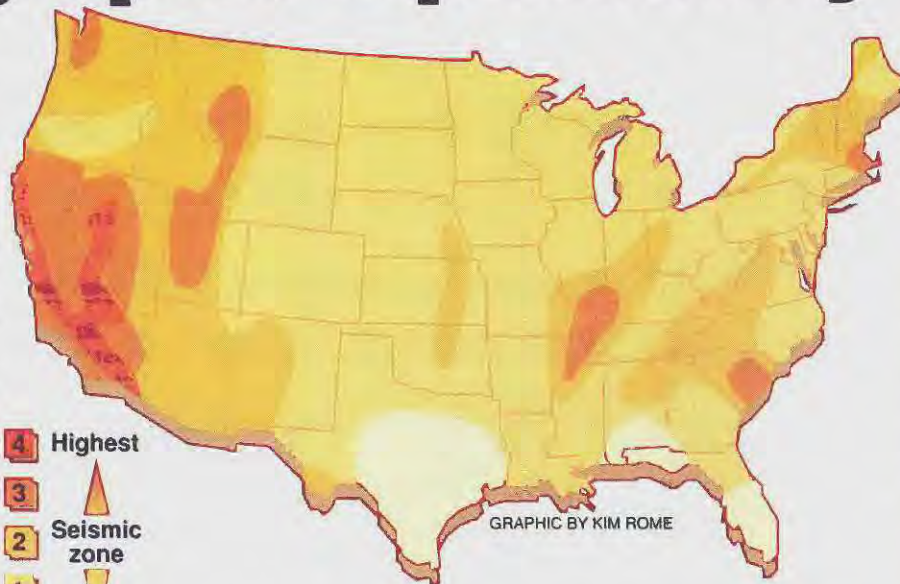
By JOANNE WOJCIK

Even if the building that houses your company withstands the shaking, there's no guarantee that your business will survive a major earthquake.

Realizing this, many loss control specialists are shifting their focus to protection of non-structural property, such as interior furnishings, electrical wiring, overhead sprinkler systems, and heating and air conditioning units. Demand also is increasing for emergency preparedness consultants to develop disaster survival plans for business.

Last month's earthquake in Kobe, Japan, occurring on the first anni-

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GRAPHIC BY KIM ROME

California is not the only area of the United States facing the threat of an earthquake.

Source: Uniform Building Code

Preparation key for public entities with quake risk

By DEBORAH SHALOWITZ COWANS

Public entities should plan, plan and plan some more to mitigate damage and be prepared to serve the public in the event of an earthquake.

That's easier said than done.

Immediately after an earthquake, public entities need to ensure that the public receives needed services. But that's only the first step. They also bear responsibility for disaster recovery and rebuilding that can stretch on for many years.

Earthquake preparedness is—or should be—an issue for risk managers at thousands of public entities, including many outside the areas typically considered most at risk for an earthquake (see map).

Experts advise that all public entities develop and implement earthquake damage mitigation plans; have emergency operations plans and equipment; evaluate how personnel

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NCQA

Continued from previous page
studies. The pilot project is valuable because it does begin to provide a benchmark for rating plans, according to Ms. Darling, who served on the project's steering committee.

"If we didn't have inches, feet and yardsticks, think of how absurd the world would be," she said.

The Washington-based NCQA launched the report card project in January 1994 to measure the performance of 21 managed care plans. The plans were evaluated on 36 performance criteria, including member satisfaction, quality of care and access, and then independently audited.

The criteria came from the Health Plan Employer Data & Information Set 2.0—a national quality assurance survey and evaluation developed by the NCQA—and a steering committee of health care policymakers, and representatives of the participating plans, employers, labor unions and consumer groups.

HMOs, though, were not individually graded or ranked in the NCQA's report on the pilot project released last week.

Instead, individual plan results and the range of results for the sample as a whole were plotted as a spread, with the mean indicated, and, where applicable, compared with the goals set out in the U.S. Public Health Service's 1991 "Healthy People 2000: National Health Promotion and Disease Prevention Objectives."

For example, 82.5% to 95.4% of HMO members surveyed answered "probably yes" or "definitely yes" when asked if they would recommend their health plan to a friend.

The NCQA says in its report that it learned several lessons from the pilot study. One is that standardized data is critical to making individual reports comparable and to making auditing easier. Another is that HEDIS itself needs to be broadened to reflect quality as well as access measures and that more research is needed on how to fairly evaluate plans that cover very different patients. Also, plans themselves need to make it easier for external auditors to examine them.

"Performance profiles will play a critical future role in assessing plan performance and in establishing increasingly effective systems of accountability—particularly as data collection and auditing are enhanced and additional national benchmarks are developed," the report said. "The distribution of performance profiles will bolster marketplace incentives that reward quality, thereby increasing the likelihood that overall quality will be improved and access to appropriate patient care furthered."

"Information that is not reported and gathered using standardized definitions and methodologies simply cannot be compared. The information may in fact be worthless," said Ms. Darling.

While Mary S. Case, a partner with Kwasha Lipton in Fort Lee, N.J., said the NCQA study is probably of limited value to sophisticated buyers, she added that the HEDIS process is serving at least two valuable functions. It gets people thinking about what they should be looking for in a managed care plan, she said. And, it serves notice on plans that they need to capture and report this data to customers, she said.

In fact, many large employers—including GTE Corp., Digital Equipment Corp., California Public Employees Retirement System, members of the Pacific Business Group on Health and others—are requiring that the health plans with which they contract supply them with HEDIS data.

vides no way for employers to extrapolate regional norms, said Mary Clark, a consultant with Hewitt in Boston.

Ms. Clark added that employers are "demanding" rankings of plans, which this survey did not do and which might make many plans reluctant to participate in

Getting employers, consumers, physicians and government agencies to agree on what a report card should measure will be an interesting process, says Robert Pollock.

The NCQA report sends a message that there is a "desperate need for standardization," said Mindy Kairey, a health care consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill. Ms. Kairey is involved in conducting a large-scale opinion survey of the Chicago area managed care marketplace (*BI*, Oct. 31, 1994).

But she and other consultants criticized the NCQA report on several grounds.

Without continued surveys, data can't show improvements and deterioration but rather simple snapshots, Ms. Kairey said. NCQA has no plans to repeat the pilot project.

And because the survey was done on a national basis, it pro-

vides no way for employers to extrapolate regional norms, said Mary Clark, a consultant with Hewitt in Boston.

Ms. Clark added that employers are "demanding" rankings of plans, which this survey did not do and which might make many plans reluctant to participate in

such studies. She also noted that some plans already exceed the goals set forth by "Healthy People 2000."

Ms. Darling defended the project's decision not to rank the plans surveyed in the pilot project. "They're in different markets, so it's meaningless to rank them," she said.

Another expert praised the idea of report cards as a tool for employers, but said there was little chance a uniform system of grading plans could be put together anytime soon. Getting all the interested parties—employers, consumers, physicians, government agencies—to agree on what a report card should measure "is going to be an interesting process,"

Utah

Continued from page 1

using a gatekeeper or capitation, said Mary Case, a partner with Kwasha Lipton in Fort Lee, N.J. "That tells other employers they should be looking at whether capitation and a gatekeeper program is really working for them. They should question the mantra."

Utah's cost management techniques include direct contracts with "designated service providers" that the state identified as being the most cost efficient (*BI*, Jan. 6, 1992).

Providers in the state's Preferred Care plan adhere to global fee arrangements for more than 200 outpatient and 25 high-volume inpatient surgical procedures. The fees were developed in-house with input from the medical community.

When the state requested bids for specific procedures, it found huge differences that Mr. Baker says were unjustifiable. For example, some providers were charging \$30,000 to \$40,000 for a total hip replacement, but those that contracted with the state agreed to charge half that.

By contracting directly with physicians, clinics and hospitals, Utah has been able to put those providers at risk for the care they provide—which makes them much more interested in keeping costs as low as possible, Mr. Baker pointed out.

The state's health plan also features preventive care and substantial consumer education materials for health plan members, both of which have proved very successful in curbing claims costs and utilization.

But, two components are noticeably absent from the state's self-insured, self-administered program: gatekeepers and capitation.

"There is a small but growing contingent of people who question how effective the gatekeeper model is in controlling costs," Ms. Case said. "The question is, 'Is the gatekeeper doing much to manage

the specialty and hospital care or is it just an additional cost?'"

"There is a widespread consensus that gatekeeping isn't the only solution," agreed Jane Jensen, a principal at William M. Mercer Inc. in Denver. "There are cases where gatekeeping adds to utilization."

And, Ms. Jensen pointed out, as providers begin to change their behavior to become more efficient and to refer patients to specialists only when truly appropriate, controls like gatekeeping may become unnecessary.

"We believe that gatekeeping helps control utilization and can serve as a reimbursement mechanism for primary care providers, but it may not be the most cost-effective way to provide services to plan members, especially those that want to make their own choice of physician," Mr. Baker explained.

"Our whole focus, therefore, has been on educating employees, establishing global fees and setting up centers of excellence," he said.

"At times there is great value for an insured patient to go directly to a specialist for certain medical conditions, such as treatment for allergies, rather than be funneled through a primary care physician. Or, worse yet, have a primary physician treat the patient for something he doesn't do as well as a specialist," Mr. Baker explained.

For that reason, the state established specialty centers so patients with chronic conditions can go directly to board-certified specialists, bypassing a visit to a primary care doctor.

That strategy is saving the state health plan millions in administrative costs, Mr. Baker said.

In fact, Utah's aggressively managed health care program has saved the state 15% in annual premiums, Ms. Ogden said. That represents a large amount of money for the state, which collects more than \$100 million in annual premiums from public employee groups.

"Our administrative overhead

California HMOs compared with average

SAN FRANCISCO—Some health care purchasers already are using the NCQA performance measures to rate plans in their area.

For example, the San Francisco-based California Cooperative HEDIS Reporting Initiative rated 21 HMOs using the NCQA performance measures for six preventive health procedures: childhood immunization; cholesterol, breast cancer and cervical cancer screening; prenatal care and diabetic retinal exam.

Data for the report, which was released last week to coincide with the NCQA's announcement, was obtained by independent review of approximately 25,000 medical charts from more than 5,000 physician office locations around the state.

Using a format similar to the rating charts used by Consumer Reports magazine, the California HEDIS report rated the participating HMOs as either being above average, average or below average for each procedure. However, no percentages or actual figures were published.

For example, TakeCare Health Plan scored above average for childhood immunization, cholesterol and cervical cancer screening and diabetic retinal exams, but only average for breast cancer screening and prenatal care.

In comparison, Lifeguard Inc. scored below average for breast cancer and cervical cancer screening and only average on the other four categories.

The results were mostly a mixed bag with no plans scoring consistently above average for all six services. Only three plans scored average for all services: Aetna Health Plans of Southern California Inc.; CIGNA HealthPlan of California's IPA model and Foundation Health Plan.

—By Joanne Wojcik

said Robert Pollock, a principal with William M. Mercer Inc. in Los Angeles.

External audits, according to Mr. Pollock, should be done more frequently and, in fact, unannounced site visits should be considered as a means of validating

data.

Single copies of the "Report Card Pilot Project Technical Report" cost \$150 and can be ordered from the NCQA, Attn: Publications, 1350 New York Ave. N.W., Suite 700, Washington, D.C., 20005.

has consistently been around 3% of premium and has gone down over time," Mr. Baker said. For example, the cost to administer the state's program totaled 3.3% of premium in 1992 and 3.2% of premium in both 1993 and 1994.

Administrative costs for the HMOs the state currently offers are considerably higher.

The HMOs generally do not disclose administrative costs. But HCIA Inc., a Baltimore-based health care information company, says administrative costs at CIGNA Healthplan of Utah amounted to 19.3% of premium in 1992 and 19% of premium in 1993. Similarly, administrative costs at FHP of Utah were 21.4% of premium in 1992 and 20.8% of premium in 1993, according to HCIA. Figures for 1994 are not yet available.

What's more, increases in

Patients with chronic conditions can go directly to a specialist, bypassing a visit to a primary care doctor.

Utah's public employee group insurance plan have been "extraordinarily low," Ms. Ogden said.

For example, premium rates for one small group risk pool, which covers entities with five or six employees, will increase only 1.4% in July, while another small group risk pool's premiums are decreasing 1.4% for July.

"That is just unheard of for employers of that size," Ms. Ogden said.

Larger entities, like Salt Lake City, are looking at increases of less than 4% for 1995, she added.

Some consultants say Utah's administrative cost experience may be an anomaly. And, they caution against making general comparisons between managed indemnity, PPO and HMO plans.

"A gatekeeper model appears to

be the most cost effective in controlling unit pricing and utilization," said Debora Siegel, a principal with Towers Perrin in Chicago. "But not all gatekeeper models are the same; some are excellent, some are not."

"If you are doing an apples-to-apples comparison, you will find the gatekeeper approach is more cost effective," agreed Tom Kuhlman, also a Towers Perrin principal in Chicago.

"You can have a well-run PPO and the difference in administrative fees may equate a substantial savings," he conceded. But, the employer must also be sure the administrative savings are not being offset by higher claims costs.

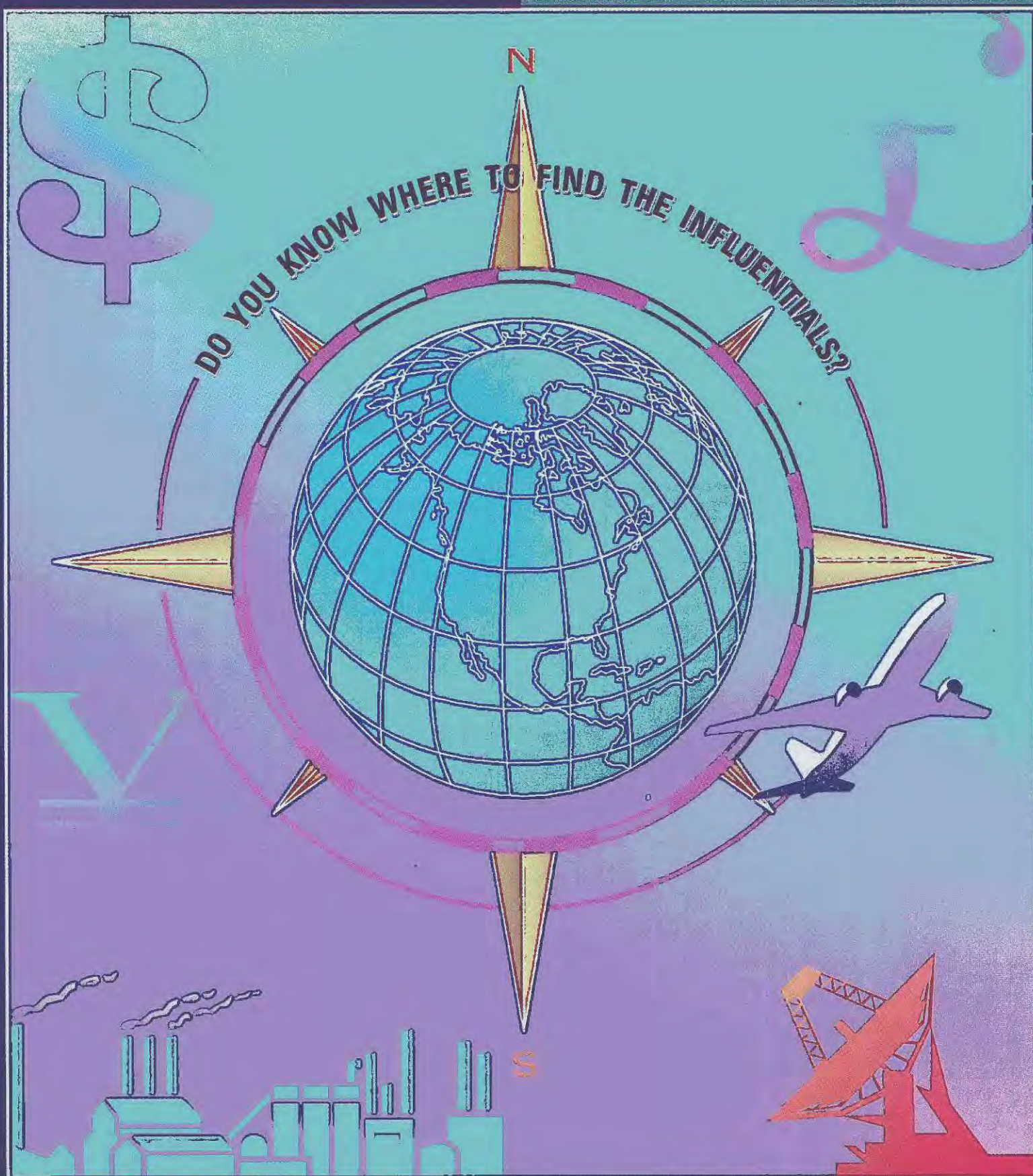
Ideally, administrative costs in HMOs should run about 7% to 8% of premium, Mr. Kuhlman said. But achieving meaningful savings "really depends on the cost management potential of the gatekeeper," he said. "Increased administrative costs need to be offset by proper medical management."

"Very clearly an employer could spend too little on administration and incur higher claims costs," Mr. Baker agreed. "But we have achieved both low administration and low claims costs."

Mr. Baker also challenges the widespread belief that capitation is the most cost-effective way to reimburse providers. "Everyone accepts it as gospel that capitation is where everyone should be, but we don't capitate" and are achieving laudable cost containment results.

Again, consultants caution other employers from believing they can automatically replicate Utah's success.

"If you are a large employer in a specific geographic area, capitation may not be the answer because there are many more options to consider," including direct contracting, Mr. Kuhlman said. "But most employers don't have that advantage. They have to stretch for alternatives and gatekeepers and capitation may be their only options." **BI**



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Pension COLAs come in different flavors

There is little uniformity in how cost of living adjustments are made to pension benefits, according to a recent survey by a leading benefits consulting firm.

The adjustments—when employers make them at all—are most likely to come as a flat increase or an amount tied to the length of retirement, the survey shows.

Only 39% of 228 companies that responded to the study by William M. Mercer Inc. provide COLAs on their pension plans. Among larger employers—those with more than 3,000 employees—47% provide COLAs, but among smaller companies the percentage drops to 32%.

COLAs generally are provided based on ad hoc, rather than scheduled, reviews of pension plans, the survey found. While 30% of respondents said they review their pension programs on an ad hoc basis, only 5% said they have a scheduled plan review annually or every two years. And, only 4% said they provide automatic adjustments.

Because many companies review their plans and consider COLAs sporadically, the percentage of companies that provided COLAs over the past five years varies. For example, about 20% of responding companies reported providing a COLA in 1994, whereas the percentages were significantly lower in previous years: 12% in 1993; 9% in 1992; 7% in 1991; and 14% in 1990.

Among the companies that said they do grant COLAs, 39% said they provide a flat percentage increase to all retirees, while another 39% said they generally provide an amount that varies based on the time a beneficiary has been retired. Six percent said they provide a COLA that varies by the date of the last COLA, while 6% said their COLAs vary by years of service. Only 3% reported a flat dollar increase for all retirees. Seven percent said they do not stick to one type of formula and have offered COLAs based on more than one formula.

Smaller companies, the survey found, are more likely than larger ones to give a flat percentage increase to all retirees. Half of the small companies give flat percentage increases, compared with 30% of larger firms. A greater percentage of large companies—45%, compared with 27% of smaller firms—vary the increase by retirement date.

The survey also found that about half of companies exclude "recent" retirees from COLAs. "Recent" was defined as one year by 45% of employers, and two or three years by 35%, and five years by 20%.

The study polled 116 service companies, 103 manufacturers and nine public sector employers. Thirteen percent of respondents employed 500 or fewer workers, 38% had 501 to 3,000 employees, 32% employed 3,001 to 10,000 employees and 17% had more than 10,000 employees.

For a free copy of this study, please write the Public Relations Department of William M. Mercer Inc., 1166 Avenue of the Americas, New York, N.Y. 10036.

—By Michael Schachner

Job-related stress

Corporate downsizing is taking its toll on U.S. workers in the form of higher stress levels among those employees remaining on the job, a new survey reports.

Thirty-one percent of 471 companies polled by the Human Resource Advisory Group of Coopers & Lybrand L.L.P. reported laying off workers in 1994. Of that group, 68.4% reported higher stress levels and 65.8% reported lower morale

Benefit Beat

among remaining employees.

Downsizing is also impacting workers' productivity and increases in overtime, according to the survey. For example, among companies that had laid off workers, 17.7% reported lower productivity and 30.4% reported increased overtime among remaining employees.

To combat stress and other problems, most employers are offering formal training programs in stress management to their employees, the survey found. Almost 87% of employers surveyed offer such programs to all levels of employees: 85.6% offer stress management training to middle management and

65% offer it to executives.

The survey results are included in "Compensation and Human Resources Planning for 1995." Copies are available for \$125 from Coopers & Lybrand's Human Resource Advisory Group, 1301 Ave. of the Americas, Room 9-56L, New York, N.Y. 10019-6013; 212-259-1406.

—By Christine Woolsey

24-hour managed care

SAN JOSE, Calif.—Kaiser Foundation Health Plan will provide 24-hour managed care services—including treatment for occupational injuries on a capitated basis—for two California employers participating in similar three-year pilot programs.

The Kaiser-On-The-Job 24-Hour

Medical Care Pilot Program is authorized under 1992 legislation that helped bring managed care to workers compensation by allowing the pilot testing of pre-paid, capitated coverage.

"We don't know for sure yet if it will be a cost saver," said Jean Brady, human resources director for Mariani Packing Co., a dried fruit company in San Jose, Calif. "We hope it will."

Mariani is insured for workers compensation by Menlo Park, Calif.-based Argonaut Insurance Co. Argonaut first struck a deal with Kaiser, then approached its client to enroll in the program, she said.

Of Mariani's 250 employees, 80 have medical benefits provided by Kaiser HMOs and 51 of those have volunteered to participate in the

24-hour program, she said.

Even though the extent of potential cost savings remains to be seen, the employer says there are plenty of other benefits. Many of Mariani's workers have limited English-speaking skills. Integrated health services means they will only have to learn the workings of one health system.

The centralization of medical records means doctors treating an employee for a work injury will have instant access to all of that worker's medical records, Ms. Brady said.

In addition, under California's workers compensation reform laws, an employer participating in the program can retain control of its employees' treatment for 365 days.

Winter Volvo Lincoln-Mercury in Sacramento is also participating in a pilot program. The auto dealer purchases its workers compensation coverage from the State Compensation Insurance Fund.

—By Roberto Cenicerros

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For the Record

Jury awards \$4.2 million to family of crash victim

CHICAGO—The family of a man who died in the 1989 United Air Lines Inc. Flight 232 crash in Sioux City, Iowa, has been awarded \$4.2 million by a Cook County, Ill., jury.

The amount is much closer to the \$3 million suggested by the co-defendants—Chicago-based United, Fairfield, Conn.-based General Electric Co. and St. Louis-based McDonnell Douglas Corp.—than the \$21 million that the attorneys for Dale Shemezis' family had sought.

The award is also far less than the \$28.3 million another Cook County jury awarded to survivor

Doris Levenberg last year (*BI*, Oct. 10, 1994). That verdict is being appealed.

Earlier this month, the jury awarded only \$500,000 for Mr. Shemezis's pain and suffering prior to death, believing he was already unconscious when the DC-10 skidded short of a runway during an emergency landing, killing 112 of 296 people on board (*BI*, July 24, 1989).

Leatherdale elected chairman of AIA

WASHINGTON—Douglas W. Leatherdale will be chairman of the American Insurance Assn. for the next year.

Mr. Leatherdale, who is chair-

man, president and chief executive officer of The St. Paul Cos. of St. Paul, Minn., was elected last week during the AIA's annual meeting. Mr. Leatherdale succeeds John P. Mascotte, chairman and CEO of Continental Corp.

Walter E. Farnam, chairman and CEO of General Accident Insurance Co. of America in Philadelphia, succeeded Mr. Leatherdale as chairman-elect.

Gary G. Benanav, executive vp of Aetna Life & Casualty Co. of Hartford, Conn., and Joe L. Stinnette, president and CEO of Fireman's Fund Insurance Co. in Novato, Calif., were elected vice chairmen.

Los Angeles utility self-insured for award

LOS ANGELES—The Department of Water and Power is self-insured for recent losses stem-

ming from a \$13 million jury award to a woman who suffered severe brain damage when her bicycle struck a downed power pole, according to an attorney for the city agency.

The DWP will pay out only \$10 million because the Automobile Club of Southern California, the insurer for the driver of a vehicle that struck the pole, had already paid the remainder.

Meanwhile, DWP counsel Philip Shiner said the agency has taken steps to reduce the possibility of reporting blunders, such as what caused the downed pole to be left blocking a bicycling path hours after it was knocked down.

Public entities in California are protected by sovereign immunity laws, limiting the ability to sue them for negligence. However, the plaintiff's attorneys with the Woodland Hills, Calif., firm of Grassini & Wrinkle argued that a

"dangerous condition" existed and that DWP had plenty of time to correct the problem.

The existence of a dangerous condition and an absence of corrective action void protection under sovereign immunity.

In awarding \$10.6 million in economic damages and another \$2.4 million for pain and suffering, the jury found DWP negligent for failing to remove the pole.

The bicycling accident occurred Aug. 4, 1989, when Cindy Kim hit the fallen pole and tumbled in the air, landing on her head. About 40% of her brain was eventually removed during two operations.

The pole was first struck by the motorist during the night. A caller to DWP reported the downed pole about two hours before the bicycle accident and a DWP worker also reported the downed pole before Ms. Kim happened along. But a crew dispatched to remove the obstacle went to the wrong location and did not find it.

Attorneys for the plaintiff argued that seven DWP workers knew of the pole, which fell in front of a DWP-owned facility. At the time of the accident DWP was self-insured, but the agency has since purchased liability coverage from American International Group Inc.

N.J. approves IIE for surplus lines

TRENTON, N.J.—The Illinois Insurance Exchange is now allowed to provide surplus lines insurance in New Jersey.

Insurance Commissioner Drew Karpinski last month approved the Chicago-based IIE and all of its 11 underwriting syndicates, subject to certain special conditions.

For example, the IIE must notify the department of any new syndicates and each must be examined and approved before it can underwrite in the state.

In addition, any policy issued by the IIE must contain a statement emphasizing that the policy is not guaranteed by New Jersey's unique surplus lines guaranty fund.

All IIE policies are guaranteed by the IIE's own guaranty fund, though.

"The presence of the exchange in New Jersey provides more insurance availability in excess and surplus lines marketplace. Ultimately, businesses and the people of New Jersey are the beneficiaries," Mr. Karpinski said.

The IIE or its syndicates now are approved to write surplus lines business in 46 states and the District of Columbia, among other domiciles.

IIE syndicates wrote a record \$306 million in gross written premiums in 1994 and more than \$2 billion since the exchange began in 1982.

Information in brief

Louis W. Biegler, former head of a Crum & Forster Inc. underwriting management unit, died Feb. 5 in Glenview, Ill., at age 80. Mr. Biegler founded L.W. Biegler Inc., which later became Crum & Forster Managers Corp. He retired in 1985. Alan Fleming, soon to retire as CEO of the Assn. of Insurance & Risk Managers in Industry & Commerce, is the new head of risk management at London-based Guinness P.L.C. Mr. Fleming, who had been with Imperial Chemicals Industries P.L.C., replaces Tony Benson, who is retiring. Replacing Mr. Fleming at AIRMIC will be Ina Barker, former group risk and insurance manager for Fisons P.L.C.



55
Years of Service
1940-1995

A.M. Best Rating: A+

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Atlanta
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"Celebration of Washington's
Birthday at Malta aboard
U.S.S. Constitution," 1847 by
James G. Evans.
Courtesy of the United States
Naval Academy Museum



**Constitution
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Opinions

Overregulation overkill?

ON THE SURFACE, the reactions from the business community to the GOP proposals to reform the regulatory process appear ironic: On the one hand, businesses enthusiastically applaud the efforts; on the other, businesses say that regulation is needed to untangle the laws passed by Congress.

As is often the case when there are such polar reactions, we suspect there is some truth on each side.

As we have reported, one proposal would temporarily freeze many new federal regulations. The other measure would require federal regulators to subject proposed regulations to a cost-benefit analysis if the expected impact to the economy exceeds a certain level.

We applaud the goal of creating a more efficient government, but shutting down the regulatory system, as the moratorium would effectively do, is not the answer.

Granted, there are plenty of burdensome, annoying federal rules. But there are plenty more regulations that would be frozen by the proposal that are needed to create safer workplaces and products, prevent pollution and interpret complex federal laws, among other things.

For example, the moratorium would put a halt to such initiatives as an indoor air quality rule and a proposed ergonomics standard, both to be devised by the Occupational Safety and Health Administration. If properly crafted—with sufficient input from the companies to which they would apply—these regulations could help reduce workplace illnesses and injury and reduce businesses' workers compensation exposures.

In addition, the moratorium would freeze regulations designed to help employers interpret and comply with the Family and Medical Leave Act and other recent benefits laws.

Already the Senate is moving to limit the scope of the moratorium. The Senate bill, S. 219, a companion to the House's H.R. 250, would put a moratorium only on proposed final regulations that would cost the economy more than \$100 million, compared with a proposed \$25 million threshold in the House bill. The Senate measure would also increase the president's authority to make exceptions to the moratorium.

A better approach than simply calling a halt to all new regulations would be to reform the rulemaking process. Requiring a cost-benefit analysis of new regulations is a promising first step.

This approach would require federal agencies to weigh the economic impact of a proposed rule against the intended benefit.

So, for example, the benefits of a new U.S. Depart-



ment of Transportation rule requiring certain employers to test job applicants for the presence of alcohol would be weighed against the cost of testing whether every person applying for a job has been drinking. (In this case, perhaps an IQ test would be more appropriate.)

We would like to see even more steps taken to improve the regulatory process.

However, it is worth bearing in mind that many business complaints about government heavy-handedness stem not from regulatory actions but from Congress.

All too often Congress hastily enacts laws with inadequate input from the businesses they would affect. Indeed, the very risk assessment that Congress seeks to impose on federal agencies is too frequently missing from lawmakers' own deliberations.

We recognize that legislators and their staffs may not be as well equipped as regulatory agencies to make fine distinctions, such as how many parts per million of an airborne chemical is appropriate, or an actuarially sound funding level for pension plans. But too many times, legislation is passed apparently without any consideration of its eventual impact, leaving it up to regulators to interpret and the courts to mediate.

So, while we believe there is a vital role for federal regulators to play, there is a need for these agencies—as well as Congress—to inject a greater measure of common sense into the process.

Letters

Cost of risk can't be used for benchmarking

To the editor: For years the risk management profession has mistakenly considered the cost of risk as a benchmarking tool.

One recent letter to the editor, "Historical Comparisons Are A Better Benchmark," wisely challenged the common notion of making such comparisons with other firms (BI, Dec. 12, 1994). Cost of risk reflects the interaction of many variables, yet statistical control is basic to accurate comparisons.

Even when industry members are willing to cooperate, it is rare to have the commitment needed to do the job right. This au-

thor recommended concentrating on monitoring trends within your own organization. That is wise advice because it reduces the cost of conducting the study and yet—with good statistical control—can quickly yield evidence if progress or failure.

However, there is another basic issue here. Benchmarking is useful when it measures the mechanics of process and not their results. Cost of risk is a performance target like profits or return on investment. It is the equivalent to the score of a "game," whereas benchmarking should deal with the fundamentals—the "blocking," "tackling," "passing," etc.

All aboard for passage money coverage

To the editor: As an avid reader of Business Insurance, I have always admired its accuracy in reporting the changes and current situations in the insurance world.

I therefore have to take exception to the Jan. 23 article, "Cunard Faces Lawsuit," which states that passage money

insurance is becoming scarce in the London market. We have a facility in which we are able to access 100% Lloyd's of London security for this type of coverage.

Richard F. Denning

President

Shelter Island Risk Exchange
Shelter Island, N.Y.

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Peter Sutherland

Director

Capitol Risk Concepts Ltd.
White Plains, N.Y.

Business Insurance

Reporting weekly for corporate risk, employee benefit and financial executives

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In 1995 *BI* will expand its news coverage of the Risk & Insurance Management Society's annual conference to include televised conference reporting.

Business Insurance's RIMSTV will be shown on exclusive channels in major official conference hotels and on monitors around the exhibit hall.

Original programs, shown 24 hours daily, Monday, Tuesday and Wednesday, will include coverage of major conference sessions, interviews with association leaders, industry leaders, conference speakers, attendees and exhibitors, plus daily conference highlights and updates.

Executives attending the conference will tune in to *Business Insurance's* RIMSTV for the same timely, accurate news reporting that nearly 146,000* readers rely on each week in print. Book your time now on the conference's official daily television program.



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Changes

Continued from page 3

p.m., five days a week. Their schedules instead were staggered for around-the-clock availability.

Progressive can now get an adjuster anywhere in the country within two hours, Mr. Lewis said.

The insurer also decided to help customers shop for insurance. Potential customers in Texas, Florida and Ohio can call Progressive and receive quotes for the four largest auto insurers in their state within 15 minutes.

Progressive also dramatically altered its distribution system, in which its products previously had only been sold via a network of 40,000 independent agents.

Now the company writes about 10% of its business directly.

"We had to deliver it when, where and how the customer wanted," Mr. Lewis said. "We can build direct at the same time as supporting (sales through agencies)."

Progressive also adopted total quality management, but with two caveats.

"No change is possible until you measure where you are," Mr. Lewis said. "We experienced all kinds of pain, but we are growing at rates we never grew at before. We had to change our profit target. We used to make as much money as we could." Now profits are measured in terms of return on equity and underwriting margin.

Willis Corroon, the world's fifth-largest brokerage, is also experiencing the pains of change.

"Besides death and taxes, there is one other certainty you cannot avoid: change," said Kenneth H. Pinkston, chairman, president and CEO in Nashville, Tenn., the company's U.S. headquarters. "Some companies change because they see the light, some change because they feel the heat. Sometimes change is exciting, dynamic, stimulating, gut-wrenching, stress-producing and costly. It will happen faster in the future."

"You cannot avoid change; that has become clear to us," he continued. "We are examining how we conduct business head-on."

Last year, on the heels of poor nine-month results and rising costs, the broker began a review to identify non-core areas and opportunities for savings.

"In the euphoria of the merger we took our eye off the ball," Mr. Pinkston said, referring to the 1990 merger of Willis Faber with Corroon & Black Corp. (BI, Oct. 15, 1990). "We were too ambitious immediately after the merger."

Mr. Pinkston assured the bank risk managers that Willis Corroon will remain a player in the financial institutions marketplace.

"We are going through an analysis of the businesses where we think we can add value and make acceptable returns to shareholders. I can guarantee you that financial institutions is a business we want to be involved in."

"We are going to balance our resources with the opportunities we have," Mr. Pinkston said. The brokerage will continue to be a player in areas such as large, multinational accounts and financial services "but in a more focused approach as opposed to the shotgun approach we tried for a while."

The strategic review, dubbed Project 2000, is designed to "help restore profitability and financial health to acceptable levels."

"In the short-term, we want to improve our profitability," Mr. Pinkston said. "We want to provide the best service to our clients and meet shareholder expectations."

Willis Corroon will cut about 400 jobs from its worldwide workforce of 11,000 by March 31 (BI, Feb. 6).

"It's not something we have taken lightly," Mr. Pinkston said. "We want to create career opportunities for our employees who remain."

Technology is driving much of the change in the corporate world, he noted.

"By the end of February we will have all Willis Corroon employees connected to the Internet," Mr. Pinkston said. "With 25 million subscribers it is becoming the medium of choice for conducting business, product orders and service delivery. We will enhance e-mail and connections to clients."

Technology is also changing the nature of exposures in the banking market, he pointed out. For example, the speed of transactions has increased dramatically.

Banks' markets have expanded and the institutions themselves have grown through mergers and consolidations via national franchises. Banks also are offering more services, such as underwriting derivative contracts.

"Financial services see the role of the broker changing from traditional placer of business to a much more sophisticated technical resource," Mr. Pinkston said.

Banking and insurance have been on a roller-coaster ride since the late 1970s, agreed John P. Mascotte, chairman and CEO of Continental in New York.

That time frame marked the "end of conventional banking," he noted. Deregulation of banks, the oil bust, large scale bank failures and directors and officers liability judgments all contributed to the change.

Insurers responded by raising prices dramatically.

In the late 1980s, "interstate banking emerged, D&O suits dropped off dramatically, fiduciary rates fell and coverage broadened," Mr. Mascotte said. "The pendulum swings in the other direction: It was bankers' heaven."

Today both the banking and the insurance marketplaces are more difficult to categorize. New, puzzling exposures are emerging.

"The derivative market has grown up like mushrooms in spring rain," Mr. Mascotte noted.

However, one of the few constants in this market is a focus on lower overall costs.

That focus, together with restructuring and downsizing, does not absolve corporations of their social responsibility, he said.

"There has been a clear move to global competitiveness," Mr. Mascotte said. "Many parts of the globe caught up with us. With the initial focus on the bottom line, corporate social responsibility began to recede into the background."

"Entrepreneurship and personal initiative are crucial ingredients in a free market economy like ours, but so is the sense of responsibility for the whole community that underlies good citizenship," Mr. Mascotte said.

Progressive has also found room for a commitment to the community within its restructuring.

"In 1995, we have undertaken the major challenge of social responsibility," Mr. Lewis said. "We are committed to build a diverse workforce that represents the cultural makeup of the U.S. population."

Currently, Progressive is hiring employees that reflect the demographics of their communities.

"It's a major, costly undertaking, but it's necessary for the workforce we need in the 21st century," Mr. Lewis said. **BI**

Transportation risks can vary from mundane to catastrophic

By SARA MARLEY

SAN ANTONIO, Texas—Planes, trains and armored cars can all factor into a bank's plan for transporting assets.



But when something goes wrong, losses can stack up faster than daily-compounded interest.

For example, one bank lost hundreds of thousands of dollars when a plane carrying \$200 million worth of checks crashed. About half of the 200,000 checks on board burned, but their face values were later reconstructed through microfilm records.

The bank suffered a \$500,000 loss due to the cost of reconstruction and the loss of float time, or access to the deposits during the delay, even though the value of all of the checks was eventually recovered.

However, bank risk managers evaluating their transportation risks and insurance do not always need to have such a complicated scenario in mind. Jeffrey E. Brandon, assistant vp and risk manager for Old Kent Financial Corp. in Grand Rapids, Mich., told an audience at the American Bankers Assn. 1995 National Security and Risk Management Conference.

For example, something as simple as a complaint from a branch manager that a courier's car was leaving oil in the parking lot prompted Mr. Brandon to conduct a six-month review of his bank's transit company contracts.

"If their cars are poorly maintained, are they training their employees adequately?" Mr. Brandon questioned.

When he began looking at the bank's contracts with couriers, he found many of them to be out of date.

Several did not specifically address servicing of automatic teller machines, though many couriers now routinely handle this function. He also found some instances in which the bank had not been

named an additional insured on a courier's insurance policies.

While a few armored car companies are national, most are local or regional, leaving a great deal of room for variation, he noted.

Mr. Brandon visited the couriers' offices to see what their internal housekeeping was like and how organized the company seemed.

He compared the companies' employee turnover rates to industry standards and inquired how employees are trained. "Do they just give them a gun and pay them to transport money back and forth?" he wondered.

"Pricing was only one piece of the pie," Mr. Brandon said of the selection process. It's important for risk managers to get involved in the process, because a bank's purchasing department may have a tendency to look only at cost, he added.

Just as there are different modes of transporting a bank's assets, there are also different forms of insurance that can cover transit-related exposures.

The financial institution bond may provide some coverage, or a transit or transit cash letter can be purchased either as bond extension or separate policy, said Ronald D. Moyer, senior vp of RHH Financial Services Group Inc. in Chicago.

The transit/transit cash letter policy primarily covers the cost of reconstruction, such as occurred when the checks were burned in the plane crash. The policy reimburses for lost face value only after all efforts to reconstruct the value of the lost assets have been exhausted.

It generally covers items in transit to a data processing center, items enclosed in a cash letter and canceled checks being returned to customers with their statements.

The policies typically have a waiting period of 20 days to 30 days, and 120 days before full face value is paid.

Policyholders should examine

the wording of the policy carefully, Mr. Moyer said.

Some transit/transit cash policies call for checks to be micro-filmed before they leave the branch. But that step is performed in data processing centers most commonly now, so the policy's wording should reflect this, Mr. Moyer noted.

Mail policies also afford some coverage to bank assets in transit, he said. The policies spell out what mode of transportation is to be used in what circumstances, whether registered, first-class, U.S. Postal Express or other express mail carriers. Foreign and domestic shipments are treated differently.

Record keeping is extremely important in this type of insurance, he cautioned. The valuation of the shipment should be recorded, as should the bank's guidelines for shipping certain assets. This will help the bank in case there is an inadvertent error made in mode of transportation.

All-risks premises and transit insurance policies also can be purchased in the London market, but "it tends to be an expensive way to go," Mr. Moyer said.

Which of the available coverages responds also depends on the type of property transported; whether negotiable or non-negotiable; the mode of transportation, whether by employee, hired messenger, armored or non-armored transportation company; and the origin and destination of the trip.

In some areas, such as mortgage notes and documents, there is still debate whether they are negotiable or not and whether they have an actual street value if they are lost.

Not every risk should be insured, the speakers said. For example, moving a single \$5 million bearer bond would probably not require coverage. Although a bearer bond is like cash, there are only a few places that would cash this large of a bond. Therefore, most banks would opt to keep the risk, they said. **BI**

Risk managers mix it up

Blended programs tempt risk managers with flexibility

By SARA MARLEY

SAN ANTONIO, Texas—To blend or not to blend, that was the question at the American Bankers Assn.'s recent security and risk management conference.



The pros and cons of combining numerous coverages into a single, long-term policy were discussed during several conference sessions.

More than a third of the 40 risk managers at the directors and officers session participating in an instant computerized survey said they had been offered a blended program by an insurer or broker.

And an overwhelming majority of the buyers said they would be interested in purchasing a multi-year program with a single aggregate limit if it were available.

Price appears to be driving the decision to purchase a blended program, rather than the product itself.

Speakers highlighted flexibility as a major advantage of the pro-

grams. Buyers may also be able to access higher limits or find coverage for previously uninsurable risks by assuming the extremely large deductible or retention usually associated with the programs.

"Above the working layer, there is a lot of capacity," said James H. Ostrom, vp of St. Paul Fire Insurance Co. "The further the underwriter is from the working layer, the broader the programs they are willing to write."

"You have more leverage as a buyer," agreed Lance Dalzell-Piper, class underwriter for Lloyd's of London syndicate 839, which is managed by Tower Underwriting Agents Ltd. "If the buyer is willing to take (a high deductible), you can discuss broader coverage with an insurer."

With one insurer leading all coverages, finger-pointing can be eliminated when a claim is filed, Mr. Dalzell-Piper added.

"You can simplify the policy, services and claims with commonality of market," he said.

Combining coverages can also produce cost savings over pur-

chasing separate policies, he noted. However, policyholders will be assuming the large administrative task of handling claims that come in under their deductible.

While banks with more than \$10 billion in assets are the most likely to consider implementing a blended program, an organization's appetite for risk is more important than size.

"The most important thing is to do an evaluation of your own ability to bear risk," said Charles D'Andrea, senior vp and global practice director for Alexander & Alexander of New York Inc. in New York. Banks must understand the impact the program will have on their earnings per share and liquidity.

"To make a truly informed decision, do a study on your capability to bear risk before you set the framework," Mr. D'Andrea recommended.

The structure of the programs varies greatly, as shown by Mr. Dalzell-Piper's description of sev-

Continued on next page

Insurers foretell bank risk managers' demands

By SARA MARLEY

SAN ANTONIO, Texas—Purchasing airline tickets or getting stock quotes from automatic teller machines sounds convenient to the consumer.

But it sounds like increased liability exposure to a bank risk manager.

Those are two examples of the diverse services banks will probably be offering in the next several years, according to speakers predicting what the "Future Bank 2000" will look like at the Ameri-

can Bankers Assn. 1995 National Security & Risk Management Conference earlier this month.

Those expanded services could also increase professional liability exposures. Factor in that they will be performed by banks with fewer employees, and risk managers may see more workers compensation claims as greater demands are placed on employees.

"Budget cuts are a fact of life," said James H. Ostrom, vp of St. Paul Fire Insurance Co. in St. Paul, Minn. "We all have to do more with less. That can bring up additional liabilities to financial institutions. It's the restructuring

downside. We're going to see a lot more liability and workers comp claims."

Consequently, risk managers want to allocate their own staff resources wisely.

"Risk managers want more time for risk assessment and control," Mr. Ostrom said. Buyers also want "ease of putting coverage in place. Risk managers might deal with 30 or 40 or 50 policies on an annual basis."

As a result, they are demanding automation and streamlining of the application and renewal process.

Risk managers are also insisting on individual underwriting, Mr. Ostrom said.

"Risk managers are taking the side, 'Look at my institution. Price off my experience, not the industry's.' They want market stability. Why should they pay for the sins of the industry?" he explained.

But risk managers also will see continued market consolidation and further price competition for their business.

"Companies have dropped out and there is shrinkage of companies through mergers and acquisitions," Mr. Ostrom said. "The only way insurers can grow is to buy a company or buy insureds. They're losing money and they can't put out limits for a low premium out-

lay."

Restructuring in the market was also first among the factors that will shape the insurance industry over the next five years cited by Timothy P. Wolcott, vp of Johnson & Higgins of Pennsylvania in Pittsburgh.

"CNA and Zurich are fighting over market share and it will continue over the next five years to a

Financial institutions will face more liability and workers compensation claims in the future, says James H. Ostrom.

greater degree," Mr. Wolcott said. "There is clearly overcapacity in the marketplace, but that capacity is being absorbed as buyers demand balance sheet strength in their insurers."

The domestic market could look overseas for an example of successful reorganization.

"London was a market in turmoil and it came out of it more efficient and effective in its delivery of product," Mr. Wolcott said.

The other factors that he said would shape the insurance industry in the future are:

- The "Newt Effect." Republican control of both houses of Congress may have a positive effect on the financial markets.

- Alternative markets. One-fifth of traditional insurance buyers have moved to the alternative risk financing market.

- Traditional insurers have learned a hard lesson on how to treat customers in difficult cycles," Mr. Wolcott said. "There is so much capital involved, it has been tested and it is here to stay."

- Regulation. Trends like consumer advocacy and movements by legislators to influence rates or prohibit insurers from exiting certain lines of business may become even stronger in the future.

- Quality improvement. "This is not cyclical. It has changed the way we do business fundamentally," Mr. Wolcott said.

- Standards of living. They are accelerating rapidly in developing countries. The average per capita income in China, for example, is expected to increase to \$9,000 in 2000 from \$1,000 this year, he said.

The worldwide population is also aging and many people lack adequate retirement savings.

- Interest rates. They are on their way back up, reversing the trend of the first half of the decade. "As insurers shift their investment portfolios around, they may increase their investment income and lower rates," said Mr. Wolcott.

Blended

Continued from previous page
eral blended programs developed in London during the past year.

In one program, a bankers blanket bond has been combined with D&O and fiduciary coverage in a three-year deal with a renewable "evergreen clause," he said.

The bond also has been written in conjunction with bankers professional liability and the indemnity side of D&O under a one-year single limit, but with separate deductibles for each coverage.

Other combinations have covered electric computer crime and safe-deposit boxes.

Most of the bank risk managers gathered at the conference wanted to combine D&O, bond, bankers professional liability and fiduciary liability. Fewer said they also wanted their property and general liability policies included in a blended program.

Despite risk managers' attraction, the cutting edge programs may have a darker side, several underwriters and brokers warned.

"You cannot just staple the property with the bond," Mr. Ostrom cautioned. "Blending all coverages into one document is a difficult task."

The speakers identified several potential disadvantages to blending coverages into a single policy:

- Exposures and prices in the marketplace can change over five years, complicating loss trending and proper pricing.

"I'm not sure we'll know what exposures we will face in three to five years," Mr. Ostrom said.

"You are buying into a three- or five-year deal," Mr. Dalzell-Piper said. "If the market softens more, you could be paying the seemingly exorbitant rates of 1995."

- Predictable risks are lumped with unpredictable ones.

"You are taking a bunch of high-severity lines like D&O, fidelity bond and bankers professional liability" and combining them with low-severity lines, said Thomas F. Taylor, group vp and chief operating officer of the financial insur-

ance division of CNA Insurance Cos. in Chicago. "You make the whole thing unpredictable and volatile."

- Obtaining acceptable terms and conditions can be difficult, particularly relating to cancellation and reinstatements.

"You have to go into them with terms and conditions finalized in writing before the program becomes effective," said St. Paul's Mr. Ostrom. "It must be clear what's covered and what's not."

"Look carefully at the wording and language to see that you are getting as broad or broader coverage as in single and separate purchasing," Mr. Dalzell-Piper said.

Risk managers should also inquire if the entire program must be rewritten if a single participant drops out, such as an excess insurer, and whether the policyholder has any recourse if a participating insurer's rating drops.

Premium payment is often up front, but can also be in installments. "If a program is multiyear and is prepaid, does that indicate it is non-cancelable?" Mr. Dalzell-Piper questioned.

Reinstatement of limits will generally cost 40% to 60% of premium.

- Limits for individual coverages get diluted in the aggregate.

"This is critical for D&O," Mr. Dalzell-Piper said. "If you have a large fidelity claim, you have effectively exhausted D&O protection."

- All eggs are placed in one basket.

"Some buyers deliberately place with as many markets as they can," Mr. Dalzell-Piper noted. Some risk managers also prefer to work with several brokers.

- Underwriter expertise may be strong in D&O but not in professional liability or bonds.

The speakers urged banks and insurers to use caution before entering into a blended program.

"Buyers have tremendous choice because the market is soft," Mr. Dalzell-Piper said. "As you examine what you want to buy, discuss (the corporation's) 'pain threshold' with management. Taking such a high deductible essentially puts you into the insurance business. You have to handle claims. There can be significant extra administration."

Buyers can leverage their buying without purchasing a blended program, he noted.

"You can have the same carrier and the same deductible but still have separate policies on a parallel basis," Mr. Dalzell-Piper said. "You cannot squabble about claims and still have the same leverage."

"I feel you have to go slowly and truly understand what is covered and not covered," Mr. Ostrom said. "If we don't proceed carefully, in the year 2000 we may be unbundling and going back to the traditional ways."

Don't compromise your core identity, experts advise

Knowing when to outsource

By MICHAEL SCHACHNER

NEW YORK—Outsourcing. It's probably the most overused and misunderstood term in risk management today, according to a risk manager for one of the country's largest corporations.

On the surface, risk managers may believe that outsourcing is all-encompassing and threatens their very existence. But no company can successfully outsource all risk management functions and positions and still retain a core identity, said James J. Conerty, manager-risk and insurance management with International Business Machines Corp., during a recent meeting of the New York chapter of the Risk & Insurance Management Society Inc.

Mr. Conerty should know. His company has raised eyebrows in the risk management community over the past couple of years by reducing its domestic risk management staff down to two people—himself and an assistant. IBM's global risk and insurance staff has also dwindled to 12 people by 1993 from more than 50 people in 1987.

The cuts were part of a corporate-wide commitment to reduce its global workforce, but also were designed to improve the company's efficiency and coordination.

Before the cuts, "we were totally decentralized. We had people making risk management decisions who knew nothing about risk management. We needed a consistent worldwide risk management strategy—not country by country," Mr. Conerty said.

What IBM has done is bring all risk management decision making into its Armonk, N.Y., headquarters, and hire Marsh & McLennan Cos. Inc. and Johnson & Higgins, both of New York, to perform all "non-core, day-to-day" insurance and risk management functions,

such as obtaining certificates of insurance and automobile identification numbers.

Mr. Conerty said companies should not outsource risk management entirely because someone has to keep tabs on the service providers who are hired.

"The onus is on us to see if what we have done works. We need to make sure that everything we contract for is delivered. People deliver what you inspect, not what you expect," he explained.

Brokers representing three of the major U.S.-based alphabet houses also spoke at the program. All agreed that corporations should not farm out all risk management-related services because it compromises a company's core competency.

However, just as outsourcing has made sense for years in the areas of payroll administration, food and cleaning services, it may make sense for some ancillary insurance functions, said Roger Egan, a managing director with Marsh & McLennan Inc. in New York.

"Outsourcing is nothing new. It's like the age-old question. Is it better to make something yourself or buy it? Most Western companies see outsourcing as a way to save money, while the Japanese do it only to improve quality," he said.

Conventional wisdom today calls for outsourcing anything that's not at the core of a company's expertise, Mr. Egan said. "Therefore, brokers replacing risk managers outright is an illusion, and we're not creating it. We don't believe that we pose a risk to risk managers and their staff if they operate efficiently."

"We're not seeking to capitalize on this move to outsourcing. We do not believe that risk management decisions can be outsourced. While we always try to offer value-added services, eliminating

risk management departments and replacing them with brokers is not part of our formula," he said.

Christine La Sala, a director with Johnson & Higgins in New York, said the buzz around outsourcing mostly came from the downsizing craze that hit companies several years ago.

"But risk and insurance management is a fundamental fiduciary responsibility that cannot be farmed out. While cost-efficiency is admirable, the core activities of corporate risk management" must stay within the company, she advised.

Ms. La Sala suggested that risk managers and their supervisors take a step back to "distinguish between fad and what really makes sense." While some functions like payroll and travel planning don't touch the corporate culture and can be outsourced, many insurance functions can't, she said.

But some can. For example, loss control, actuarial work, insurance-related litigation and insurance purchasing to an extent can be handled by outside vendors, Ms. La Sala said.

"Just don't outsource the unique functions (performed by the risk manager) because no outsider can function as a true insider," she said.

Henry Maddocks, president and managing director of Aon Corp.'s Re-engineering & Consulting Services Group in New York, said that while brokers "don't want to take people's jobs, we can provide services that you can't do efficiently due to a shortage of budget or staff."

And when asked if risk managers can go straight to insurers for services and coverage without using brokers, Mr. Maddocks said they shouldn't because they won't know if they're getting the best price.

Testing

Continued from page 3

juana use, ran three locomotives through a stop signal and into the path of an 12-car Amtrak train that was going 100 mph. Sixteen people died in the collision near Chevy Chase, Md. (BI, April 6, 1987).

The rules cover alcohol misuse in the transportation industries and extend current drug testing requirements to intrastate trucking, private bus operations and mass transit operations.

Affected directly by the expanded testing are 7.4 million truck drivers, pilots, subway guards and others with jobs deemed "safety sensitive" because an error in doing their work could hurt the public.

Previously, only 3.6 million employees had to be tested. The rules—which took effect Jan. 1 for employers in the commercial transportation industry with at least 50 employees—will be extended to all employers Jan. 1, 1996.

The largest single group of employees affected by the new rules are 6.6 million holders of commercial driver's licenses who drive trucks weighing more than 26,000 pounds, buses that can carry 16 or more passengers, or any size vehicle hauling hazardous waste.

"Up until now there was very little alcohol testing in the sector that will be affected," said William Broten, CEO of testing firm Substance Abuse Management Inc. in Milwaukee. "Random alcohol testing was also very rare," he said.

"The majority of drivers out there are not abusing drugs or alcohol but the consequences of it can be so severe that it will be well-known when it is happening," said David Whiteside, director of compliance for J.B. Hunt Transport Inc. in Low-

ell, Ark.

The percentage of tractor trailer drivers with high blood alcohol contents declined sharply during the early 1980s and has been in the 3% to 10% range since 1985, according to the Insurance Institute for Highway Safety in Arlington, Va.

Under the new regulations, employees in most transportation industries are banned from performing a safety-sensitive function while using alcohol; within four hours af-

ter to require urine tests for other drugs: marijuana, cocaine, amphetamines, opiates and phencyclidine, or PCP.

Employers are required to test in several circumstances, including: after an employee is involved in an accident; when a trained supervisor has a "reasonable suspicion" that an employee has been misusing alcohol; and after a previous violator returns to duty.

The regulations also require em-

goals of the regulations, but criticize them as costly and inconvenient.

They require an employer like a trucking company "to take over the law enforcement role," said Jamie Rohrbaugh, vp-safety services of Landstar Ranger Inc. in Jacksonville, Fla.

For example, instead of relying on state troopers to conduct post-accident breath tests, employers must arrange a network of testing services so that a trucker involved in a

addition, employers argue that blood-based alcohol tests are more accurate and more readily available across the nation because most hospitals rely on that type of testing.

Complying with the new testing rules is expected to cost employers about \$250 million annually. Among the costs are \$1,500 to \$3,000 for a DOT-approved breath testing unit; individual test costs of \$40 to \$45 for alcohol and \$50 to \$60 for drugs. Also, a staff member doing the test must be trained and certified as an approved breath alcohol technician.

Such costs are one reason many transportation companies are hiring outside firms rather than doing the testing themselves.

Overall, though, employers expect the regulations to save them money from fewer accidents, which annually cost them billions.

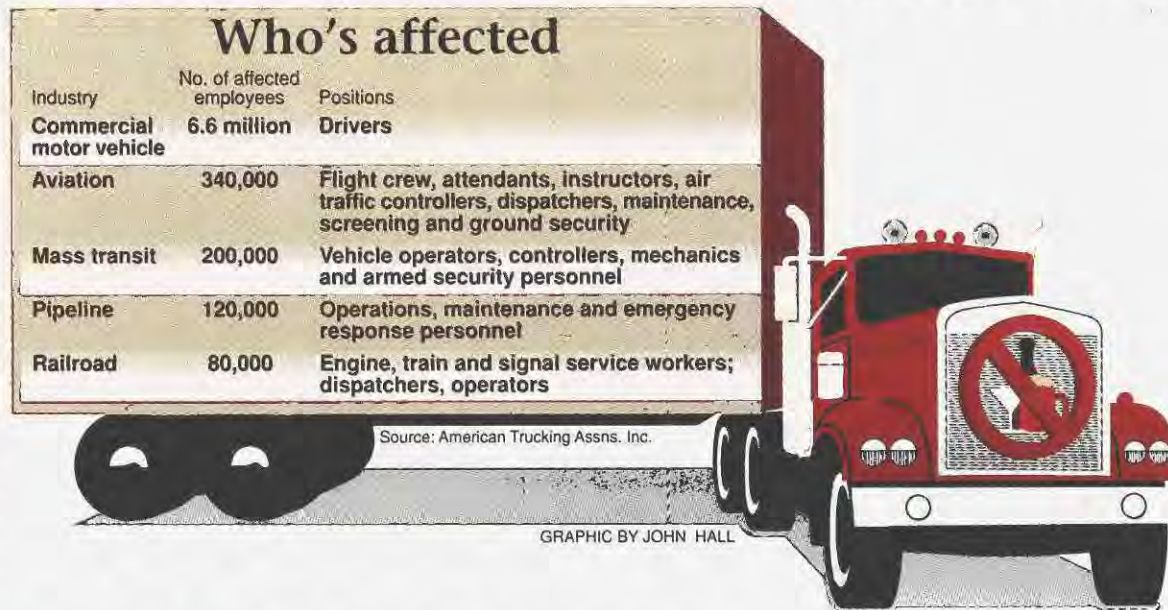
One way the regulations will be less costly than they might have been is in the postponement of mandatory pre-employment alcohol testing for truck drivers. No testing of job applicants is to be required until May 1 or the department issues new regulations.

In one of several lawsuits filed to block the drug testing rules, the American Trucking Assn. Inc. has sued to block the department from requiring pre-employment testing.

The trade group contends that applicants who drink before job interviews would be unfairly denied employment opportunities even though they had violated no law.

A pre-employment test "is a stupidity test, not a safety test," contends John Collins, the ATA's senior vp of government affairs.

Other pending suits challenging the accuracy of various alcohol tests or the required testing procedures have been filed by airline pilots and the International Brotherhood of Teamsters, among others. **[B]**



ter using alcohol; and while having an alcohol concentration of 0.04 or greater, as indicated by an alcohol breath test.

If a truck driver is found to have a concentration above 0.02 but below 0.04, the regulations require companies to consider them out of service for at least 24 hours.

Most states set 0.08 or 0.10 as the threshold for intoxication for drivers of private cars.

The new regulations also continue

employers to conduct random testing for both alcohol and drugs just before, during or just after employees perform their safety sensitive duties. Employees are randomly selected from a pool so that 25% annually are tested for alcohol and 50% annually are tested for drug use using a urine-based test. The regulations may require a greater percentage of employees to be tested in industries with poor safety records.

Employers generally support the

serious accident can obtain a timely test.

Employers that violate the rules can face a \$10,000 civil fine and a criminal penalty of up to \$25,000 and one year imprisonment. Employee sanctions are less.

Employees had favored breath tests, rather than the more invasive blood tests for the presence of alcohol. Employers had backed blood tests as less costly and more convenient for certain types of testing. In

Canada

Continued from page 1

recent years.

Yet skepticism among some Canadian members persists. "What I hear now around the country, and I've talked to other chapters, the rallying cry seems to be 'We're going to pay more and get less,'" said Keith Thomas, risk manager for the Manitoba Assn. of School Trustees and a Manitoba member of the Canadian Chapters Committee. "People are now looking at other alternatives such as going to other organizations."

Canadian and U.S. risk managers each pay annual dues of \$300 in their own currency, but the U.S. dollar is currently worth about 40% more than the Canadian dollar. Beginning Jan. 1, Canadian members must pay the U.S. equivalent.

In addition, RIMS is eliminating its Canadian coordinator position effective May 5. The Canadian coordinator is an independent contractor based in Ontario, who operates much like a staff employee, servicing RIMS administrative functions in Canada. The job description is broad, with responsibilities that range from producing a newsletter to keeping abreast of legislative affairs.

Supporting the position and the services provided costs RIMS about \$50,000 annually.

For nearly two decades, some Canadian members have complained that they receive less service from RIMS because the parent organization is in New York and geared more toward U.S. members.

There are 423 corporate RIMS members in Canada, or 9% of RIMS membership, and 754 deputy members in 11 chapters varying in size from nine to 141 corporate members. In 1993, RIMS informed Canadian

leaders of a growing concern about the fee differential due to the exchange rate. A decline in the value of the Canadian dollar meant RIMS was experiencing a reduction in revenues, leading to an impression that U.S. members subsidize Canadians.

RIMS was willing to institute a gradual fee increase of, say, 10% per year, said J.A. "Tony" Bridger, risk manager for the Bank of Montreal in Toronto and president of RIMS from 1993-1994. But Canadian members opposed the idea and the issue remained unsettled.

Canadian chapter leaders arranged for an in-depth study, "Canadian RIMS Strategic Plan & Structure Analysis," that critiques the current structure for servicing the needs of risk managers in Canada and is intended to be a neutral and forward-looking document to help Canadian risk managers chart a future course, according to its introduction.

The study evaluates the amount of service Canadian members receive from RIMS. For example, it states that Canadian legislative efforts are "for the most part non-existent in the RIMS (governmental affairs committee) agenda." Yet it also notes that RIMS' staff in New York "has responded to specific issues over the years when contacted."

The report also contains a few anecdotal members' comments, such as one who states he or she is often satisfied with the service received when calling the New York RIMS office.

"I agree, however," the member continues, "that these are small isolated contributions. RIMS as such, should mean more for the Canadian membership. Consequently, I share their opinion that Canadian risk managers are not receiving adequate and comparable coverage regarding their issues as our American counterparts do, simply because Canadian concerns are not deemed to be a pri-

ority in the RIMS agenda."

On the other hand, the report also discusses improvements that can be made by Canadian leaders, noting that: "Canadian content problems may be in part due to a lack of participation by Canadians and ineffective use of the existing systems and structure."

The report recommends, among other things, a review of all service issues and the establishment of a dialogue on those issues between Canadian members and RIMS.

RIMS' announcement of the changes 11 days after the Jan. 12 release of the study irked Canadian leaders because it gave the leaders insufficient time to evaluate the study, discuss it with members and make their own recommendations.

"We think it was very heavy-handed of RIMS to notify us at that point," said Mr. Thomas. "I think the feeling in Canada right now is 'We'll sit down and talk to (RIMS) about this.' But the feeling of 'We'll start a new Canadian society' is on the plate."

Diane Wolfson, director of risk and insurance for Domtar Inc. in Montreal and chairwoman of the CCC, called the announcement's timing "poor" in a letter sent to RIMS President Lucille A. Gallagher.

"For the most part, the CCC and other key players in the Canadian risk management field were certainly anticipating some changes; however, the manner in which they were made and the timing therefore is a direct insult to your own membership," Ms. Wolfson wrote.

Ms. Gallagher—who is vp-risk management for ConAgra Red Meat Cos. and Monfort Inc. in Greeley, Colo.—said Canadian members had known for some time that RIMS was contemplating a fee increase. She said it is fair to Canadian members as well as U.S. members because

RIMS plans to provide Canadians with the same legislative services now available or planned for U.S. members (BI, Jan. 2).

Ms. Gallagher pointed out that the Canadian study indicates that members desire greater legislative representation from RIMS.

"We feel this is the right move and it's long overdue to meet that need in that Canadian arena," Ms. Gallagher said. "If everyone is receiving the same services, you can't have a disparity in dues."

"They were aware of this for a long time," she added. "It was getting to the point where we had to do something."

As for the calls for a separate Canadian risk management society, Ms. Gallagher said members cannot receive better value elsewhere. RIMS is able to provide more services than membership dues can support because of funds received from other sources, such as conference revenues, she said.

Cries for a separate Canadian society go back to at least 1975, according to Canadian documents. The issue resurfaced officially in 1993 while Mr. Bridger served as RIMS president.

In a memo, Mr. Bridger evaluated the possibility of Canadian chapters going it alone.

He said recently that at the time RIMS was willing to support the Canadian effort.

"It was a maturing of the Canadian organization," Mr. Bridger said. "We have a lot of infrastructure in place that's almost duplicate of a lot of RIMS activity."

Canadian chapters have the ability to operate their own organization, Mr. Bridger still maintains. But, not all Canadians are in agreement on the issue, he noted.

Indeed, the Canadian study points to differences among chapters. It

notes that those who favor a separate society are a minority. In another section, it states that chapter "infighting is a concern."

It also sheds light on how different chapters value RIMS' services. For example, the report found the two largest Canadian chapters don't utilize the services of the Canadian coordinator, while smaller chapters rely on the coordinator mostly for information.

Politics aside, some Canadian leaders worry an increase in dues could wipe out their small chapters, said Donald Barrett, manager of corporate affairs and risk management for Hydro Group in St. John's, Newfoundland. Mr. Barrett is former chairman of the CCC and director of the Newfoundland & Labrador chapter of RIMS, which currently has eight members.

Susan R. Meltzer, risk manager for Bell Canada in Toronto and a member of the Executive Council of RIMS, said she prefers to emphasize the positive gains that will result from RIMS' plans for increased legislative representation in Canada. But she acknowledged the increase in dues could cost it some members given current economic conditions in Canada.

Several Canadian observers said that dissatisfaction could be ameliorated if RIMS can deliver on its promise for increased legislative representation by the time the increase comes due. They say, however, the mood will also depend on the sensitivity shown by RIMS to Canadian members' concerns.

"By the time we get to (the San Francisco RIMS conference in April) and a number of us get talking, maybe there can be some negotiation in matters," Mr. Thomas said.

Ms. Gallagher said RIMS' goal is to have its plan in place by that time. **[B]**

Benefits of choice emerge

Health care competition lowers cost and increases quality

By William L. Roper

BENEFIT MANAGERS FACE a challenging task today securing health care coverage for their employees. Just a few years ago, companies told employees what their health care coverage would be, who would administer it and how claims should be filed. That's clearly not the case anymore.

Rising health care costs have strained corporate bottom lines, forcing benefit managers to develop cost-sharing formulas that require employees to pick up more of the health care tab. And, benefit managers are increasingly giving employees choices between old-style fee-for-service plans, health maintenance organizations or a combination of both. From my experience as a physician and former head of the Health Care Financing Administration and the Centers for Disease Control and Prevention, I believe the long-term effects of this process will be overwhelmingly positive.

One compelling reason for this is that mounting evidence suggests health care competition and free market forces are driving down costs. For example, the Bureau of Labor and Statistics reports that medical inflation for 1994 grew only 4.7%, a 20-year low. Towers Perrin reports that per employee medical costs rose half as quickly between 1993 and 1994 as they had the previous year. Overall premium increases have significantly slowed for HMOs in each of the last five years, according to the Group Health Assn. of America. And, as more employers offer HMOs and managed care plans—75% of midsize and large employers now do—costs will continue to decrease as more employees switch out of more costly plans.

In fact, premium decreases are becoming more commonplace. The Los Angeles Times recently reported that the city of Sacramento received a 22% decrease in its health insurance rates for its 4,000 employees. That's consistent with the experience of many health care companies across the country, including Prudential, whose HMO plans have seen rates typically ranging from single-digit increases to rate decreases in select cases as high as 15%.

However, this process will be positive for a less well-known but equally compelling reason as cost reduction: Quality of care will be greatly enhanced. The common perception among many Americans—and many in the employee benefit community—continues to be that we can't get costs under control and maintain, let alone enhance, quality. And that's just not true. Why? Because employers, government officials and health care companies themselves are making sure quality and low cost go hand-in-hand.

Let me cite only a few examples:

- An increasing number of companies and state governments require health plans to be accredited by the independent, non-profit National Committee for Quality Assurance, whose medical associates review such areas as quality improvement, member rights, preventive health services and provider credentialing. NCQA represents consumer interests and provides the industry's "seal of approval."

- NCQA has also been working with a number of major employers and HMOs to develop performance-based "report cards." Based on HEDIS, or Health Plan Employer Data Information Set, these report cards will compare results for participating

health plans on more than 60 performance measures. Twenty-one health plans have joined this initial effort, which will be released early in 1995 (see story, page 3). In addition, many other health care companies and hospitals have already developed and released their own performance report cards for employers and individual consumers.

- The Joint Commission on Accreditation of Healthcare Organizations just released the names of more than 1,400 hospitals, outpatient centers, nursing homes and other providers for which performance reports became available in December. The Joint Commission expects to issue reports on more than 11,000 organizations once it completes its three-year accrediting cycle.

- The field of outcomes research, which seeks to match the most effective and appropriate treatments with patients' needs, continues to gather widespread support and momentum.

United HealthCare, Kaiser Permanente, Harvard Community Health Plan and Prudential are just a few of the companies with extensive programs and research centers designed to evaluate and improve the delivery of care. Several government agencies and academic institutions from across the country also have their own initiatives in this area.

Outcomes research represents the study of what works in health care, but it also provides us with an unparalleled opportunity to greatly improve medical treatments and procedures based on carefully researched data. How can we develop more successful approaches to smoking cessation? Why is there geographic disparity in the frequency and

Continued on next page

ASK A BENEFIT MANAGER

Compliance issues top 1995 "to do" list

Q

What can benefit professionals expect from Congress in 1995 and what items should we be focusing on in 1995?

A

I don't anticipate major employee benefit legislation in 1995. However, it is always very difficult to anticipate what Congress will do. I was among the many that fully anticipated major health care reform legislation last year; as we know, it didn't

happen.

Despite what occurs in Congress in 1995, employee benefit professionals still have a long "to do" list, including compliance with recent legislation and regulations from late 1994 and some follow up items from 1993. Outside of legislation, we have large budgets we need to manage and control. Here is a brief look at what needs attention in 1995.

Legal compliance

There are a number of new agenda items that present compliance issues for benefit managers. These include:

- **GATT.**

The General Agreement on Tariffs and Trade, also

called the Uruguay Round Agreements bill, was signed in December 1994 by President Clinton. I would encourage you to work closely with your actuary to ensure that your benefit plan is in compliance with GATT.

The bill requires, among other items, that underfunded defined benefit plans with more than 100 participants must make accelerated contributions until 90% of the plan's current liability is funded. Additionally, the law mandates use of specified mortality tables and interest rate assumptions in calculating current liability. The permissible range of interest rates will be narrowed from the current 90%-to-110% corridor to 90%-to-105%, phased in over a five-year period. For 1995, the highest rate in the permissible range is 109%. These changes may increase expenses and require cash contributions. It's probably advisable to forewarn management of this.

GATT also provides that the interest-rate assumption used to calculate lump sums from defined benefit plans reflect the yield on 30-year Treasury bills. This change, which will also be phased in, will result in smaller payouts from plans that provide lump sums. Early notification of employees—particularly those who are retirement eligible—would be appropriate.

As you're probably aware, the rules for cost of living adjustments under Sections 415 and 402(g) have changed. As a result, amounts were frozen or changed minimally for 1995. The 402(g) limit that applies to 401(k) plans is frozen at \$9,240 for 1995—this probably would have risen to about \$9,500 under the old rules. The Section 415(b) limit for defined benefit dollar limit is rounded down to \$120,000 in 1995, up slightly from \$118,000 in 1994. As a result, the 415(c) defined contribution dollar limit remains at \$30,000

for 1995.

A final GATT change is that Section 420 transfers, which allow the transfer of excess pension assets to pay retiree health benefits, is extended through Dec. 31, 2000.

- **Family and Medical Leave Regulations.**

In January, the Department of Labor published the final regulations for the Family and Medical Leave Act of 1993. These regulations provide clarification, including an expanded definition of serious health condition, coordination of FMLA leave with pay, disability and the employer notification requirement in order to designate the leave as a FMLA to the employee. Finally, the regulations specify that the law covers only employees employed in the United States or any U.S. territory or possession. These regulations should be reviewed to ensure your organization's compliance.

- **Uniform Services Employment and Re-employment Rights Act of 1994.**

This act seeks to clarify the existing law with respect to the rights of members of the National Guard and the Reserves to return to employment without losing seniority, status or pay. It generally is effective for re-employment initiated after Dec. 11, 1994.

The major focus of this law is retirement plans. The most significant change is that, upon rehire, the employer must allocate the share of the employer contribution the employee would have received under a defined contribution plan. The employer may require that the re-employed worker make up employee contributions before receiving a matching contribution.

For benefits like vacation, sick pay and group term

Continued on next page

Changing market

Continued from previous page

effectiveness of tests used to diagnose coronary disease? How can we improve prenatal care and birth outcomes? Which treatments for back pain are the most effective and useful? How can we increase child immunization rates? Outcomes research will give us answers to such questions.

- Nearly all quality health plans conduct and make public member satisfaction surveys. That means benefit managers and consumers can easily discover how a plan scores on such items as hospital and emergency care, office waiting periods, out-of-pocket expenses, preventive care and overall satisfaction with physicians.

Employers conduct and publish their own surveys as well. For example, in a survey of 24,300 employees at Xerox, GTE and Digital Equipment, the New England Medical Center found workers rated group practice HMOs highest for overall satisfaction, followed by individual practice model HMOs, point-of-service plans and fee-for-service plans.

These examples symbolize a fundamental shift

toward measuring and improving the quality of care. Not coincidentally, this shift is only occurring in the competitive market, not the unstructured fee-for-service market, where the sellers of services tell purchasers what and how much to buy.

And that leads to my final reason for expecting benefits from this process. Consumers will finally exert their purchasing power in health care as they have in other industries. They will possess the tools and knowledge (such as report cards and outcomes data) that they have gathered on their own or through their employer to make informed decisions about health plans and providers. This will highlight the value of health care dollars we spend, and in the process, consumer protection will be enhanced.

Today, consumers can get answers to questions that could not be addressed only five years ago.

- Does the health plan have a quality improvement program in place?

- Has the plan been accredited?

- Has the health plan developed report cards?

- Does the plan have a credentialing process in place to ensure physician qualifications for its members?

- Does the health plan provide a wide range of

preventive services?

- What type of educational efforts does the plan undertake on behalf of its members?

Health care competition has delivered answers to all of these questions.

State legislatures and Congress will continue their quest to enact responsible health care reform legislation. Americans—whether as employees or individuals on their own—will continue to maneuver through a rapidly changing health care delivery system. All of this will take place against the backdrop of a competitive market that increasingly links cost, quality and consumer protection. That's the most positive result so far emerging from this evolving, competitive marketplace. **BI**



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Benefit regulation

Continued from previous page

life insurance, an employee on leave must be treated like any other employee on a leave of absence. Also for health insurance, these employees have a COBRA-like election to extend their benefits for 18 months.

Again, you need to be sure that your practices and procedures are in compliance. At this time, though, the deadline by which plans must be amended to reflect these changes is unclear.

- **Omnibus Budget Reconciliation Act of 1993.**

Additional compliance issues for employers arise from this budget law, including:

- ✓ Qualified medical child support orders.

Procedures must be developed for the implementation of court orders regarding the extension of health care coverage for children.

- ✓ Adopted children. Health care coverage must be provided for adopted children at the time the child is taken into the household. Your health care plan will need to be modified to reflect this change.

- ✓ Disabled employees (Medicare Secondary). This provision says that employees considered to be long-term disabled and eligible for Medicare will receive their primary health care coverage through Medicare. Employers must inform Medicare they are making this change and provide a list of their long-term disabled workers. Your long-term disabled workers also must be notified of this change and must enroll in Medicare.

Another item to consider is the compensation cap that was reduced to \$150,000 for 1994 and remains there for 1995. Employers should look at their defined benefit and defined contribution pension plans, and if they have not yet done so, consider supplemental plans to make up for some of the lost benefits.

As you may know, under the Internal Revenue Code, non-qualified deferred compensation is subject to FICA tax at the time the services are performed or later when the benefit becomes vested. This did not matter in the past because the amount of compensation subject to tax was limited. However, beginning in 1994, the 1.45% Medicare portion of the FICA tax must be withheld and paid on all of the employee's compensation, including deferred compensation plan benefits as they are earned or become vested.

This means supplemental retirement plan benefits are subject to the FICA tax. The IRS has said they will give additional direction on the payment of this tax liability for non-qualified plans sometime in 1995. Be on the lookout for these regulations and ensure that you have a process in place to measure the amount of the deferred compensation and how FICA taxes will be paid.

The 104th Congress

After the elections, many felt that due to the new Republican control of Congress, employers would

have less governmental interference in employee benefit programs. However, history does indicate that Republicans have targeted employee benefit plans as a potential revenue source. This may become a reality since the agenda for the congressional Republicans includes lower basic tax rates and a balanced federal budget. Revenues must be generated somewhere to pay for this agenda.

During the 1980s, Republicans backed lowering tax-deductible employer contributions to pension plans and shifting to employers from Medicare the primary responsibility for covering older workers' health care benefits. Amazingly, the recommendation was made during the Reagan administration to eliminate 401(k) plans to help offset the cost of lowering basic tax rates.

The biggest question being asked today by employee benefit professionals is, "What will happen with health care reform?" I don't expect a major overhaul of the health care system in the United States, but there may be some nominal items changed. Absent such an overhaul, the biggest concern is that states are requesting ERISA pre-emptions. If granted, employers operating in multiple states would come under the rules of the separate states, making consistent application of health care plans among all employees impossible. I sense that Congress may not have a full appreciation of the many negative implications of allowing ERISA pre-emption.

There has been discussion of retirement simplification in the past. While I'm confident this will eventually surface as a hot topic, the big push on health care, the ERISA pre-emption and the balanced budget will prevent much air time for this topic this year. The nation is ready for retirement simplification, and the aging of the large number of baby boomers will certainly force this topic along the way.

Items needing special attention

Two items that still require a great deal of time and focus for employee benefit professionals are health care management and investment education.

In most organizations, health care remains the largest part of the employee benefit budget and is increasing at the fastest rate. These two factors demand that we continue to focus on health care in an attempt to control costs. Directly related to managing costs is increasing the focus on quality. We should ensure that the plans we offer to our employees are top-quality plans. Moving to managed care is definitely the most effective means of ensuring quality and controlling our health care costs.

There has been, and will continue to be, an increased emphasis on quality. One way to measure quality is to measure employee satisfaction with the health plans. We need to work together as partners with the health plans to direct their quality control efforts on the care being provided to our employees.

A good example of this focus on quality is the most recent Chicago Health Plan Value Survey process. This survey is a venture of the Chicago Business

Group on Health, Hewitt Associates L.L.C., 14 major employers in the Chicago area and the major health care plans. The employees of the participating employers will be surveyed on their satisfaction with the health care plans and jointly, the employers will be working with the health care providers on improving quality. These types of efforts will lead to increased quality of the health care being provided. I expect this type of cooperative effort to increase.

Section 404(c) regulations have focused employers' efforts on educating the workforce regarding investments. With the rapid growth of employee-controlled assets in 401(k) plans, it is in the employers' best interest to ensure that these funds are being properly managed. Many employers have had success in investment education programs, measured by the movement of funds out of very conservative investments like guaranteed investment contracts into equities, which are more appropriate for long-term growth. What is needed is a continuing process to remind employees to manage their investments properly.

I am confident that 1995 will bring us many challenges. While the nature of employee benefits tends to get us involved in minutia, we need to take a step back and focus on the overall objective of our organization's benefit program. Whatever that objective is—and we need to ensure that there is a clear objective—we need to see to it that our programs are meeting that objective.

Material in this article does not constitute accounting, tax, investment, legal or business advice. You should review your specific situation with professional advisers. **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 Benefit Manager, Ask A Risk Manager, Ask A Benefit Actuary and Ask A Casualty Actuary answer written questions from readers on risk and benefits management issues and actuarial problems.

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



Mr. Nirtaut

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INTERNATIONAL

Lloyd's brokers' role comes under scrutiny

BY STACY SHAPIRO

LONDON—Several recent developments are placing the role of Lloyd's of London brokers in the limelight.

The Lloyd's Insurance Brokers Committee was interviewed last week by the Parliamentary Treasury committee as part of the panel's ongoing review of financial services regulation, including Lloyd's oversight.

Also last week, a Lloyd's working party released a report after

the hearing calling for an examination of Lloyd's broker regulation and possibly a change in the definition of a "Lloyd's broker."

In addition, a change of venue was made last week for one of the first lawsuits in which Lloyd's members are suing brokers that placed reinsurance for syndicates that later failed. The suit, which was filed last November by the Gooda Walker Action Group, was moved to the High Court's Queen's Bench, commercial division, which is hearing much of the

Lloyd's member litigation, from the Chancery Division.

The Lloyd's brokers' 15 minutes of fame started last Monday, when the Treasury Committee asked LIBC Chairman Dieter Losse, deputy chairman and chief executive of the Greig Fester Group, whether Lloyd's self-regulation was satisfactory. The LIBC represents 220 Lloyd's brokers, which employ about 30,000 people and place business worth £17 billion (\$26.96 billion) in the London market.

Mr. Losse said that the main thrust of the market's regulation was to guard policyholders, in which case "one has to say regulation has worked."

So far, he testified, Lloyd's has paid all valid policyholder claims and the Lloyd's policy is still "unassailable" as far as policyholders are concerned.

But some Lloyd's members believe that American long-tail liability claims that are costing them so much should not be paid, noted conservative member of Parlia-

ment Nicholas Budgen.

Lloyd's can't afford to take that stance "without chasing away current policyholders," Mr. Losse replied, though he said commutations of long-tail contracts are possible in some circumstances.

Asked about broker regulation, Mr. Losse noted that Lloyd's brokers report to three regulators in the United Kingdom: the Insurance Brokers Registration Council set up under the Insurance Brokers (Registration) Act 1977;

Continued on next page

U.K. ruling to expand appraisers' liability

By ADRIAN LADBURY

LONDON—U.K. professional liability insurers that provide coverage to real estate appraisers will have to increase reserves for claims alleging negligent appraisal after a Court of Appeal decision last week.

The court ruled that appraisers whose negligent appraisals resulted in a loss to a lender should compensate the lender for the full value of the loss.

Real estate appraisers and some solicitors who worked with them face a flood of claims brought against them by lenders after the collapse of U.K. commercial property prices in 1989.

Despite the increased hit that insurers could now take on these claims, brokers and insurers say that the market is soft enough that rate hikes would be unlikely for appraisers with few claims against them.

The original dispute arose out of six commercial mortgage indemnity contracts that Eagle Star Insurance Co. Ltd. issued in 1989 to Banque Bruxelles Lambert of Belgium to cover six commercial properties bought by the bank.

The bank's sale of the properties brought more than £100 million (\$159 million) pounds less than the original purchase price. Under the contract, Eagle Star and BBL disputed the difference Eagle Star was liable for under the contract, and the parties eventually settled during trial for £70 million pounds (\$111.3 million) (BI, May 24, 1993).

The two parties then joined forces to seek recovery from two real estate agencies involved in assessing the value of the property in the original deals. The first agency, Lewis & Tucker, agreed to pay Eagle Star and BBL £25 million pounds (\$39.8 million). But the second agency, John D. Wood Commercial Ltd., refused to settle, so Eagle Star filed suit.

In December 1993, Justice Phillips ruled that the appraiser was negligent in failing to accurately value the properties but should not be held liable for the full value of the loss, part of which was caused by a fall in the real estate market.

Therefore, the judge awarded

Continued on next page

German insurers respond to buyers

More individual rating of property risks

By DON LEWIS KIRK

WIESBADEN, Germany—German insurance rates and policy conditions for large property risks may soften a bit this year as a result of strong lobbying by German risk managers.

Large German businesses appear to have convinced German insurance companies that attempts to unilaterally increase commercial property insurance rates are unacceptable.

Commercial insurance buyers have loudly complained that more "equitable risk assessment" is needed in response to efforts by insurers to raise property rates for many large commercial risks.

Now, it appears that some German insurers are listening.

"Buyers can expect our flexibility this year," pledged Dieter Nowak, executive board member of the Cologne-based insurer Gerling Konzern Allgemeine Versicherungs A.G.

Mr. Nowak told disgruntled policyholders that many insurers were ready to meet buyers' demands for more transparent rating and underwriting. The insurance executive spoke at a recent industrial insurance conference sponsored by the Institute for International Research and held in Wiesbaden, Germany.

The move follows German buyers' threat to "go foreign" and purchase coverage in other markets if German insurers continued to push for rate hikes that in many cases do not reflect policyholders

individual risks.

Several major companies, including Siemens A.G. and Volkswagen A.G., already have shifted portions of their coverage to foreign insurers or have created captive insurers (BI, Oct. 3, 1994; April 18, 1994).

German commercial property insurers have complained in recent years that rates were inadequate in light of the line's terrible loss experience and have sought to firm up pricing to regain underwriting profits (BI, March 21, 1994).

But their efforts to raise rates are flawed, Siemens Risk Manager Wolfram Rohde-Liebenau said at the conference.

"Policyholders with good loss prevention and few claims have a right to expect lower premiums," he said. "That isn't always the case now."

Property loss control efforts have been only marginally rewarded by insurers in Germany, Mr. Rohde-Liebenau said. Most industrial property insurance policies provide 10% rebates for policyholders with fire safety equipment.

"Risk analysis is more than counting fire extinguishers," Mr. Rohde-Liebenau said. "But that is just how we were rated," he said.

In addition, large companies like chemical manufacturer BASF A.G. said their premiums did not reflect their loss experience.

"We pay much more for premiums than we would have for in-

Continued on next page



AP/WIDE WORLD

Talks between Irish soccer officials and their insurers will no doubt come to a more amiable end than did a recent Britain-Ireland "friendly" in Dublin.

Violence at match may yield claims

DUBLIN—The Football Assn. of Ireland is "in talks" with its broker and insurer after marauding English fans forced the cancellation of a Feb. 15 match in Dublin between the republic and England.

The FAI is steeling itself for potentially big property damage and personal injury claims after a night of thuggery resulted in the death of one elderly Irish supporter from a heart attack, hospital treatment for 23 other fans and serious damage to the stadium, according to a spokesman.

The Irish team was up 1-0 in the "friendly," or non-trophy round match, when the referee was forced to abandon the match in the 27th minute. Shortly before the trouble flared he had disallowed an English goal that would have tied the game. The official's decision seemed to spark off the trouble as traveling English supporters attacked nearby Irish fans.

But subsequent statements by the British police suggest that the disturbances had been planned in advance by organized groups of right-wing extremists. Recent political developments over the fu-

Continued on next page

Names may benefit from change in reserving

By STACY SHAPIRO

LONDON—One of Lloyd's of London's largest syndicates is leaving its 1992 underwriting year open while it determines the impact of the reserving policy chosen by proposed runoff reinsurer Equitas Ltd.

Earlier this month, Richard Keeling, underwriter for non-marine syndicate 362, managed by Murray Lawrence & Partners Ltd., said that it would be "inappropriate" to close the 1992 account because of the "significant and material differences between the Equitas reserving methodology and that employed by the syndicate."

Mr. Keeling, who is also chairman of the Equitas project, noted that syndicate 362 has always reserved its pre-1986 liabilities on

an undiscounted basis, meaning that the amount reserved is the exact amount that would be needed when the long-tail claims arose.

But Lloyd's Chairman David Rowland told members earlier this month that Equitas would reserve pre-1986 liabilities on a discounted basis, meaning the company would be able to set aside a smaller sum designed to earn enough interest to pay long-tail claims when they come due.

If Equitas hadn't chosen the discounted method, Mr. Keeling said he would be able to close the 1992 account by charging members a reinsurance-to-close premium to cede their liabilities to the 1993 members.

But the new discounting method, he said, could create inequality between the 1992 and 1993

members: 1992 members may have additional surplus if syndicate 362's undiscounted reserves are adequate and are then discounted.

"At present, we have no reason to believe that we should not be able to close the 1992 account at a profit next year," said Mr. Keeling.

Murray Lawrence is considering whether to leave open the 1992 underwriting years for any of its other eight syndicates in light of Equitas' reserving policy.

The move follows Mr. Rowland's Feb. 3 letter to members that said that all agents have been advised "not to close years of account that include (pre-1986) liabilities unless they are completely satisfied that they are adequately reserved."

But most major syndicates with

pre-1986 liabilities already have kept their syndicate accounts open, including some syndicates last year that chose to leave their 1991 accounts open in light of the uncertainty of Equitas reserving.

Syndicate 362 is one of the last major syndicates to keep its 1992 accounts open. The syndicate was protected for much of its pre-1986 liabilities through an unlimited runoff reinsurance policy for the 1978 and prior years of account placed with defunct syndicate 317/661, underwritten by Richard Outhwaite. However, the policy was commuted in 1991 for \$32 million, and the liabilities returned to syndicate 362. At year-end 1993—the latest accounts reported—the syndicate had £166.5 million (\$246.3 million) in reserves.

(E)

INTERNATIONAL

Brokers

Continued from previous page

Lloyd's, where 30% of Lloyd's brokers' business is placed; and another self-regulatory organization set up under the Financial Services Act to protect personal investors.

Lloyd's regulation is the most stringent, Mr. Losse said.

Between 15 and 20 brokers have been disciplined by Lloyd's in the past 10 to 15 years, added David Hough, secretary to the LIBC.

The Treasury committee asked whether Lloyd's brokers would favor external regulation. Brokers have no objection provided an external regulator understands the brokers' global business as well as Lloyd's, Mr. Losse replied.

If Lloyd's goes under, it would have a "very serious impact" on the entire London insurance market and would be "to the detriment of the British economy," Mr. Losse warned. Brokerages would probably migrate to other parts of the world over time and London's reputation "would be severely dented."

Following the hearing, a Lloyd's working party published its "Lloyd's Distribution Strategy" report, which outlines its initial recommendations for reforming the placement of coverage over the next five to seven years.

The Lloyd's Distribution Strategy Working Group concluded that the Lloyd's broker market should remain in place for reinsurance and also international and major commercial lines business. The group is headed by Brandon Gough, a for-

mer senior partner for Coopers & Lybrand.

Reinsurance is Lloyd's most important business segment, with 35% to 40% of total premiums generated annually from this type of coverage, though Lloyd's global market share of all reinsurance is about 7%, the report said. The current broker market for reinsurance "works well" and is likely to exist in similar form in five to seven years.

International and major commercial lines account for about 30% to 35% of Lloyd's business, though Lloyd's only has a 3% share of this business worldwide. More than 65% of this type of business is placed by brokers in the United States, but only 35% of this business is placed by brokers in Continental Europe.

Although there may be problems and extra expenses in the Lloyd's broker chain that could be trimmed, "there is no case for abandoning a commitment to brokers in this segment," the report said.

At the same time, the report suggested that Lloyd's look at a direct market and/or a non-Lloyd's broker market for small and mid-market commercial risks accounts, which account for 10% to 15% of the market's premiums.

The working group also recommended that "there should be a fundamental review of the definition of a Lloyd's broker and the nature of the regulatory relationship between Lloyd's and its brokers." There are many suggestions for widening the scope of a Lloyd's broker—such as allowing overseas subsidiaries of Lloyd's brokers to deal directly with the market rather than channel

placements through the London-based broker.

There are many suggestions, too, for changes in regulation, such as "the end of Lloyd's regulation of brokers." Two other working groups will be looking at these possibilities over the next few months.

Meanwhile, the role of the Lloyd's broker is the focus of an unusual case now heading for trial.

Gooda Walker members led by Michael Deeny filed suit against underwriters Derek Walker and Andrew Goodier and four brokerages, seeking unspecified damages for the allegedly improper placement of time-and-distance reinsurance policies.

The brokerages are Willis Corroon Ltd. and its now dormant sister company Stewart Wrightson International Group Ltd.; Heath Re (Broking) Ltd. and its sister company C.E. Heath (Insurance Broking) Ltd.

Willis Corroon will defend the action "very vigorously," a Willis Corroon spokeswoman said.

The plaintiffs are alleging breach of duty and/or conspiracy in placing time-and-distance reinsurance policies for syndicates 164, 290 and 727 with Pinnacle Reinsurance Co. Ltd. They allege that the brokers in particular breached their fiduciary and statutory duties in "failing to report" Mr. Walker's alleged misconduct to Lloyd's or "any other suitable person or authority."

The time-and-distance policies were the subject of a special investigation of improper accounting done by G.W. Run-Off Ltd. on the syndicates (BI, April 13, 1992).

Appraisers

Continued from previous page

damages, but he reduced them by the amount he estimated was attributable to the fall in the market value.

Eagle Star then appealed the decision.

In overturning Justice Phillips' decision, the appeal court judges said that under breach of contract, the plaintiff should be placed in the same situation as if the contract had been performed. In a tort case, the plaintiff should be placed in the same position as if it had not sustained a loss.

"Since the crash in the property market in the early 1990s, numerous property loans have gone into default. This judgment will allow property lenders to recover loss occasioned by the fall in the market from negligent professional advisers and will go some way toward compensating them for the massive losses many have sustained as a result of plummeting property values," said Myfanwy Badge of Lovell White Durrant, who acted for Eagle Star in the appeal.

Brokers and insurers agree that the decision will mean that the value of claims brought against real estate appraisers will now increase, and insurers will have to pay out more to settle.

They also say, though, that the ruling should not significantly affect professional liability rates for active appraisers who are not the target of many lawsuits.

"This decision obviously has big implications. There are a lot of reserves already set aside for such claims. But it's too much of a supply and demand market at the moment for it to hit rates. It's a soft market at the moment, and those with increased fees especially have seen reductions of up to 30% this year," said David Howden, managing director of specialty broker Howden Pangborne.

Mr. Howden said that for those companies without old claims, the market looks "pretty good" and there is plenty of capacity available.

"There will be an increase in the (value of the) claims already ongoing, but I would not expect a great increase in the volume of new

claims," said Ruth Fish, claims manager at the specialty broker Royal Institute of Chartered Surveyors Insurance Services Ltd.

"It's difficult to predict the impact of the decision in the long run, as it may well go to appeal. But one can certainly say it's a decision against (appraisers). From (an appraiser's) point of view, it's not good, but I'm not sure whether it will bring more claims against them," said Jeremy Mortimer, underwriter with Lloyd's of London syndicate 657, the market's leading syndicate for appraisers' liability coverage.

The Court of Appeal has granted the defendants' permission to appeal to the House of Lords, but it is unclear whether such an appeal will be made.

John D. Wood was not represented in court last week because in February 1994, it was forced into liquidation by a deluge of negligence claims from other lenders following the lower court ruling.

Stephen Hook, a Coopers & Lybrand partner who is carrying out the agency's liquidation, said that no appeal will be made by John D. Wood because the company has no funds. "The only asset that John D. Wood has is its liability insurance, and so its insurers are fighting the case," said Mr. Hook. He refused to detail the coverage or identify the insurers.

Graham Stanton, managing director of John D. Wood International, an ongoing and legally separate entity, said that Sun Alliance & London P.L.C. had backed the defense to the appeal court in its role as Wood's excess insurer.

Mr. Stanton said that the immediate cause for the company's liquidation was the decision by Zurich Insurance Co. Ltd., its primary liability insurer, to "withdraw" its coverage in the face of the mountain of claims against it.

Zurich Insurance refused to comment on its role. Sun Alliance was equally tight-lipped.

"The outcome of the appeal came as no surprise to us, and all other matters are confidential to us and the client," said a spokeswoman for Sun Alliance.

An appeal could still be lodged, though, by representatives of five other defendants whose cases were added to this one.

Violence

Continued from previous page

ture of Northern Ireland rather than the cancellation of the goal are thought to be the cause.

After nearby Irish fans and non-violent English fans escaped the hooligans, the hardcore group of about 200, situated in an upper tier of the Landsdowne Road stadium, then ripped out benches and brackets and threw them at the Irish fans and police below.

The Irish police appeared to react slowly, giving the hooligans free rein for up to half an hour. Eventually, after baton charges, the police managed to quell the trouble. About 40 arrests were made for various public order offenses.

The FAI spokesman said that no claims have been made yet by injured fans but that talks had already been held with Endea

McGuill Ltd. of Dundalk, the association's broker, and FAI's property and liability insurer, Generali Assicurazioni S.p.A. of Trieste, Italy.

"We have full public liability coverage and have already had talks with our broker and insurers," said Louis Kilcoyne, president of the FAI.

Endea McGuill, managing director of the brokerage, refused to discuss the coverage but did say that no personal injury claims had been filed. Harold Wrixon, general manager at Generali, would not comment.

A spokesman for Landsdowne Rugby Football Union, which owns Landsdowne Road, the stadium, at which the game was held and rents it to the FAI, said that it accepted no responsibility for damage or injuries. He said the FAI was responsible for assessing damages and paying for repairs. The FAI has no assessment of the property damage

yet.

Historically, soccer hooliganism has plagued primarily England, though it has spread recently.

Personal injury claims are rare following disturbances at soccer games in the United Kingdom because, as one leading Lloyd's sports broker said, usually the only people to get hurt are the thugs themselves.

The broker said that because these injuries occurred to innocent parties, claims are more likely than usual. He also suggested that if claims are made it is possible that they may be made directly against the Irish police, or passed onto the police by the FAI, for failing to prevent the trouble and failing to react swiftly enough once it commenced.

A Irish police spokesman said no claims are expected. He added that he would not comment on the cause of the disturbances pending an internal police investigation.

—By Adrian Ladbury

Germany

Continued from previous page

curred damage," said BASF Risk Manager Karl-Heinz Jaeger. "We paid back in premiums one of the largest losses in our history within a two-year period," he said, referring to a \$260 million fire in Antwerp in 1989 (BI, April 10, 1989).

Adding insult to injury, commercial policyholders say insurers have been half-hearted in pushing through property rate increases to all commercial sectors.

"Rates for Germany's very large risks have increased more than in other sectors," according to Mr. Jaeger. "Large and middle-sized companies have yet to see substantial increases."

Mr. Jaeger blames German rate-setting consortia for the inequity.

Underwriting committees of insurers and reinsurers called KOKOs make final rate determinations on individual risks with insured values of at least 1 billion DM (\$680.3 million). The KOKOs in 1993 raised rates as much as 300% on large commercial property and business interruption risks. In contrast, rates for smaller

property risks rose an average of only 14% in 1993.

Rates remained hard through most of 1994 until German companies like Siemens started to place their coverage outside the market to get reduced prices.

"Large risks are paying for the rest," Mr. Jaeger said. "And a good safety record makes no difference. BASF saw its own premium soar 200% and was only able to reduce its insurance premium with a substantial self-retention."

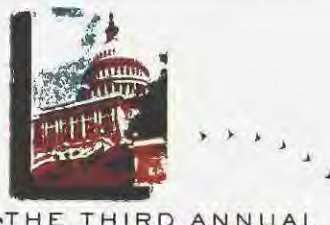
But a cartel remains a cartel only as long as it's closed, Mr. Jaeger said. "As long as there's no alternative, KOKOs are powerful. But that has changed. In the past, BASF couldn't find enough global property capacity to cover a risk of 2.2 billion DM (\$1.49 billion)."

KOKOs are exempt from European Union Single Insurance Market legislation which requires free market trading across borders.

Mr. Jaeger said an increase in global property/casualty capacity has given buyers new leverage in negotiating rates.

German insurers admit to problems in negotiating rates. In January, Gerling nearly lost the lead of a major commercial property account to its British competi-

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INTERNATIONAL

London reinsurers report better results

By ADRIAN LADBURY

LONDON—After several years marked by high publicity bankruptcies and losses, the London company reinsurance market appears to be moving toward a more profitable period, according to 1993 statistics published last week by the London Insurance & Reinsurance Market Assn.

The market's much improved underwriting result in 1993 follows a retreat from U.S. business. The London companies underwrote fewer U.S. premiums in 1993 compared with 1992, with most of the reduction blamed on less direct property proportional treaty business.

Total gross premiums underwritten by LIRMA companies also fell slightly between 1992 and 1993, declining 1% to £2.98 billion (\$4.41 billion at year-end 1993 exchange rate) from £3.02 billion (\$4.57 billion at year-end 1992 exchange rate). LIRMA expressed surprise at the slight decline in a period of rising rates but pointed out that premiums have grown steadily since 1989, when they stood at £2.26 billion (\$3.65 billion at year-end 1989 exchange rate).

The market association also said that premium volume held up well over the period considering the loss of such major companies in 1993 as NW Reinsurance Corp. Ltd and NRG Victory Reinsurance Co. Ltd. Other companies have picked up the slack as the market moves toward bigger and better capitalized units, according to LIRMA.

Rising rates and an improvement in underlying claims for most

classes between 1992 and 1993 were reflected in a much improved underwriting ratio. The LIRMA member companies reported that the ratio of claims paid, expenses and commissions, and the balance of outstanding claims brought forward from the previous year and outstanding claims carried over into the next year, to gross written premiums for 1993 was 138%, compared with 165.3% in 1992. The ratio, after retrocessions, improved to 118.4% from 137.8%.

"The improvement is a reflection of the improvement in the underlying business results and improved rating," said Stephen Riley, chairman of LIRMA's statistics subcommittee and deputy general manager of non-life at Swiss Reinsurance Co. (UK) Ltd.

"I would expect the improvement to continue in most lines into 1994," he added.

Premiums ceded by LIRMA members in the form of retrocessions fell by more than 8% in 1993, as hunger for that business in Lloyd's of London and elsewhere fell away on the back of horrendous losses caused by the London market excess-of-loss spiral. In 1993, the LIRMA companies ceded 29.1% of their premiums, compared with 37.3% the year before.

Proportional treaties were out of favor in 1993, while facultative reinsurance was in.

Global proportional treaty business fell 8.1% to £760 million (\$1.12 billion) in 1993 from £827 million (\$1.25 billion) in 1992. Non-proportional treaty business picked up some of the slack, increasing 2.7%

to £1.1 billion (\$1.63 billion) from £1.07 billion (\$1.62 billion).

The lion's share of the drop in proportional treaty business among London reinsurers came from a loss of U.S. business. U.S. proportional gross premiums written fell 21.4% to £117 million (\$173.2 million) in 1993 from £147 million (\$222.7 million) in 1992.

Facultative business increased 30% between 1992 and 1993, but from a relatively small base, rising to £426 million (\$630.5 million) in 1993 from £327 million (\$495.4 million) a year earlier.

Of that increase, 91% came from countries outside of the United Kingdom, United States and Europe.

Mr. Riley said that rate increases, higher deductibles, tougher underwriting policies and a transfer to excess-of-loss policies had probably led to the drop in proportional treaty business.

"The fall in direct proportional treaty business is a reflection of the difficulty of placing treaty business which was itself a reflection of the dire underlying results. A number of parties concluded that excess of loss arrangements were necessary. It is also a reflection of a certain degree of rewriting of the business," said Mr. Riley.

U.S. companies certainly bought more non-proportional coverage in London as they could find less appetite in the market for the propor-

tional treaties, according to LIRMA. In 1993, gross premiums paid for non-proportional business were £321 million (\$475.1 million), compared with £311 million (\$471.2 million) in 1992.

Mr. Riley suggested that the main reason for the transfer of business to excess-of-loss reinsurance is explained by the reinsurers' belief that exposures are more easily controlled under non-proportional treaties.

But the fall in U.S. business may shift away from proportional treaties should not be overemphasized, according to LIRMA.

"It's all part of the cycle" said Mr. Riley. "People are always talking about the loss of U.S. business."

Between 1989 and 1993, gross premiums earned by LIRMA companies in the United States have decreased to 18.7% of the total from 20.6%. **[B]**

Mine explosion cause under review

PORT MORESBY, Papua New Guinea—The Papua New Guinea government is reviewing a report by the Department of Mining and Petroleum that blames an explosives company for the explosions and subsequent fires at a mine last year.

The blast at the Porgera mine killed 11 men and shut down the mine for nearly two weeks (BI, Aug. 15, 1994).

Criminal charges being brought in Papua New Guinea against five executives of Dyno-Wesfarmers Ltd. A hearing set for earlier this month was postponed until after the government's review is completed, ac-

cording to Brian Martin, chief operating officer of the Sydney, Australia-based Dyno-Wesfarmers.

Mr. Martin said Dyno-Wesfarmers applied for the government review in a filing with the National Court in Port Moresby on Feb. 10.

Bill Garson, Dyno-Wesfarmers' chief executive, said the review will allow the company to answer all allegations against it. A "full and open" review is required, he said.

Mr. Martin said Dyno-Wesfarmers had still not been officially advised of details of the charges laid against its executives.

—By Kate Tilley

Germany

Continued from previous page
tor Sun Alliance Group P.L.C. and demonstrated its own flexibility with a lower bid.

Mr. Nowak said individual risk assessment is needed and he doubts KOKOs will outlast the century. "They are important and provide market continuity. But if you ask me how the market looks in five years, I'd say they won't be here," he said.

German reinsurers say could accept the demise of KOKOs.

"Should insurers abandon them, we'd go along" said Wilhelm Zeller, executive board member of Cologne Reinsurance Co. of Cologne, Germany.

"But there's a dark side" to the elimination of KOKOs, the Cologne Re executive warned. "KOKOs are a good instrument for keeping tabs on accumulation (of exposures). They channel retrocessions and come up with reinsurance capacity."

But, Mr. Zeller acknowledged

that individual risk assessment has its place in a new German market. "As long as the rates are raised for poor risks, I have nothing against individual risk assessment."

"In Germany, we need 5 billion DM (\$3.39 billion) premium to cover industrial risks," Mr. Zeller estimated. "At long as insurers reach that goal, it makes no difference how they do it."

Mr. Zeller also warned that wide-spread individual risk assessment would likely burden large and middle-sized risks more than larger companies.

"There is the danger that some risks or segments of industry will be excluded altogether" based on their loss experience, said Mr. Zeller.

For those risks, property loss control will play a key role, said Mr. Nowak of Gerling.

"The future of industrial insurance, including the question of sufficient capacity, depends on adequate premiums and higher assessment of safety management." **[B]**

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SERFF

Continued from page 2

with the paper and allows a regulator to reclaim some of the time spent filing and searching the filings and the space they currently use for filing. The system also offers computer-aided analysis of filings to perform basic reviews and allows departmental rate and form analysts to concentrate on key changes, he said.

Such advances should help state insurance regulators improve work flow management and efficiency and provide more detailed information to the public.

And, SERFF will help insurers improve the quality of their findings, according to Mr. Long.

"From the industry's perspective, SERFF will bring about a high degree of uniformity and consistency in the rate and form filing process," Mr. Long said in a prepared presentation on the system.

"Insurers are very enthusiastic

about SERFF," in which they would participate voluntarily, said William Price, senior counsel with the American Insurance Assn. in Washington.

"The industry has not spent any money to fund SERFF to date," he said.

Discussions continue about how best to fund the program. One option calls for the NAIC to impose a new transmittal fee for each rate or form an insurer files electronically using SERFF, which would be in addition to the filing fee insurance departments now charge.

However, individual states will still have control over rate and form filings, he stressed.

"We will use the technology, most likely at the NAIC, to turn this uniform filing into the unique filings required by each state," Mr. Long said.

"The SERFF computer system will contain 'business rules' by state, documenting exact state requirements for each filing by line of insurance. Each time a company indicates they plan to make

a filing in a particular state, the computer will access that state's 'business rules' and turn the uniform filing that the company made into the state specific filing," he said.

That, coupled with improved turnaround time at insurance departments, allows the NAIC to an-

Consumers could also benefit from quicker access to new products and data.

It may even be possible for insurance regulators to designate a public use terminal so consumers could access pricing and product information electronically, Mr. Long said.

What insurance regulators call a revolutionary system will make the cumbersome rate and form filing process more uniform, consistent and efficient.

ticipate "an overall reduction in the average national approval time by some 50%, or more," Mr. Long said.

As a result, insurers should be able to get new products into the marketplace sooner, thereby lowering expenses and increasing efficiency.

Consumers could also benefit from insurers' SERFF-related savings if the insurers pass that reduction on to them.

The NAIC has been working on SERFF since 1992.

Early work included a pilot electronic mail system between regulators and insurers that was

"highly successful," Mr. Long said.

The NAIC has worked with several industry volunteers to design the project, including adoption of a long-range plan.

In 1993, NAIC planners outlined the goals and objectives of SERFF and included the project as one of eight key goals in its five-year strategic plan.

Last year, the NAIC concentrated on starting to make SERFF a reality, by assigning staff members to work on it. They also adopted a timetable.

According to that timetable, SERFF is ahead of schedule, Ms. Musser said.

The NAIC is in the design phase now. Construction, testing and initial release are set to occur sometime within the next 18 to 24 months.

The NAIC is currently seeking a business partner to write the SERFF program and provide development capital to get the program up and running, the AIA's Mr. Price said. **BI**

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Planning

Continued from page 1

versary of the Northridge quake near Los Angeles, provided a wake-up call for many businesses.

The two major quakes also have provided a wealth of information to seismologists, building engineers and loss control specialists worldwide. In fact, the Kobe quake provided scientists who were in nearby Osaka at the time for the 4th annual U.S.-Japan Workshop on Urban Earthquake Hazards Reduction a rare laboratory situation.

"We learn after every disaster," observed Janet Grenslitt, vp of disaster preparedness for Risk Pro Associates, a consulting firm in Concord, Calif.

"Ever since Northridge, there's been a surge in interest. Kobe helped continue that surge," said Richard Clinton, vp of EQECAT Inc., a joint venture of EQE International and Guy Carpenter & Co. Inc. that provides catastrophe management services to the financial services industry. "The key is to make everyone aware of the risk and (to ensure) that they're taking appropriate actions."

For example, disaster planning workshops conducted for Pacific Bell Telephone Co. customers typically attracted only managers who were particularly interested in earthquake recovery.

"But after the Northridge quake, more were assigned to attend by their companies," said Judy Bell, president of Port Hueneme, Calif.-based Disaster Survival Planning Inc., which conducts the workshops.

Even companies from outside California are becoming more interested in the planning services. And a shift from orders for books about disaster planning to demand for specific planning products indicates that companies are moving from thinking about disaster planning to actually doing it, said Ms. Bell.

Disaster preparedness is nothing new in California. With the 1991 passage of S.B. 198, which requires companies with 10 or more employees to have written workplace safety programs, employers in the most seismically active U.S. jurisdiction are far ahead of businesses in other parts of the country. California companies also received some stark reminders about preparedness in the form of the 1994 Northridge and 1989 Loma Prieta quakes.

However, in the fertile heartland surrounding the New Madrid fault, which follows the Mississippi River from Arkansas to Illinois, consultants say few companies are preparing for the risk of a quake—even though the odds of a major quake there increase every year.

Between December 1811 and February 1812, four quakes measuring greater than 8.0 on the Richter scale struck along the New Madrid fault, reportedly ringing church bells as far away as Boston. Liquefaction from the ground shaking turned the soil into quicksand.

But simply following California's lead by strengthening building codes may not be enough, disaster planning experts warn. In fact, the Northridge and Kobe quakes have taught engineers that even so-called earthquake-resistant buildings are not immune from structural damage.

Realizing this, the Los Angeles City Council last week unanimously approved an ordinance that will require the owners of welded steel moment-frame buildings thought to have been damaged by the quake to be reinspected and retrofitted, if necessary (BI, June 6, 1994).

more than \$10 billion in Northridge property damage claims, will probably bear the brunt of added inspection and repair costs.

"Being built to code doesn't mean you won't have a big insurance claim," asserts Hemant Shah, senior vp at Risk Management Solutions Inc., a computer modeling and catastrophe consulting firm based in San Francisco.

Building codes are only designed to ensure that people will be safer, he explained. "If you want to make sure you're fully operational, it's a whole different ballgame."

"In the past, companies saw natural catastrophes as a generic thing solved either by buying insurance or by retrofitting," Mr. Shah said. "But now they realize it's more complicated than that."

In fact, many companies are finding it necessary to retrofit their buildings or assume larger deductibles just to renew earthquake coverage, according to Ben Beasley, senior vp of Tri-City Brokerage Inc. in Universal City, Calif.

"The marketplace is still there for national accounts, but not for the medium-to-small regional accounts," he said.

And for those companies that are able to renew, many insurers are strictly adhering to the IRAS catastrophe modeling system developed by Risk Management Solutions to underwrite the risks at prices that in some cases are more than 10 times pre-Northridge rates, Mr. Beasley said.

As the earthquake insurance market continues to tighten, loss control experts are advising companies to conduct hazard vulnerability studies to determine what non-structural property should be protected.

For example, a company that recognizes the futility of shoring up an old building may decide to only purchase coverage on vital pieces of equipment that may be damaged in a quake, Mr. Shah explained.

Both recent quakes—though especially the Jan. 17 quake that devastated the port at Kobe (BI, Jan. 30)—taught emergency preparedness experts yet another crucial lesson: that sometimes it's not enough for a company to physically survive if it is cut off from its suppliers or customers.

"You've got to take a look at the whole picture of risk in your immediate economic community," said Ms. Grenslitt. "Even if you're insured, if the rest of the area isn't, your business may falter."

Indeed, she asks, what customers would want to frequent shops in 17 blighted areas that the Los Angeles Housing Department designated "ghost towns" after the 1994 quake?

Sometimes disruption of transportation services can cost a company its competitive edge.

For example, quake-devastated freeways prevented suppliers of component parts from reaching Japanese auto manufacturers near Kobe.

"How confident are you that you will manage through a disaster better than your competitors?" asks Ms. Bell of Disaster Survival Planning. "Don't wait until after the disaster to answer this question," she wrote in a planning guide for businesses.

Many organizations believe that if they protect data processing systems, stock extra supplies, train employees on basic first-aid and try to minimize hazards, they have done all they can do to be prepared for a disaster.

They're wrong, experts say. Preparing contingency plans for computer failures, for example, is only one part of emergency preparedness according to Ms. Bell.

"It addresses protection of functions which are supported or performed by computers without encompassing the many other aspects of risk a business is exposed to," such as the inability to resume business after a disaster.

For example, when leasing space, companies should consider the consequences of a structure collapse or damage before choosing a site, she advises.

Companies should also consider the age and condition of buildings adjacent to the worksite, Ms. Bell adds. When a quake struck Whittier, Calif., in 1971, several businesses were destroyed when nearby buildings collapsed, she recalled.

A backup communications system also must be in place to ensure that various departments synchronize their disaster recovery efforts.

"In large organizations, efforts must be linked together at every level during the planning to ensure consistency," says Ms. Bell. "Otherwise, several groups will be relying on the same resources, causing chaos during the disaster."

Employers also should be aware of their increased liability should employees become injured because they are inadequately guarded from flying building contents, such as office equipment and machinery.

"Companies must be able to prove they have taken reasonable steps to protect their workers," Ms. Bell says. "Otherwise, settling employee claims may spell financial ruin."

According to Ms. Bell, disaster preparedness planning must be coordinated at five distinct organizational levels:

• Executive level.

The executive level identifies what policy issues should be addressed. It describes which key executives must make strategic decisions following a disaster. It also identifies the critical functions of the total organization, determining how to best use company resources to accomplish long-term business recovery.

• Department level.

This level describes what vital functions each department would have to perform in order to quickly reopen its doors for business. It defines initial action plans and steps needed to protect personnel who perform critical functions. It also determines the best way to assess damage to create a complete, accurate picture before additional resources are deployed.

• Emergency-center level.

The emergency-center level identifies the roles and responsibilities of everyone who will report to the center or centers the company establishes after the disaster. It defines what equipment and supplies are needed. Emergency information flows into and out of the center are planned, and procedures to track damages and prioritize restoration are developed.

• Location level.

This level identifies the members of the emergency response teams and documents critical site information regarding emergency response procedures for any kind of natural or man-made disaster. It also sets up administrative programs to identify and monitor emergency supplies at each site and is responsible for conducting regular drills and exercises, establishing shelters and designating first aid and casualty collection points.

• Work-group level.

This level ties together all of the planning that has gone on in the four other areas into meaningful information that each employee group will need immediately following the disaster. In the case of an earthquake or hurricane, where

communications are disrupted and employees will be cut off from all outside help, it provides each work group with the ability to function on its own for up to 72 hours. Locations of utilities, emergency supplies, alternate communications, key equipment and hazardous materials are identified. Critical skills and training are documented, as well as uniform ways to track damage and injury information.

At each of the five levels, there are three distinct planning phases, according to Ms. Bell:

In the first phase, documentation, one document may be prepared to cover all of the planning, or separate documents may be prepared for each level. The number of documents and their appropriate formats are determined by the size of the business and who will perform which functions after a disaster.

Each document should be prepared for the audience for which it is intended. Some will be planning documents only, while others will become vital for restoring services. The formats will vary, depending on their intended use.

In the second phase, implementation, employees need to learn the plans spelled out in the documents. Everyone must understand what their own role will be. It is important to provide only that information which is pertinent to the group being addressed, without overburdening them with excess details.

Testing constitutes the final phase.

After everyone is prepared, the plan should be tested. Begin with simple exercises to test specific understanding, and build on each success in subsequent tests.

"The important point of the planning effort is to make sure it never stops," said Ms. Bell. "Each group within a business must be prepared, and, in turn, understand how it fits in with everyone else."

To achieve that goal, Judith Tornese, risk manager for San Francisco-based Transamerica Corp., is integrating her organization's "Business Recovery Action Plan."

When it is completed, the plan will cover how Transamerica can operate its diverse financial services business when it has no access to its famous pyramid-shaped corporate headquarters.

"Each department has identified its critical functions and established backup procedures," explained Ms. Tornese.

For example, the risk management department has identified its staffing requirements, the furniture and equipment required, the software applications and records required and key customer and vendor/supplier contacts.

All of this information has been assembled in a chart-like format with assessments at key intervals, such as 24 hours after the event, two days after the event, five days after the event, and so on, until full recovery has been achieved.

Other departments at Transamerica have similar plans, and Ms. Tornese's current task is to integrate each department's plan into one, creating a complete picture of the organization's critical functions and needs at each interval.

Working with Sedgwick James of California Inc., Ms. Tornese so far has developed a recovery plan that identifies specific recovery steps to be taken by the risk management, information systems and administrative services departments.

For example, after two days, the risk management department will advise Transamerica units of whether relocation is necessary based on a property damage assessment. The department also is responsible for reporting losses to insurers and reviewing the company's coverage. At the same time, administrative services will acquire necessary furniture and supplies, assign temporary working space and make sure backup telecommunications systems are up and running.

All of the risk management department's duties during disaster response can be conducted from home, since the key personnel are equipped with home computers and cellular phones, according to Ms. Tornese. **BI**

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Preparation

Continued from page 1

will communicate with each other and the public if regular communication lines are inoperable; and develop mutual aid agreements with surrounding communities and other area resources.

Most importantly, experts say, earthquake preparedness should be an ongoing activity, incorporating, for instance, lessons learned from the recent earthquakes in Kobe, Japan, and Northridge, Calif.

Mitigating damage from earthquakes requires a careful assessment of both structural and non-structural damage risks and an application of basic loss prevention techniques (BI, June 6, 1994).

Retrofitting to strengthen buildings can be too expensive for many governments. With budgets constraints, many do make non-structural changes such as securing bookcases and other heavy items to walls and computers to desks.

And, all public entities should have an emergency operations plan, experts agree.

Santa Monica, Calif., which sustained extensive damage from the January 1994 Northridge earthquake, has an elaborate emergency operations plan, said Tom Phillips, risk manager for the city.

Under the plan, in the event of a disaster an emergency operations center responsible for directing the city's resources is activated in the basement of the police station.

The center has four branches and is staffed by city workers with expertise in each area:

- An operations branch, which coordinates field personnel and mutual aid agreements with other public entities.
- A planning branch, which evaluates the current status of the emergency situation.
- A finance branch, which documents the costs of supplies, equipment and labor used during the disaster response period.
- A logistics branch, which makes sure that supplies get to where they are needed.

Santa Monica's emergency operations plan also includes information on where key personnel live and their home telephone numbers.

Despite the comprehensiveness of Santa Monica's emergency operations plan, however, several shortcomings became apparent following the Northridge earthquake.

For example, said Mr. Phillips, while staff with emergency services responsibilities could be reached and knew what to do following the earthquake, average city workers did not.

As a result, Santa Monica has instituted a central telephone number for non-emergency staff to call in the event of a disaster to see

if they are needed for support functions.

Even the best plans, though, can be hampered by an inability to come to work because of broken bridges, roads and tunnels following an earthquake.

Realizing this, the city of Charleston, S.C., has identified alternative evacuation routes for city workers to get to or from work in the event of an emergency, said Danny Molony, risk manager for the city.

If buildings cannot be used for emergency operations, large open areas can, pointed out John Britt, risk manager for the city of Memphis, Tenn. Memphis has identified several easily accessible, large open areas that could be used for emergency shelters after an earthquake.

One of the top priorities for public entities following an earthquake is to assess damage to hospitals and other essential service facilities, advised Rick Roman, a liaison at the Central United

in a collapsed garage and at least some of it should be accessible, said Mr. Molony.

The Bi-State Development Commission, a transportation authority in the St. Louis area, has taken a similar route.

The agency keeps its 650 buses in three garages—one in Illinois and two in Missouri—to minimize potential damage to the whole fleet, said Craig Macdonald, director of risk management.

And, the commission has a contingency fleet of older buses that are not appropriate for everyday use but could be used in an emergency.

Public entities also should have on hand cameras and video equipment to document damage, advised Mr. Phillips. He explained that the Federal Emergency Management Agency requires extensive documentation of damage to receive federal assistance; FEMA also requires detailed information on damaged facilities, such as total square footage, replacement costs

police, fire, public works, parks and risk management.

However, cellular telephone users should be aware that the batteries for the phones often have only enough power for about three hours of continuous conversation, warned Fred H. Cate, an associate professor of law who specializes in communications at Indiana University in Bloomington, Ind. People depending on cellular telephones for emergency use should have plenty of extra batteries, he advised.

Emergency back-up communications equipment also can be useful for public entities, Mr. Cate said. To cut costs, this costly equipment is often rented rather than purchased outright.

For example, many telecommunications companies lease a high technology communications system that consists of a flatbed truck with a satellite dish, a cellular telephone node and switching equipment for local telephone service, he said.

"This isn't always a matter of you have to own it; it's a matter of you have to have thought of it in advance," he said.

Communication between public officials and the public itself is also essential following an earthquake.

One of the mistakes Santa Monica made following the Northridge earthquake was not having a central point for the dissemination of all damage assessment information, Mr. Phillips observed.

Depending on who was asked and what kind of information was requested, there were widely varying reports of damage and injuries following the earthquake, he continued.

Mr. Cate said that one of the newest and potentially most helpful means of communication following an earthquake is the Internet—a network of computer networks that are connected by telephone lines, satellite communications, fiber optic connections and direct lines.

If telephone service is disrupted, messages can be relayed to computer users via the Internet through a variety of other means.

Many universities, governments and large companies have access to the Internet.

"In past disasters, we've seen ham radio operators play this same role," Mr. Cate said.

When telephone service would not work following the Kobe earthquake, the Internet was the principal means of getting information out about the situation in the area, Mr. Cate said.

For example, Kobe City University, which is hooked up to the Internet, sent information to Sony Corp. in Tokyo, which in turn relayed the information to numerous other sources, according to Mr. Cate.

Public entities could contact lo-

cal universities and large area employers to see if they are hooked up to the Internet, he said.

One mistake public entities make is planning for only the first few days or weeks following an earthquake.

They also should map out their approach to the ensuing recovery and rebuilding period, several experts said.

Santa Monica officials had no plans in place to cover rebuilding following the Northridge quake. To speed up recovery, the city did set up an expedited rebuilding permit process.

Also, people asked whether buildings that were damaged in the earthquake had to be rebuilt to standards in effect at the time the building was constructed or to current, more stringent standards.

Santa Monica, which had not previously addressed the issue, developed a staggered trigger point for rebuilding standards, Mr. Phillips explained. Under the plan, the more extensively the building is damaged, the more stringent the rebuilding requirements. **BI**

EPA seeks fines topping \$1 million from oil giants

WASHINGTON—The Environmental Protection Agency is seeking more than \$1.5 million from four major oil companies which it says polluted or failed to properly monitor their discharges in Alaska's Cook Inlet.

The four companies have contacted the EPA to request hearings to contest the complaint.

The penalties proposed vary with each company.

According to EPA guidelines: Unocal Corp. of Los Angeles should pay \$799,800; Marathon Oil Co., a unit of CSX Corp. of Pittsburgh, should pay \$526,100; Shell Western E&P Inc., which is ultimately owned by Royal Dutch/Shell Group should pay \$101,500; and Phillips Petroleum Co. of Bartlesville, Okla., should pay \$99,200.

The EPA alleges that the companies either discharged wastewater in excess of allowable pollutant limits or failed to meet other terms of the permit, such as taking samples at required intervals.

"Pollutants in the facilities' discharges may include carcinogens such as benzene, which may have detrimental effects on the Cook Inlet environment. The inlet is important for the migration of anadromous fish, and is a body or water used extensively by both commercial and sport fishermen," the agency said in a statement.

—By Gavin Souter

Above all, earthquake preparedness must be an ongoing process, incorporating, for example, the lessons of the devastating Kobe and Northridge quakes.

States Earthquake Consortium in Memphis, Tenn. He advises public entities to prepare lists of trained structural engineers who can immediately be deployed to inspect these facilities.

Public entities also should take measures to ensure that local water is drinkable following a quake and have plans in place for water distribution sites in case it is not, he said.

An essential part of any emergency operations plan is having easily accessible emergency equipment and back-up supplies, according to experts.

The city of Memphis has equipped all essential facilities, such as police and fire departments, with back-up power generators, noted Mr. Britt. Memphis also has alternate sites with back-up repeaters for its 911 emergency system, he added.

Experts accepted as a given that police, fire and emergency medical equipment should always be ready to be used; many experts also noted that often police and fire stations are built to withstand collapse so the equipment should nearly always be accessible.

But that's not necessarily true for other equipment.

Charleston keeps heavy equipment that it would need right after a quake, such as dump trucks, earth movers and backhoes, in two different open lots. That way, equipment would not be trapped

and the cost of running emergency response operations.

Even if a public entity has comprehensive plans and lots of back-up equipment, though, it still would probably need to call on outsiders to help cope with the aftermath of a major quake.

"We're very dependent in Memphis on outside agencies in the event of an emergency," admitted Mr. Britt. He said that in the event of a major earthquake, Memphis would depend on FEMA, the Red Cross, the National Guard, a mutual aid pact with the city of Nashville, Tenn., and a U.S. Navy base near the city for assistance.

Santa Monica has agreements with local aviation companies to act as a sort of volunteer air brigade to fly in staff and supplies following a disaster, Mr. Phillips noted. The service was not needed after the Northridge earthquake.

Communication between public officials and emergency response personnel is one of the keys to an effective earthquake response program.

Because telephone lines are especially vulnerable to damage during an earthquake, many public entities equip essential personnel with emergency cellular telephones.

Mr. Britt of Memphis said all essential staff of city agencies with emergency services carry cellular telephones and pagers with them at all times; these agencies include

motion for preliminary settlement, but this is not the first time a national class action settlement has been decided in state court."

The settlement stems from thousands of negligence, fraud and breach of warranty lawsuits that were filed against Shell, Hoechst-Celanese and DuPont over leaky polybutylene piping. When the accord was announced last year, it was labeled the largest settlement involving consumer-related property damage.

"We think the settlement is fundamentally sound. The groundwork for an agreement is still in place. We may just have to take it to a federal court or another state court or even try limited class ac-

tions in specific states," said John Kane, an attorney with Wilmington, Del.-based DuPont.

"We're going to go forward with this. We thought we had a solution to a large problem. Although the judge said several times in open court that she thought there might be jurisdictional problems, we believed she could have approved this because there are other state courts that have," said Mr. Kane.

Shell and Hoechst-Celanese would only say that they were disappointed in Judge Kennedy's decision and are assessing their options.

If and when a settlement agreement is reached between plain-

tiffs and the three defendant companies, it is unclear to what extent insurance will play a role in backing up each defendant's share of liability.

DuPont's Mr. Kane said the company is discussing coverage issues with a number of its liability insurers.

Meanwhile, both Hoechst-Celanese and Shell are suing dozens of insurers over coverage for the piping claims.

Prior to the announcement of the settlement agreement in October, Continental Insurance Co., now part of CNA Financial Corp., and Aetna Casualty & Surety Co., had settled with Hoechst-Celanese. **BI**

Pipes

Continued from page 2

motion for trial certification, asking the judge for clarification or appealing her ruling to the Court of Civil Appeals here in Texas. We could also dismiss the case and move it to another jurisdiction—possibly a U.S. District Court or another state. Right now, we don't know," said Skip Warren, an attorney with the Houston law firm of Caddell & Conwell, which represents the class of claimants.

Mr. Warren said the parties to the settlement were somewhat perplexed by Judge Kennedy's ruling. "She simply denied our

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House vote

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next few days. Earlier bills sponsored by the senators died in filibusters (BI, July 4, 1994).

During the House product liability debate, the differences were once again stark between Rep. Henry Hyde, R-Ill., and his predecessor as chairman of the House Judiciary Committee, Rep. Jack Brooks, D-Texas, who lost his reelection bid in November after 42 years in Congress.

While Rep. Brooks kept product liability reform off the committee's agenda, Rep. Hyde declared: "We're for change and we get to decide what's important and we think this is."

"This" is H.R. 956, the Common Sense Legal Standards Act, which was originally drawn from the House Republican leaders' "Contract with America."

But it would go beyond the contract proposal by limiting punitive damages to three times economic damages in most civil cases—or \$250,000, whichever is greater—not just in product liability actions. The bill would further curb punitive awards by requiring plaintiffs to prove that injuries were caused by conduct "intended to cause harm or manifesting a conscious, flagrant indifference to the rights of others."

H.R. 956 would also:

- Shield manufacturers from liability if an injured party was intoxicated and, as a result, was more than 50% responsible for the harm.
- Limit the product liability of most product sellers and allow either party in a suit to seek to have the question of punitive damages considered only after economic

damages have been set.

- End joint liability for non-economic damages, meaning defendants could not be held liable for noneconomic damages attributed to other defendants.

- Prohibit all product liability suits after particular products are 15 years old. The bill specifically notes that this would not override the 18-year statute of repose on small aircraft in the General Aviation Revitalization Act of 1994.

The Judiciary Committee gave its approval to H.R. 956 on a 21-11 vote, with Rep. Rick Boucher, D-Va., joining all the Republicans in support of the measure.

The bill the Commerce Committee approved—H.R. 917, the Common Sense Product Liability Reform Act—covers much of the same ground.

It, too, would create a 15-year statute of repose for products, remove joint liability for non-economic damages, allow parties to seek separate consideration of compensatory and punitive damages, and make manufacturers immune from liability if injured parties were intoxicated and more than 50% responsible for any harm.

But it does differ from the Judiciary Committee proposal in two ways. It would add another defense, making manufacturers and sellers of medical devices immune from liability suits if their goods had been approved by the Food & Drug Administration. And the Commerce Committee bill would not extend the caps on punitive damages to non-product liability cases.

When the Commerce Committee began considering its measure, it was clear that some Republicans were upset that the Judiciary Committee had beaten them to the

punch.

But the intraparty jurisdictional wrangling was no match for the partisan bickering over H.R. 917.

First, Rep. John Dingell, D-Mich., who cosponsored a separate product liability bill in 1993, accused the Republicans of trying to railroad the bill through committee without adequate debate.

The former committee chairman, who had a reputation of his own for pushing favored bills through with little or no debate, repeatedly assured Rep. Bliley that he was "not trying to delay the process" but rather trying to ascertain exactly what he was being asked to vote upon.

In the end, however, Reps. Dingell, Boucher and Ralph Hall, D-Texas, joined the unanimous Republican majority and voted for the bill, which passed by a margin of 26-to-17.

In a related matter, the Judiciary Committee also approved a companion bill to the product liability measure, H.R. 988, the Attorney Accountability Act of 1995.

The bill is a scaled back version of another "Contract with America" proposal.

For example, losers in certain federal civil cases would still be required to pay at least a portion of the winner's legal costs if a settlement offer had been rejected and a subsequent proceeding resulted in an award smaller than the settlement. But only costs incurred after the final offer is rejected could be recovered.

And a requirement that lawyers spell out exactly how much time they'd spent preparing a case and exactly what they'd done during that time was removed from the measure altogether. **BI**

Prepaid dental plan provider to be acquired by Emphesys

Markets

Emphesys Financial Group Inc. has reached an agreement to acquire Chicago-based dental health management organization TDC/The Dental Concern Ltd.

The closely held TDC provides prepaid dental plans to about 37,500 members in Illinois and northern Indiana and 5,000 members in the St. Louis area. The acquisition, which was made by Emphesys unit Employers Health Insurance Co., will bring the number of individuals covered by Emphesys' affiliated health plans to more than 526,000.

The acquisition is part of Green Bay, Wis.-based Emphesys' strategy of offering a range of employee benefit products to small employers.

Terms of the transaction, which is subject to regulatory approval and requires approval by TDC shareholders, were not disclosed.

RHH agribusiness unit

Rollins Hudig Hall is forming a new agribusiness unit.

The unit will be domiciled in Kansas City, Mo., and report to the Omaha office of RHH of Nebraska.

The agribusiness unit will offer specialized programs for grain elevators, grain and feed mills and related types of business such as seed and fertilizer operations.

Erwin Schrag Jr., senior vp of RHH of Missouri, will head the new agribusiness unit.

MMI buys insurer

MMI Cos. Inc. of Deerfield, Ill., and the American Hospital Assn. have agreed in principal to a transaction under which MMI will acquire all outstanding capital stock of Health Providers Insurance Co. from American Hospital Assn. Services Inc., an AHA subsidiary.

Terms of the transaction, which is expected to close in April, were not disclosed.

The AHA formed Illinois-domiciled HPIC and its wholly owned subsidiary HPIC of Vermont during the medical malpractice crisis of the 1970s to provide hospital professional liability insurance and reinsurance.

HPIC is licensed as an admitted carrier in three states and operates on a surplus lines basis in 30 states.

MMI plans to continue operating HPIC as a free-standing insuring entity, expanding HPIC's activity as a surplus lines carrier while continuing its focus on its historical book of reinsurance and excess insurance. **BI**

MMI is an international health care risk management company providing a wide range of products to help the health care industry manage risks associated with health care delivery.

HPIC will become MMI's fourth insurance subsidiary, along with American Continental Insurance Co., American Continental Life Insurance Co. and AmCon Reinsurance Inc.

Work comp TPA bought

Great States Administrators Inc., an FHP International Corp. claims administration subsidiary, has acquired the business and assets of CDS of Nevada, which is that state's largest workers compensation third-party administrator.

No details of the transaction were disclosed.

Fountain Valley, Calif.-based FHP International has 1.7 million members in its HMOs. It also operates a health and life indemnity insurer, a workers compensation insurer and a multistate preferred provider organization.

Larry Zimmerman will remain as president of the CDS of Nevada division of Great States Administrators.

Hartford Steam purchase

The Hartford Steam Boiler Inspection & Insurance Co. recently completed its acquisition of General Reinsurance Corp.'s 50% interest in Engineering Insurance Group.

EIG was a partnership of Hartford Steam Boiler and General Reformed in 1988 to provide machinery breakdown insurance to business and industry outside the United States and Canada.

New offices

AIG Credit Corp. of Canada, a wholly owned subsidiary of American International Group Inc. company A.I. Credit Corp., has opened a branch office in Montreal located at 2000 McGill College Ave., Bureau 1200, Montreal, Quebec H3A 3H3; 514-987-5325.

The College Construction Loan Insurance Assn. (Connie Lee) has relocated its headquarters to 1299 Pennsylvania Ave. N.W., Suite 800, Washington, D.C. 20004-2400; 202-835-0090. **BI**

Tobacco

Continued from page 2

could be assessed damages based on their market share, not based on what brand a particular person smoked, under the law.

The state puts its smoking-related Medicaid costs at \$1.2 billion over four years. The statute also may permit the state to seek triple damages.

"The state's lawsuit is fatally flawed," said Steven Parrish, senior vp and general counsel for Philip Morris Cos. Inc. in a statement. "It is based on an unconstitutional statute that was passed through the Legislature in an unconstitutional manner."

Before the Florida lawsuit was introduced, Philip Morris and R.J. Reynolds Tobacco Co. filed a petition with the Florida Supreme Court asking that the Agency for Health Care Administration and the Department of Business and Professional Regulation be barred from filing and maintaining the lawsuit.

Business and insurer groups are concerned that the Florida law may be applied to other industries that could be blamed for health problems paid by Medicaid. Nowhere does the statute mention tobacco companies by name, though state officials say the law will be used only against cigarette companies.

"We're concerned about the precedent the case sets," said Sam Miller, vp of the Florida Insurance Council. "The law opened the door to bring in any product that conceivably causes some sort of injury."

Outside the tobacco context, increased product liability exposure could cause commercial insurance rates in the state to rise dramatically, he noted.

A coalition led by Associated Industries of Florida, a big business group, will seek to have the law repealed once the Legislature convenes.

venes on March 7.

In addition, AIF, Philip Morris, Publix Supermarkets Inc. and the National Assn. of Convenience Stores filed a challenge to the law in court last June (BI, July 11, 1994).

"Anybody who sells a legal product should have the same defenses as anyone else," said Jon Shebel, AIF president and chief executive officer. "It's unconstitutional and it's un-American."

Although only a tiny fraction of AIF's 6,000 members are tobacco companies, rewriting the law to apply only to cigarette manufacturers is "not an alternative," Mr. Shebel said.

However, the lawsuit will continue even if the law is repealed, said Dexter Douglass, general counsel for Gov. Lawton Chiles.

He noted that a state court judge in Mississippi last week removed many of the same affirmative defenses as the Florida law, particularly that smokers knowingly assume the risks associated with smoking.

Mr. Douglass also reiterated that the law would be used only to collect reimbursement from tobacco companies.

"Tobacco is the only product that, when used as directed, makes you sick and kills you," Mr. Douglass said. "That's not true of alcohol; it's dangerous to misuse it. Beef contains no nicotine, nothing addictive. It contains protein, it's food."

Meanwhile, in New Orleans, U.S. District Court Judge Okla B. Jones II cited Robert Frost in certifying a class of "all nicotine-dependent smokers in the U.S."

"With this decision the court embarks on a road certainly less traveled, if ever taken at all," Judge Jones wrote.

The class also includes the heirs of deceased nicotine-dependent smokers, including children, spouses, relatives and "significant others."

With an estimated 50 million smokers in the United States, this would be the largest class action in U.S. history. The tobacco companies, which are currently weighing their options, have argued that the huge number would make any lawsuit unwieldy.

Tobacco companies did win a victory last week in a case being heard in an Indiana state court. The case was declared a mistrial after a jury was unable to reach a verdict in the smoking liability case.

The widow of Richard Rogers, a three-pack-a-day smoker who died of lung cancer in 1987, claimed that four tobacco companies caused her husband's addiction to nicotine. She will seek a new trial.

The state court trial was the first to argue that tobacco companies may have manipulated the amount of nicotine in cigarettes. **BI**

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Station

Continued from page 3

with liability limits still to be determined, Mr. Lopez said.

The program might also include design professionals errors and omissions insurance covering the architects and engineers on the project.

Mr. Lopez added that he has even considered some form of fine arts coverage for work on the barrel-vaulted sky ceiling, a huge mural of the constellations with the stars lighted from behind.

This is perhaps the least likely element of the program, though: While the ceiling is impressive and gives the station a "grandeur" that no other public facility has," Mr. Lopez said, "what's up there is not in the nature of the Sistine Chapel."

Once the MTA has set the insurance program's specifications, it will solicit bids from brokers for placing the coverage and providing a variety of administrative and other services, he explained.

The bids will be rated with a point system grading various parts of the proposals, with the scope and quality of a broker's services a key consideration. The broker's fees, assuming they are in line with other bids, will be the final item considered, Mr. Lopez said.

Following standard practice, the MTA will forbid brokers from actually obtaining quotes from insurers as part of the bidding process, he noted.

The agency will already have a

rough idea of what the insurance will cost, and the effect of several brokers going into the marketplace for quotes is to lock insurers into pricing levels, stifling competition once the winning broker actually brings the program to market, Mr. Lopez explained.

Given the fact that all of the work will be done while the terminal is in use, safety management will also be a big part of the program and would also be contracted out as part of the wrap-up, he said.

"Even faced with all the dire budget constraints from Washington, Albany and City Hall, we should be spending as much effort as possible to render a safe job," Mr. Lopez observed. "Risk management is not just insurance."

The job is not a small one: Following other work in recent years, including replacement of the terminal's leaking roof and restoration of its main waiting room, this project is budgeted at \$113.8 million.

Actual construction costs account for \$71.7 million of the total, while design and engineering, project management and other "soft" costs account for \$25.9 million. Contingency funds and other fees add up to another \$16.2 million.

The largest part of the hard construction costs—\$27.5 million—will be eaten up by work on Grand Central's huge main concourse, including utility upgrades, fire safety improvements and work on retail space.

The main concourse and all other areas of the terminal will be

air conditioned, and all areas but the main concourse and the gigantic main waiting room will be outfitted with a sprinkler system.

Project designers are now looking at where the duct work and other mechanical improvements can be run, Mr. Eaddy said.

Despite its massive stonework, Grand Central is actually a steel frame building and many of its masonry columns are hollow, allowing plenty of room for these systems, he said.

In addition, stonework in the main concourse will be cleaned and the sky ceiling, now a muddy brownish-green, will be restored to a cerulean blue.

Money for the cleaning and ceiling restoration is not part of the \$113.8 million restoration budget, and will come from the capital funds of the Metro North Commuter Railroad, an MTA subsidiary that uses the terminal, and other sources, Mr. Eaddy said.

Of the project's total budget, \$30 million will come from Metro North's capital budget and the balance of \$83.8 million will be raised through revenue bonds issued by the MTA and supported by rents from restaurants and other retail outlets in the terminal.

The renovation plans were designed by the award-winning New York architectural firm Beyer Blinder Belle. A partnership of New York-based LaSalle Partners and Williams Jackson Ewing—which also developed Union Station in Washington—will act as development manager and handle retail planning and leasing. **B**

Detroit

Continued from page 3

risk basis which risks will be self-insured and which will be transferred to an insurer, with the premiums for insurance paid from the fund.

Detroit is paying \$60 million to \$70 million in claims from its general fund this year, including some claims payments carried over from prior years. The new program will "level that out," Mr. Tucker said, reducing the unpredictability of insurance costs from the city's general fund.

What's more, Angela Moss, Detroit's risk manager, thinks the premium allocation program could be particularly helpful in reining in the city's workers compensation costs—which cost the city approximately \$20 million each year.

"We're pretty excited about it because in the past the departments were never accountable for how many people were on workers comp," Ms. Moss said.

Department heads haven't even been aware of how much workers comp costs the city, the risk manager said. "All the money came from the general fund," she said, while the individual department's budget wasn't directly affected.

Detroit's approach isn't unusual among public entities.

"It's not unique," said Thomas Gavin, first vp at Robert W. Baird & Co. of Naperville, Ill., which along with Carnegie Morgan Partners of Detroit serves as Detroit's financial adviser.

Mr. Gavin noted that many municipalities join together in self-insurance pools to make their insurance costs more predictable.

"Many cities get together to pool their liabilities, but in fact Detroit is accomplishing the same thing, which is to even out their cash flows," Mr. Gavin said. And by doing so, "it's removing one

more variable from the things they have to consider every year. The unpleasant surprise goes away."

Mr. Tucker believes Detroit should realize additional financial benefits because city departments essentially will have to purchase coverage from the self-insurance fund, with their claims experience directly affecting their allocated premiums.

"In establishing the fund, we will start charging premiums directly to affected departments," Mr. Tucker said. "It will help them to realize that risk is a function they must manage and if they

fund will come to market sometime before June.

Rather than representing a general obligation of the city backed by Detroit's full faith and credit, they will be revenue bonds backed by the premium payments the individual city departments will pay into the self-insurance fund each year, the finance director said.

Plans to implement the self-insurance fund were first discussed as part of a five-year financial forecast for Detroit released by Mayor Dennis Archer in December.

Mr. Archer's report suggested the creation of the self-insurance

With claims paid from the general fund, many department heads were not even aware of how much workers compensation was really costing the city.

don't manage it well, it will affect their budget."

That approach will help the city "get away from claims that are very easily managed like repeated claims at the same pothole," the finance director said.

And on the workers comp front, department heads "will be more aware of having people off on workers comp," Ms. Moss said. That increased awareness of workers compensation costs should dovetail well with a new program the city recently implemented to speed injured employees' return to the workplace, the risk manager said.

According to Mr. Tucker, Ms. Moss will be closely involved in the self-insurance program, administering the day-to-day affairs of the city's newly created "insurance company."

Mr. Tucker said the bond issue that will create the self-insurance

fund would enable the city to tap as much as \$73 million in general fund revenue in the fiscal year beginning July 1 that otherwise would have been earmarked to pay claims against the city.

The overriding focus of the mayor's long-term plan is to improve the financial status of Detroit city government, which has a BBB general obligation bond rating from New York's Standard & Poor's Corp. but a sub-investment grade Ba1 rating from Moody's Investors Service Inc., also of New York.

By flattening out the city's year-to-year insurance costs, Detroit's new self-insurance program could help the city improve those bond ratings, Baird's Mr. Gavin suggested.

"I would think any time you eliminate risk from the equation, it ought to be positive," Mr. Gavin said. **B**

Updates

Analyst predicts Lloyd's profits

LONDON—Lloyd's of London will produce total profits of more than £2 billion (\$3.2 billion) from 1993 to 1996, an analyst predicts.

Net 1993 profits for Lloyd's should reach £965 million (\$1.5 billion), even though the Northridge quake will cost the market \$144 million in net losses for that year, said Nick Bunker, stock analyst with ABN-AMRO Hoare Govett in his Lloyd's of London forecast published last week. He estimates that policies written in 1993 will bear about 40% of an estimated \$360 million in net quake losses to hit Lloyd's.

Lloyd's has said it will forecast its 1993 profits when its 1992 global results are published in May.

Profits for 1994 should total £620 million (\$985.6 million) despite the losses from the Kobe quake in Japan, which could cost the market an estimated \$400 million. Similarly, 40% of the quake losses will be borne by 1994 policies, he estimated.

Using various criteria, Mr. Bunker also estimates that profits in 1995 will total £380 million (\$604 million) and 1996 profits will be £225 million (\$357.7 million).

However, Mr. Bunker warns: "Investment analysis of Lloyd's contains many traps for the unwary."

The estimates also exclude reinsurer premiums paid into proposed runoff reinsurer Equitas Ltd., which he said could "substantially lower" the 1993 and 1994 forecasts.

Multiemployer pension ruling

WASHINGTON—The Supreme Court has given some businesses a break in how they calculate their liabilities when they withdraw from multiemployer pension plans.

When calculating the payments a withdrawing employer will need to make to cover its share of the unfunded liabilities, interest is to be calculated from the year after the withdrawal, not the year of the withdrawal, the court ruled unanimously.

The ruling came in *Milwaukee Brewery Workers' Pension Plan vs. Schlitz Brewing Co.* Schlitz, along with two other brewers, had contributed to the plan for years before Schlitz decided to withdraw effective Aug. 18, 1981. Schlitz agreed to pay off its share of the plan's unfunded liability in annual installments as provided by the Multiemployer Pension Plan Amendments of 1980.

Although both Schlitz and the plan agreed that the brewer would pay more than \$3.9 million a year to settle the \$23.3 million obligation, they disagreed over whether the interest Schlitz would begin paying should accrue from 1981 or 1982.

The 7th U.S. Circuit Court of Appeals had ruled that 1982 was the appropriate year.

AIG derivatives profit

NEW YORK—A pay dispute between two former American International Group Inc. executives is offering a glimpse at the once highly profitable derivatives business at AIG.

In its first five years of operation, from 1988 to 1992, the derivatives unit made profits of more than \$1 billion, Randall I. Rackson, a former senior manager in the derivatives unit, said in a lawsuit against Howard B. Sosin, former president of the derivatives unit. According to news reports and the lawsuit, Mr. Sosin was paid \$200 million when he left AIG in 1993.

AIG does not break out profit figures for the division and a spokesman would confirm neither the \$1 billion figure nor details of Mr. Sosin's 1993 severance. More recently, AIG has taken large charges to cover losses in the derivatives division (*BI*, Nov. 1, 1993).

In a suit filed in U.S. District Court in Manhattan on Feb. 16, Mr. Rackson alleges that Mr. Sosin had agreed to give him at least 20% of whatever incentive compensation Mr. Sosin received from AIG. Mr. Rackson is seeking a total of \$200 million in damages.

Briefly noted

The U.S. Supreme Court declined to review the insurance industry's challenge to the constitutionality of Proposition 103, upholding a unanimous California Supreme Court decision (*BI*, Aug. 29, 1994) and closing a six-year legal battle. . . **Residual market losses** for the U.S. workers compensation system plunged 53% to \$800 million in 1993 from \$1.9 billion in 1992, according to a report from the Alliance of American Insurers of Schaumburg, Ill. . . A federal judge in St. Paul, Minn., last week sentenced Y. George Roggy, an independent grain treatment contractor, to five years in prison for spraying an unapproved pesticide on oats used in about 50 million boxes of **General Mills Inc. breakfast cereal**. General Mills could not sell any of the cereal and has filed a product tampering claim with its insurers related to Mr. Roggy's actions (*BI*, Nov. 21, 1994; July 11, 1994). . . The General Accounting Office has removed the **Pension Benefit Guaranty Corp.** from its high-risk program. The GAO, which issued its first high-risk report on the PBGC in 1992, said that recent reforms "should reduce PBGC's exposure to losses and, correspondingly, the risk to the federal government". . . Standard & Poor's Corp. has lowered the claims-paying ability rating on **Home Insurance Intercompany Pool** to BB- from BB to reflect the company's position as an insurer in runoff. The rating "reflects the company's substantial exposure to losses associated with environmental claims that may exceed the company's economic resources," S&P said. . . **Chevron Corp.** would not say whether insurance will cover the \$2.2 million it is paying to settle a sexual harassment suit by four female employees. The women also are among 771 plaintiffs in a pending class-action sexual discrimination suit against San Francisco-based Chevron. . . The U.K. High Court ruled that a £210 million (\$333.8 million) interim payment due to **Gooda Walker Action Group** members would have to be paid by March 10, not Feb. 28 as originally ruled (*BI*, Feb. 20).

Fallout from Home/Zurich deal

One quirky plan could screw up dealmaking so bad no one can play

By MYRON M. PICOULT

Special to Business Insurance

The circus scenario that surrounded the bidding war for Home Holdings Inc. reminds us of an old baseball story about the venerable player and coach, Leo Durocher. It seems that Coach Durocher was observing a rookie make several consecutive errors at third base. The coach, having little patience and showing his frustration said to the rookie, "Let me show you how to play third base, kid." The next ball bounced down to the coach who proceeded to boot it. The ball caromed into the outfield. Coach Durocher, not to be undone, turned to the rookie and screamed, "You've got third base so screwed up nobody can play it!"

The complex negotiations over the acquisition of Home Holdings present a fascinating lesson into the possible future of the property/casualty industry. The deal as currently structured and amended, intrigues us in that it represents a possible paradigm for industry restructuring and consolidation. We wonder if the unique, idiosyncratic structure of the current Zurich Insurance Group/Home Holdings transaction is likely to screw up the dynamics of the primary property/casualty business.

The initial offer for Home was a relatively straightforward effort to inject capital into the struggling insurer by acquiring—through direct purchase, warrants and stock appreciation rights—most of the interest of its parent, the Swedish insurer Trygg Hansa. This offer came from an investor group including Trident Partners and Fund American Enterprises Holding Inc. led by the latter's chief executive officer, legendary insurance investor Jack Byrne, who previously rescued Fireman's Fund and GEICO. After a series of maneuverings, however, Trygg Hansa forced Home's board to accept a different offer from a Zurich Insurance/Bass Bros. group led by Zurich's Centre Re founder, Stephen Gluckstern, another industry titan.

Zurich topped Fund American's bid to the public shareholders by offering \$10 a share with a novel structure that would separate Home into a "good bank" of renewal business and a "bad bank" of runoff business. Compa-

nies in the Zurich group would assume on a renewal basis the "good bank" in return for a modest payment of less than \$100 million. The "bad bank" would be run off under the supervision of Zurich affiliates with the presumption that its assets were sufficient to support its liabilities on a present value basis. Initially, Zurich did not provide a capital or a reserve guarantee to ensure Home bondholders' and policyholders' claims would be met. Subsequent to its initial offer, Zurich felt sufficiently pressured to modify its agreement in principle for the following:

- An external funding mechanism to allow Home Holdings to make interest payments on its public debt for two years after the closing, to be provided by a subsidiary of Zurich.

- An agreement under which a subsidiary of Zurich would guarantee a net fixed return of 7.5% per year on Home Insurance's investment portfolio.

- A replacement excess-of-loss reinsurance program led by Centre Reinsurance that provides a minimum of \$1 billion of reinsurance protection to Home Insurance policyholders. Notwithstanding the revisions, this structure could shatter the conventional thinking that troubled insurers cannot be acquired because of the prohibitive cost of reserve guarantees.

The Zurich transaction hasn't been finalized and substantial obstacles to its consummation exist. If successful, however, we note the following implications.

- Acquisitions of troubled insurers would be greatly facilitated. Buyers could "cherry-pick" desirable parts of an insurer's business, unencumbered by the need to support the remaining reserves.

- Sellers, especially foreign or non-insurer parents unconcerned about the opinion of customers and industry peers, could walk away from a problem business, as Trygg Hansa is doing.

- With neither buyer nor seller responsible for a "bad bank," the state guaranty funds could become orphanages for those "Homeless" books of business, thereby burdening the entire industry with losses through assessments.

- Should this become a trend, our viewpoint—that now is the time to invest in quality

companies with the strongest balance sheets—could be completely undone. "Shareholder value" takes on a new meaning if poorly performing companies are free to unload their problems onto the rest of the industry—they could become the best stocks to buy!

- Even if the deal does not proceed, we believe the "good bank/bad bank" structure will be tainted in the eyes of the regulators due to its possible impact on the guarantee funds. Further, we suspect foreign buyers of American insurers will face tougher hurdles from state regulators in the future.

One of the concerns voiced by industry observers has been that Home Insurance could find itself in a cash bind due to the lack of renewals. While this is possible, a more immediate concern would be the impact of midterm cancellations and the need to return unearned premiums. Finally, we continued to be dismayed by the amount of capital poised to pour into the insurance industry regardless of performance or real economic value.

The Zurich proposal at least has the advantage of taking Home off the playing field, thereby lessening competition. We can't help noting that Mr. Gluckstern, unquestionably one of the smartest dealmakers in the business, may actually disprove the old adage that there's no such thing as a free lunch.

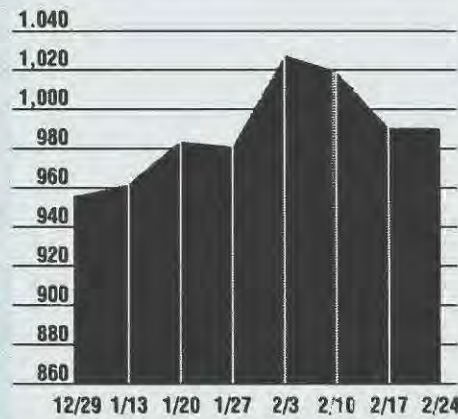
Should the state regulators or bondholders block the deal, the Zurich group would be only marginally inconvenienced. Much of the book may have already migrated to Zurich and other companies at that point; completing the transaction could be considered superfluous. Hence, Home Holdings may well become the first "homeless" book of business!

BI



Myron M. Picoult is managing director and senior insurance analyst with Oppenheimer & Co. in New York. He is the past president of the Assn. of Insurance & Financial Analysts and a member of the New York Society of Security Analysts.

BI Insurance Index



Base=100 on Dec. 29, 1978

Source: Nordby International Inc.

Catastrophe insurance option call spreads

As of Feb. 24

Call spread	Price bid/ask	Rate on line %	Call spread	Price bid/ask	Rate on line %
Eastern September 1995			Western Annual 1995		
45/65	5.8/6.1	29/30.5	20/30	0.5/3	5/30
50/70	5.3/5.5	26.5/27.5	30/40	0.4/1.3	3/18
60/80	4/5.5	20/27.5	30/50	0.4/2.5	2.5/12.5
100c	8.5/12	8.5/12	50/70	0.4/1.3	3/9
150c	4/5.5	8/11	60/80	0.4/3.5	1.5/17.5
Total volume: 10			Total open interest: 4,911		

For quotes, call the CBOT trading floor at 312-341-3342. For general information, call 312-435-3674.

Source: Chicago Board of Trade

British Issues

Feb. 23 Companies	Price pence	P/E	Div. pence	Yield %	1 week high-low
Comm Union	523	10.9	32.5	6.2	523-508
Gent Accident	536	7.6	36.3	6.3	536-521
Gdn Royal Exch	179	N/M	10.3	5.3	179-173
Independent	278	8.7	11.9	4.2	278-272
Royal	283	5.4	15.0	5.3	283-272
Sun Alliance	315	7.5	19.7	6.2	315-306

Brokers

Brokers	Price pence	P/E	Div. pence	Yield %	1 week high-low
Bradstock	92	10.3	7.1	7.7	93-92
Fenchurch	152	10.6	10.0	6.3	154-152
CE Heath	245	12.3	20.0	8.2	245-240
JIB Group	122	11.1	9.4	7.7	122-122
Lloyd Thompson	153	10.6	9.8	6.4	153-152
Lowndes Lomb	163	9.6	10.4	6.4	166-163
Nelson Hurst	173	13.6	8.3	4.3	174-173
PWS Holdings	18	N/M	0.8	4.4	18-18
Sedgwick Grp	161	14.6	6.1	5.0	162-160
Steel Bri Jones	118	11.8	11.3	9.3	118-118
Willis Corroon	144	N/M	8.3	5.3	145-143

Source: Philip Olsen, London * 1994 data, others estimated

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BROKERS

	Price	Weekly % change	Year to date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value
Accordia Inc.	32.38	-2.28	-3.36	34.50	24.63	19	0.72	2.22	16	13.24	2.45
Alexander & Alexander	21.50	-0.50	16.22	22.50	14.00	157	0.10	0.47	-8	8.08	3.54
E.W. Blanch Holdings Inc.	21.13	0.50	2.42	23.00	15.75	17	0.40	1.89	17	4.55	4.84
Gallagher Arthur J. & Co.	34.88	-1.43	8.98	36.00	28.13	35	1.00	2.87	16	6.48	5.38
Hibb, Rogal & Hamilton	11.50	4.55	-5.15	13.38	10.75	213	0.56	4.87	14	4.72	2.44
Marsh & McLennan	83.25	1.52	5.05	88.75	71.25	830	2.90	3.48	16	19.40	4.29
Poe & Brown	22.00	-2.22	1.15	22.75	17.00	15	0.48	2.18	14	4.49	4.90
BROKERS AVERAGE		0.0	3.6					2.6	12		

INSURERS/REINSURERS

	Price	Weekly % change	Year to date % change	Annual High	Low	Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value
ACE Ltd.	24.88	-0.50	6.42	28.88	20.75	114	0.44	1.77	-8	22.45	1.11
Acceptance Insurance Cos.	15.50	-5.37	3.33	18.00	11.13	123	0.00	0.00	12	9.83	1.58
AEGON N.V.	68.75	2.41	8.27	68.88	49.38	12	2.92	4.25	12	43.84	1.57
Aetna Life & Casualty	53.50	3.12	13.53	62.38	42.25	1711	2.76	5.16	13	57.21	0.94
Allied Group Inc.	26.88	0.47	8.59	31.00	22.00	140	0.60	2.23	6	23.43	1.15
Allmerica Prop. & Casualty	19.25	0.00	14.07	20.13	14.25	129	0.16	0.83	12	19.45	0.99
Allstate Corp.	27.00	4.33	13.68	27.00	22.63	2921	0.78	2.89	25	19.60	1.38
American General	32.00	3.23	13.27	32.00	24.88	1153	1.24	3.88	13	20.39	1.57
American Heritage Life Ins.	19.13	0.66	0.66	19.50	16.50	23	0.64	3.35	11	12.42	1.54
American Indemnity(Fin'l)	12.25	3.11	20.99	14.25	10.00	4	0.24	1.96	3	15.92	0.77
American International	104.38	1.21	6.51	106.88	81.75	2887	0.46	0.44	15	49.75	2.10
American Re Corp.	33.38	-1.11	3.49	35.75	23.50	88	0.32	0.96	17	16.85	1.98
Aon Corp.	34.75	1.46	8.59	35.75	29.25	378	1.28	3.68	11	21.96	1.58
Argonaut Group	30.88	1.63	9.29	31.50	26.25	67	1.16	3.76	10	29.80	1.04
AVEMCO Corp.	15.13	-3.23	-1.63	17.38	13.38	13	0.44	2.91	13	6.30	2.40
Baldwin & Lyons Inc.	16.50	-0.78	11.66	17.63	13.75	9	0.24	1.45	12	13.56	1.22
Berkley W.R. Corp.	34.50	-4.83	-8.00	42.00	32.50	68	0.44	1.28	21	36.47	0.95
Berkshire Hathaway Inc.	225.00	-3.84	10.54	250.00	151.00	1	0.00	0.00	29	9157.79	2.46
Capital Re Corporation	23.50	-2.08	-14.16	27.38	18.63	5	0.20	0.85	9	21.48	1.09
Capsure Holdings Corp.	12.88	1.94	-11.97	16.13	12.13	59	0.00	0.00	14	13.72	0.94
Chubb Corp.	79.13	0.31	2.26	82.63	68.63	925	1.84	2.33	13	48.40	1.63
CIGNA Corp.	76.00	1.16	19.45	76.00	57.00	1268	3.04	4.00	10	80.98	0.94
CNA Financial Corp.	73.75	3.68	13.68	73.75	60.00	71	0.00	0.00	145	73.83	1.00
Continental Corp.	19.38	-0.03	1.97	25.75	12.00	514	0.00	0.00	-2	29.69	0.65
EMC Insurance Group Inc.	10.13	5.91	6.58	10.75	8.50	26	0.52	5.14	8	10.77	N.A.
Emphesys Financial Gr. Inc.	37.63	0.66	18.50	38.88	21.25	74	0.60	1.59	10	N.A.	N.A.
EXEL Ltd.	43.00	1.18	8.86	45.13	36.00	448	1.32	3.07	16	31.62	1.36
Fremont General Corp.	20.50	2.50	-12.30	26.00	19.75	157	0.76	3.71	6	22.90	0.90
Frontier Insurance Group	21.50	-2.27	-1.71	37.50	16.75	112	0.48	2.23	16	14.94	1.44
Gaisco Inc.	9.13	4.29	10.61	9.41	7.63	158	0.04	0.44	12	3.79	2.41
General RE Corp.	131.00	1.95	6.07	133.00	101.75	874	1.96	1.50	16	57.17	2.29
Guaranty National Corp.	17.00	1.49	-7.46	18.50	14.25	7	0.48	2.82	9	11.84	1.44
Harleysville Group	23.75	-3.57	-2.06	27.00	19.75	15	0.68	2.86	17	20.18	1.18
Hartford Steam Boiler	42.00	-0.59	5.33	52.88	35.88	143	2.20	5.24	17	14.62	2.87
HCC Insurance Holdings	25.75	0.98	22.82	25.75	15.00	127	0.00	0.00	17	10.75	2.40
Home Holdings Inc.	8.88	-0.06	-5.33	16.75	3.00	368	0.00	0.00	-3	22.36	0.40
ITT (Hartford Group)	99.63	2.04	12.41	99.63	77.00	1064	1.98	1.99	12	49.95	1.99
Kemper Corp.	41.13	0.60	8.58	65.00	35.75	2878	0.92	2.24	22	28.68	1.43
Lincoln National	40.25	1.90	15.00	43.88	34.63	606	1.72	4.27	12	31.99	1.26
Markel Corp.	44.75	-2.19	7.83	46.00	37.50	12	0.00	0.00	13	25.15	1.78
Mid Ocean Ltd.	25.75	-2.39	-5.50	30.50	22.25	27	0.00	0.00	11	20.24	1.27
Mutual Risk Mgmt. Ltd.	28.63	1.33	9.05	29.25	21.13	113	0.32	1.12	16	9.11	3.14

Top advancing issues: Penn-America Group Inc.; Safeguard Health Enter.; Reliance Group Holdings. Leading decliners: Phoenix RE Corp.; Acceptance Insurance Cos.; Berkley W.R. Corp. Most active issue: United Healthcare Corp. The BI Index remained steady; the Dow Jones 30 Industrials rose 1.5%; the S&P 500 increased 1.3% and the NYSE Composite gained 1.2%.

System design: Nordby International Inc.



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