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Updates

P/C insurers' 4th-quarter results worse than expected: A.M. Best

OLDWICK, N.J.—The combined ratio for the U.S. property/casualty insurance industry in the fourth quarter of 1993 is expected to be 114.5%, the highest of any quarter of last year and a poorer result than had been expected, according to A.M. Best Co.

Best attributed the industry's final-quarter slump to "persistent catastrophes," specifically the Southern California brush fires and additional reserving for asbestos and other environmental

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Flat pricing gives buyers a pleasant surprise

Deductibles, not rates, a big worry for some

By SARA MARLEY and MICHAEL SCHACHNER

Risk manager report

Risk managers are pleased to report flat renewal pricing overall in the New Year and are optimistic about renewals coming up later in the year.

Even property insurance renewals—the bane of many risk managers over the past 12 months—showed signs of stabilizing.

"Favorable experience on our HPR sites," led to a 5% property rate decrease for L.L. Bean Inc., reported Steve Hewitt, risk manager with the Freeport, Maine-based retailer.

"I was pleased with our renewal rates," Mr. Hewitt said. "While you always want to squeeze a few more points out of your insurers, by and large, we're quite pleased with our recent rates."

Deductibles, not rates, were the stumbling blocks for some property renewals.

The property rate for the city of Jacksonville, Fla., increased 15% at an Oct. 1 renewal with a "substantial increase in windstorm deductible," said the city's risk manager, Anton M. Kronenburg.

Originally, the city's insurer wanted a deductible of 2% of total value, which was negotiated to 1% of value per structure with a minimum of $250,000.

Previously, Jacksonville had a flat $25,000 property deductible.

Also, "coverage dried up for our public

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1994 JANUARY RENEWALS

Bermuda cat facilities easing capacity crunch

By DOUGLAS McLEOD

Insurance companies purchasing catastrophe reinsurance faced a shocking and unexpected situation this year: relatively easy renewals.

Reinsurer report

While January 1993 was a nightmare of capacity shortages and price hikes, this year's renewal market is decidedly calmer, mainly because of the large limits being offered by newly formed Bermuda catastrophe reinsurers.

Most ceding companies are finding as much capacity as they need, and many programs are actually oversubscribed, brokers and reinsurers report.

The coverage still isn't cheap, though: Price competition may not be too far off, but many large ceding insurers are still seeing price increases and most others are renewing with little change in pricing, market observers say.

The soft market for non-catastrophe property risks, meanwhile, remains virtually unchanged, while the soft casualty re-

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insurance market is actually getting even more competitive.

The biggest change, though, is in the catastrophe market, where smooth renewals have produced an almost audible sigh of relief among brokers and buyers.

The renewal market is "wonderful," said Robert N. Tremelling II, president of San Francisco-based reinsurance broker Tretis Group Inc.

"It's amazing," he said. "I've never seen anything quite like it. In fact, I've never

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Insurers say expectation of price turn pushed back

P/C market remains static for most lines

By MARK A. HOFMANN and CHRISTINE WOOLSEY

Like the wheels of a car that's been stalled by an arctic freeze, the property/casualty insurance market stubbornly refuses to turn.

Insurer report

As insurers completed their year-end renewals, the most common description they gave the market was "flat." While that's an improvement over the very soft markets that preceded Hurricane Andrew in 1992, it's not a great enough improvement to generate much optimism among insurers that conditions have materially changed.

The market largely has remained static even as insurers monitor the prospects for change looming on several fronts: Superfund reauthorization, health care reform and the increased property catastrophe reinsurance capacity in Bermuda.

"We keep postponing this turn a year into the future," chuckled Joseph Basta, president of Zurich-American Commercial Insurance in Schaumburg, Ill. "Last year, we said late '93. Now we're saying late '94."

Other insurance company executives aren't banking on a market turn, either. "If you go back to 1960 and come forward to today, you can count on one hand the number of hard-market years. The rest of the time, it's been in stages of the soft market," said Dave McDonald, senior vp-

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London's resolve to push up rates may be waning

By ADRIAN LADBURY

London market report

LONDON—Rates continued to move upward for many classes of business during year-end renewals in London, but increases were not as severe nor as widespread as in recent renewal seasons.

Property catastrophe rates continued to lead the field with increases of as much as 30%, but underwriters' resolve to push those rates higher is diminishing. And, some predict that reinsurance capacity has been rebuilt to the extent that further increases are unlikely.

London is writing coverage for high-risk coastal properties and charging big rate increases for it. At the same time, though, the market is losing many standard U.S. property risks to competitive U.S. underwriters.

U.S. casualty rates still refuse to budge and are the only area that the London market universally describes as "soft." At best, London underwriters say they are holding their own with rate increases and decreases in selected areas.

The marine hull and cargo markets managed to maintain upward pressure on rates during renewals, and the London energy insurance market also saw rates increase across the board.

Reinsurers found it more difficult this year to impose the steep increases they had demanded in previous years as ceding companies were more prepared to carry the risk themselves and new reinsurance capacity began to make itself felt.

Many London underwriters, though, deny that new capital in Bermuda affected their rating decisions this year. Instead, many complained about the continued reluctance of U.S. property/casualty insurers to charge realistic rates for U.S. risks.

New Latin American and Far Eastern business has helped some London underwriters replace business lost to the competitive U.S. market. Also, brokers say that the more conservative underwriting positions of big continental European insurers and reinsurers, especially German

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Updates

Analysts see poor P/C outlook

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claims stemming from policies written many years ago.

Insurers bolstered environmental reserves by an estimated $1 billion in the final quarter of 1993, while the fires that devastated much of Southern California last fall accounted for most of an estimated $1.2 billion in fourth-quarter catastrophe losses, said John H. Snyder, senior vp.

Best estimates the industry's full-year 1993 combined ratio will be 109.2%. Although that would be an improvement over the industry's 115.9% combined ratio for 1992, it would make 1993 the seventh-worst underwriting year ever.

Meanwhile, Standard & Poor's Insurance Rating Services forecasts that significant improvement in property/casualty insurer profitability over the short to medium term is even less likely now than it was a year ago.

The rating agency states it expects the industry's "lackluster" profitability to continue over the next one to three years despite negative cash flow, record levels of catastrophe losses and increases in reinsurance prices, all of which have historically preceded greater profitability.

However, S&P also expects a significant improvement in insurer earnings in 1993, with similar results projected for 1994. The 1993 improvement primarily reflects a decrease in catastrophe losses and a favorable bond market. S&P predicts 107.7% and 108.5% combined ratios for 1993 and 1994 respectively.

Bad faith award blocked

SAN FRANCISCO—A California appeals court has overturned a jury's $49 million bad faith award against National Union Fire Insurance Co. of Pittsburgh, Pa., in a coordinated "test" suit filed by 13 investors in Technical Equities Corp.

The 1st Appellate District Court ruled Dec. 28 that the Santa Clara County Superior Court jury acted on erroneous instructions in 1990 when it awarded $5.9 million in compensatory damages and $43 million in punitive damages to the investors in the now-insolvent real estate and investment firm (*BI*, Nov. 9, 1992).

More than 1,200 investors lost about $150 million because of fraudulent activities by Technical Equities executives that led to its collapse in February 1986. Scores of investor suits were consolidated into several "test" cases.

The jury made the awards to the group of 13 investors in 1990 based on declaratory judgments that were overturned in 1992.

Among the judgments the appeals court overturned in 1992 were declarations that a comprehensive general liability policy issued by the American International Group Inc. unit covered investor claims for emotional distress under the policy's bodily injury clause.

The appeals court in 1992 also overturned a declaration that $30 million of coverage through a three-year D&O policy written by National Union should respond to investor claims, finding that only $20 million in coverage was available.

The recent ruling allows the investors to return to court to pursue charges that, among other things, the insurer acted wrongfully when it attempted to cancel the D&O policy, said plaintiffs' attorney Marie Seth Weiner of Cotchett & Illston in Burlingame, Calif. Plaintiffs will again seek damages for economic losses, emotional distress and punitive damages, she said.

"The long and the short of it is (the recent appellate court's decision) has knocked the props out of the Technical Equities case as a whole," said Tom Sellows, a partner with Robinson & Wood in San Jose, Calif., National Union's attorney. "We're confident that we will prevail at the trial court level."

Zurich takes over Centre Re

HAMILTON, Bermuda—Zurich Insurance Co. will become the sole owner of Centre Reinsurance Holdings Ltd. after buying out stakes held by four minority shareholders.

ACE Ltd., Kemper Corp. and Guy Carpenter & Co. have sold their minority positions to Zurich, which previously held 74% of the reinsurance holding company's stock. In addition, Northwestern Mutual Life Insurance Co. has agreed to sell its stake, subject to approval by its board of directors.

ACE will realize a gain of $58 million on the sale. It invested $50 million in Centre Re in October 1991 and $20 million in May 1993.

Kemper reported a $37.8 million aftertax gain, or about $58 million before taxes, for the fourth quarter of 1993 on its sale of Centre Re stock. It earlier sold part of its original 1988 investment of $33.9 million, on which it has realized about a 35% compounded annual rate of return.

Representatives of Northwestern and Marsh & McLennan Cos. Inc., Guy Carpenter's parent, could not provide details of the sale.

Zurich has long intended to integrate Centre Re into the Zurich group and the latest moves are "consistent with that policy," said Michael Palm, president of Centre Reinsurance (Bermuda) Ltd. (*BI*, April 26, 1993).

In 1991, Zurich bought out another group of minority owners, including Bacardi Capital Corp., Fluor Corp., Kamehameha Schools/Bernice Pauahi Bishop Estate and Morgan Capital Corp.

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Errors & Omissions

• Dr. Skip Rosenbloom, president of Business Health Services Inc., a Sacramento-based medical cost management firm, was misidentified in the Dec. 21 Managed Care Market Report as Skip Wilson.

Appellate ruling jeopardizes health care plan changes

By DAVE LENCKUS

PHILADELPHIA—A federal appellate ruling could jeopardize changes to employee and retiree health care plans that many employers have made in recent years.

The 3-0 ruling by a panel of the 3rd U.S. Circuit Court of Appeals hands employees and retirees a strong legal challenge to health plan changes like benefit cutbacks, increased premium contribution requirements and even the implementation of managed care features, attorneys and consultants say.

Under the Dec. 28, 1993, decision, employers with plans that do not specifically state which company representatives can amend health plans and what procedures they must follow cannot amend their plans.

The majority of employers' plans do not spell out those details. In fact, as many as 75% may not, said John Hickey, a partner with consultant Kwasha Lipton of Fort Lee, N.J.

While changing plan language to include that information is extraordinarily simple, the changes would apply only prospectively, attorneys and consultants say.

"What you have done in the past that may be called into question—that's the real problematical issue here," said employer attorney Henry Lawrie, a partner and chairman of the employee benefits section at Hopkins & Sutter in Chicago.

"I think it's a significant rul-

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ABA tackles Superfund

Attorneys' group to vote on changes in liability provisions

By MARK A. HOFMANN

Cities win Superfund ruling 45
Court to rule on Superfund legal fees ...45

WASHINGTON—Efforts to reform Superfund could get a boost next month when the American Bar Assn.'s policy-making body votes on a proposal that endorses limiting the law's current retroactive and joint and several liability provisions.

The draft proposal, drawn up by an ABA task force, is drawing predictable praise from insurers.

"On all fronts, it's a very responsible policy-provoking document and one that I would hope key people on Capitol Hill and the administration would pay attention to," said Tom O'Day, associate vp-federal affairs for the Alliance of American Insurers in Washington.

Mr. O'Day said that the ABA proposal stands in sharp contrast to the interim report by the National Commission on Superfund. The report by the broad-based private coalition skirted the issue of liability reform (*BI*, Dec. 27, 1993).

"If the ABA adopts this, which I hope it will, it will be a very important statement by the nation's organized bar that the liability regime under the current Superfund law has failed," said Craig Berrington, senior vp and general counsel of the American Insur-

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More details found that would raise employer costs

Clinton plan under scrutiny

By JERRY GEISEL

WASHINGTON—As President Clinton and senior advisers map out their strategy to win passage of the administration's health care reform package, benefit experts digging into the proposal are uncovering more provisions that will raise employers' costs.

The latest findings primarily would apply to employers that set up their own corporate health alliances rather than participate in state-affiliated regional health alliances envisioned by the Clinton plan.

For example, a special 1% payroll tax imposed on employers with corporate alliances would apply to all wages, including the wages of part-time employees, even though under the Clinton proposal these workers would have to be covered under regional alliances.

"It's a double hit," said Rick Smith, director of health care policy at the Assn. of Private Pension & Welfare Plans in Washington, which recently released details of this and other provisions in the Clinton plan.

Employers setting up corporate alliances would pay premiums to regional alliances for their part-time employees, yet they still would be slapped with the 1%

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Deep pockets in doubt

Report says juries do not target wealth

By SALLY ROBERTS

A widespread belief that juries award large medical malpractice judgments against doctors and hospitals because they can afford to pay those awards is unfounded, according to a report in the Duke Law Journal.

While medical malpractice attorneys have mixed opinions on the validity of a "deep pocket" theory, Neil Vidmar, a professor and author of the report, contends that the theory "is not supported by any evidence."

"A common complaint from all sides of the political spectrum is that jurors are biased against doctors and hospitals because they believe that someone ought to pay when a serious medical injury occurs and that doctors and hospitals have the 'deep pockets' to provide the compensation," said Mr. Vidmar, a professor of social science and law at Duke Law School in Durham, N.C.

To support this theory, research has typically compared cases involving medical negligence with cases involving automobile negli-

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Inside

• The devil is in the unfolding details of the Clinton health care reform plan, this week's editorial says. **PAGE 8**

• Bank of America has agreed to a $37 million settlement with Maxwell pension plan trustees. **PAGE 39**

• Corporate investors have generated $1.34 billion in capital for Lloyd's of London. **PAGE 39**

• The Labor Department is seeking employer comment on what information employees should receive about pension plans. **PAGE 46**

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Chicago gallery insured for theft of Picasso work

By DAVE LENCKUS

CHICAGO—The loss of a Picasso painting and a less valuable work in a daring smash-and-dash theft from a Chicago art gallery is insured by CIGNA Corp. and Nordstern Insurance Co. of America U.S.A.

The Picasso, titled "Tete," is a 12½-inch-by-21½-inch semi-abstract oil and sand on canvas depicting a head. The painting is valued at more than $500,000 but is not one of Picasso's most valuable works. It was not even the most valuable painting in the gallery.

The painting was on consignment to the Richard Gray Gallery from the estate of Claire Zeisler, a Chicago artist and collector.

The other stolen artwork, valued at $4,500, was painted by and was on consignment to the gallery from Illinois artist Harold Gregor. The 8½-inch-by-27¾-inch oil and acrylic on canvas is a landscape called "Early Fall, Heyworth." It had been sold.

Picasso's 'Tete.'

The gallery assumes liability for works that it displays on consignment, said Paul Gray, the gallery's director.

CIGNA and Nordstern, which is a wholly owned subsidiary of German insurer Nordstern Allgemeine Versicherungs A.G., together participated in a blanket fine arts liability insurance program for the gallery.

CIGNA covers 60% and Nordstern covers 40% of the gallery's losses.

Broker Huntington T. Block would not reveal policy limits. But, the gallery's limits were "much more than sufficient to cover the loss," said Mr. Block, chairman of Huntington T. Block Insurance Agency Inc. of Washington, a subsidiary of Chicago-based Rollins Hudig Hall Group Inc.

The gallery's deductible was not significant, he said.

CIGNA typically retains a large majority of such risks, but Nordstern heavily reinsures such risks in the U.S. market.

While Block has been placing the Gray gallery's coverage for decades, the blanket insurers had been covering the gallery only since Dec. 31, said William Smith, a director with London-based adjuster Graham Miller International. Mr. Smith is adjusting the loss.

CIGNA and Nordstern are offering a $50,000 reward for the return of the painting.

The framed paintings were snatched at the height of the evening rush hour on Jan. 3 from the small second-floor gallery, which is located on busy Michigan Avenue.

The gallery was closed that day, as it normally is on Mondays. But, other businesses in the building were open when the theft occurred.

A glass panel at the gallery's entrance was smashed at about 5:20 p.m., triggering a silent alarm. A security guard was on duty but was in a nearby building that he also was assigned to patrol.

The Picasso was hanging in an inner room about 35 feet from the door. The Gregor was hanging much closer to the door, Mr. Gray said.

It's unclear whether the Picasso was targeted or was taken be-

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Court says late claim notice automatically bars coverage

By DAVE LENCKUS

CINCINNATI—Ohio policyholders that file late notices of potential claims with their insurers are not entitled to coverage even if the delay does not prejudice their insurers, a federal appeals court has ruled.

The Dec. 21 decision, which overturns a lower court ruling, changes Ohio law and will likely be cited by insurers nationwide, says a policyholder attorney involved in the case. The attorney, Ron Lee, has asked the appellate court to reconsider the ruling as well as to certify the case to the Ohio Supreme Court for a ruling.

Courts nationwide are split over whether late notice is an absolute defense for denying coverage or is rebuttable if policyholders can show that their insurers were not harmed by the delay, said Mr. Lee, a partner with Roetzel & Andress in Canton, Ohio.

The ruling shows that "late notice is more of a defense than a lot of insurance companies thought it was," he said.

"It really recognizes the obligation of the policyholder to inform the carrier as quickly as the policyholder can about problems that may arise," said insurer attorney Jack Fuchs, a partner with Thompson, Hine & Flory in Cincinnati, who represented Boston-based American Employers Insurance Co. in the case.

The 3-0 decision by a panel of the 6th U.S. Circuit Court of Appeals in Cincinnati centers on a two-year delay by the Metro Regional Transit Authority in Akron, Ohio, in notifying American Employers, its general liability insurer, of a pedestrian's death. The incident resulted in a wrongful death lawsuit against Metro.

A 17-year-old pedestrian was struck and killed in November 1989 by a car after she had stepped past a Metro bus that had stopped at its scheduled stop just shy of a crosswalk.

Metro immediately investigated the incident and reported it to its motor vehicle insurer, which denied coverage in February 1990 and advised Metro to notify American Employers, a subsidiary of Commercial Union P.L.C.

The motor vehicle insurer noted that Metro could later face a claim that the bus stop was too close to the crosswalk, resulting in buses blocking other motorists' view of pedestrians, court papers say. Such a claim would be a general liability issue, the insurer advised its policyholder.

But, Metro did not notify American Employers because it believed its general liability policy did not cover such a claim, according to court papers.

In July 1991, the girl's estate named Metro as a co-defendant in a wrongful death action, claiming the bus stop was too close to the crosswalk.

The authority again notified its motor vehicle insurer, which reserved its rights. But Metro did not file a claim with American Employers until November 1991.

American Employers denied

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On guard against liability

Security guards protect assets but also pose special risks for companies and insurers

By NANCY P. JOHNSON

Security guards are a reassuring sight for the public visiting malls, banks and apartment buildings. But security guards pose special problems for risk managers: Their presence complicates insurance arrangements.

And while the vast majority of guards are well-trained, honest and trustworthy, a few can prove to be otherwise.

It's tricky to insure a security guard's actions, because sometimes the mix of background, training, judgment and firearms isn't right. In fact, there are a number of recent cases in which the mix was tragically wrong:

- In 1992, a former Exxon security guard kidnapped Exxon executive Sidney Reso at the executive's suburban New Jersey home. Mr. Reso died before an extortion attempt could be carried out.
- A security guard at a public housing complex in Chicago fired a revolver into a group of people, wounding a 14-year-old girl in the face.
- A security guard at a grocery store in Seattle fatally shot a man suspected of shoplifting a pack of cigarettes.
- An uncertified and unlicensed security guard at Morehouse College in Georgia was killed when a fellow guard accidentally shot him during a scuffle with two students.

Incidents like these have spurred state and federal legislation to impose minimum standards for training and licensing for security guards. Currently, licensing requirements for either in-house or contracted security guards are largely set up on a community basis.

But, a proposed federal law—H.R. 1534, sponsored by Rep. Matthew Martinez, D-Calif.—would require that states have minimum training standards for all contract and proprietary guards.

And a few states have come forth with laws of their own. For example, Washington passed a law last year that gives the state authority to license and regulate

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Mental health group practices on rise

By MICHAEL SCHACHNER

As large managed mental health care companies strengthen their hold in the employer market, they are seeking to bolster their provider networks by contracting with group behavioral health care practices.

In response, a growing number of solo mental health care practitioners who have staunchly resisted managed care are now forming group practices capable of contracting with the large managed mental health care companies.

Managed care companies say the trend allows them to offer better quality and more cost-effective care.

But most mental health care professionals are forming groups only to ensure themselves a steady flow of patients and reimbursable treatment.

Because mental health care is following the general medical marketplace into the age of managed care, psychiatrists, psychologists, social workers and other behavioral health care practitioners say they must board the managed care train now or it will pass them by.

The large insurer-affiliated and independent managed mental health care companies now provide benefits to approximately 80 million individuals, according to the Institute for Behavioral Healthcare.

These companies say they prefer group practices for their networks for several reasons: They're more efficient administratively than individual clinicians; they offer patients a range of care in one setting; and they're more adaptable to electronic data interchange, including claims submission and utilization review.

But, most of all, managed care companies prefer group practices because they're more willing and capable than solo practitioners to accept capitated payment or discounted fees in exchange for treating patient pools ranging from 5,000 to 200,000 lives.

According to managed care companies, contracting with group practices cuts administrative costs because the company has to deal with fewer billing and tax identification numbers. And simultaneously, customers receive better care because referrals are made to one group that can offer services ranging from psychiatric counseling to substance abuse treatment for patients of all ages.

"Groups benefit us not so much from a raw cost standpoint, because we don't pay them less than we would an individual. But there are efficiencies they offer such as peer review, a single tax ID, better coverage of a geographical region and quality assurances," said Saul Feldman, chairman of U.S. Behavioral Health, the Emeryville, Calif.-based managed mental health care unit of Travelers Corp.

Managed mental health care companies like USBH, Medco Behavioral Care Corp. and Value Behavioral Health Inc. insist that channeling employees in need of behavioral health counseling to groups is better for the patient.

They say that transitions from one level of care to another are smoother and quality is better because group practitioners interact with each other and, therefore, can more easily exchange treatment ideas and recommendations.

"If a patient needs a new level

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Benefit ruling

Continued from page 2

ing," said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

The ruling also would apply to pension plans, but the majority of those plans contain the appropriate amendment language called for under the 3rd Circuit panel's ruling, experts say.

The ruling is controlling law only in the 3rd Circuit states of Delaware, New Jersey and Pennsylvania. But, many attorneys and consultants are advising their clients nationwide to comply with it, because they expect other courts to follow the 3rd Circuit.

In the meantime, the employer involved in the case, defense contractor Curtiss-Wright Corp. of Lyndhurst, N.J., is asking the full 3rd Circuit to reconsider the case.

If the ruling stands, about 500 Curtiss-Wright retirees would receive more than $2 million in damages.

The ruling centers on the language Curtiss-Wright used in its retiree health plan documents to reserve its right to amend the plan.

The company in 1976 began self-insuring its retiree health plan and adopted a written plan constitution and trust agreement. Those documents stated that "the company" reserved the right to amend or terminate the plan.

In a 1983 summary plan description, the company included additional language that stated retirees would lose their health care coverage if the facility from which they retired closed down.

Later that year, the company closed its Wood-Ridge, N.J., plant. A group of non-union retirees filed a class-action suit in 1984 that charged the company with breaching its retiree health plan contract and violating the Employee Retirement Income Security Act of 1974.

In its ruling, the 3rd Circuit panel in Philadelphia affirmed a 1990 lower court ruling that the additional language included in the 1983 SPD was a plan amendment—rather than a clarification—that was invalid under Section 402(b)(3) of ERISA. That section requires benefit plans governed by ERISA to identify which individuals at a company are authorized to make plan amendments and what procedures they must follow.

The panel ruled that the term "the company" in Curtiss-Wright's plan documents does not sufficiently identify the individuals who could make plan amendments. And, no language in the company's plan indicated what procedures would be followed to make plan changes, the court ruled in a decision written by Judge Walter Stapleton.

"A simple reservation of a right to amend is not the same as a 'procedure for amending (the) plan'; nor does it provide a procedure 'identifying the persons who have authority to amend the plan,'" Judge Stapleton wrote, quoting section 402(b)(3).

The court, though, said that Curtiss-Wright and other employers could bring their plans into compliance with ERISA by adopting a plan amendment that specifies who can make plan changes and the procedures they must follow.

But, even if employers immediately adopted such an amendment, the amendment would apply only prospectively.

Most benefit experts said they did not believe employers could do anything that would make previous employee and retiree benefit cutbacks legal under the 3rd Circuit's ruling.

Consultants and attorneys concur that the 3rd Circuit panel's ruling would apply to health plans covering active employees, not just retirees, because the ERISA provision it interpreted applies to all ERISA-qualified plans.

Since as many as 75% of employers' plans contain language that is very similar to Curtiss-Wright's, the ruling provides great fodder for plaintiffs' attorneys to argue that employee—as well as retiree—health benefit cutbacks that employers have imposed in recent years violate ERISA, employer and plaintiffs' attorneys agree.

"I think there are a lot of plans out there that have been amended unlawfully," said plaintiffs' attorney Thomas Kennedy, a partner with Lewis, Greenwald, Kennedy, Lewis, Clifton & Schwartz in New York, who represented the Curtiss-Wright retirees.

"I certainly would be prepared to make that argument for retirees," said attorney Barry A. Macey, a partner with Macey, Macey & Swanson in Indianapolis. Mr. Macey represented Wheelabrator Corp. retirees in a 7th Circuit case last year in which the full circuit said courts can look at evidence other than collective bargaining agreements to determine employers' health benefit obligations (*BI*, June 7, 1993).

However, disputes over plan changes that already have been litigated and resolved could not be resurrected.

One possible remedy for employers that have amended their health plans is to terminate their current plans and then introduce new plans that provide the level of benefits that employers thought they had legally reduced before, said Mr. Lawrie, the employer attorney. The new plans also should include the proper language to comply with Section 402(b)(3), he said.

But, Foster Higgins' Mr. Saveth said that tactic would require a plan amendment, which would be invalid for most employers under the 3rd Circuit panel's ruling.

Even following the 3rd Circuit panel's suggestion of amending plans to ensure future compliance with ERISA may not fully protect employers, said Michael Langan, a principal with consultant Towers Perrin in Valhalla, N.Y.

Other courts may reject the panel's "circular" reasoning of repairing a plan that lacks proper amendment procedures by adopting an amendment, he said. "It's kind of a Catch-22."

But Mr. Saveth doesn't expect that situation to develop. "It's something you have to keep in mind, but I suspect a rule of reason will prevail" in the courts. Otherwise, courts may have to look at whether employers violated ERISA by amending their health care plans to add, for example, retiree coverage in the first place, he said.

Most consultants and attorneys, including Mr. Lawrie, said they would advise their clients to adopt the plan amendment the 3rd Circuit panel suggested.

But employer attorney Bert Krueger, a partner with Mayer Brown & Platt in Chicago, said the opinion "wasn't well thought out," and he does not expect other courts to follow it. For example, he said, ERISA clearly defines a company as a person capable of making plan amendments.

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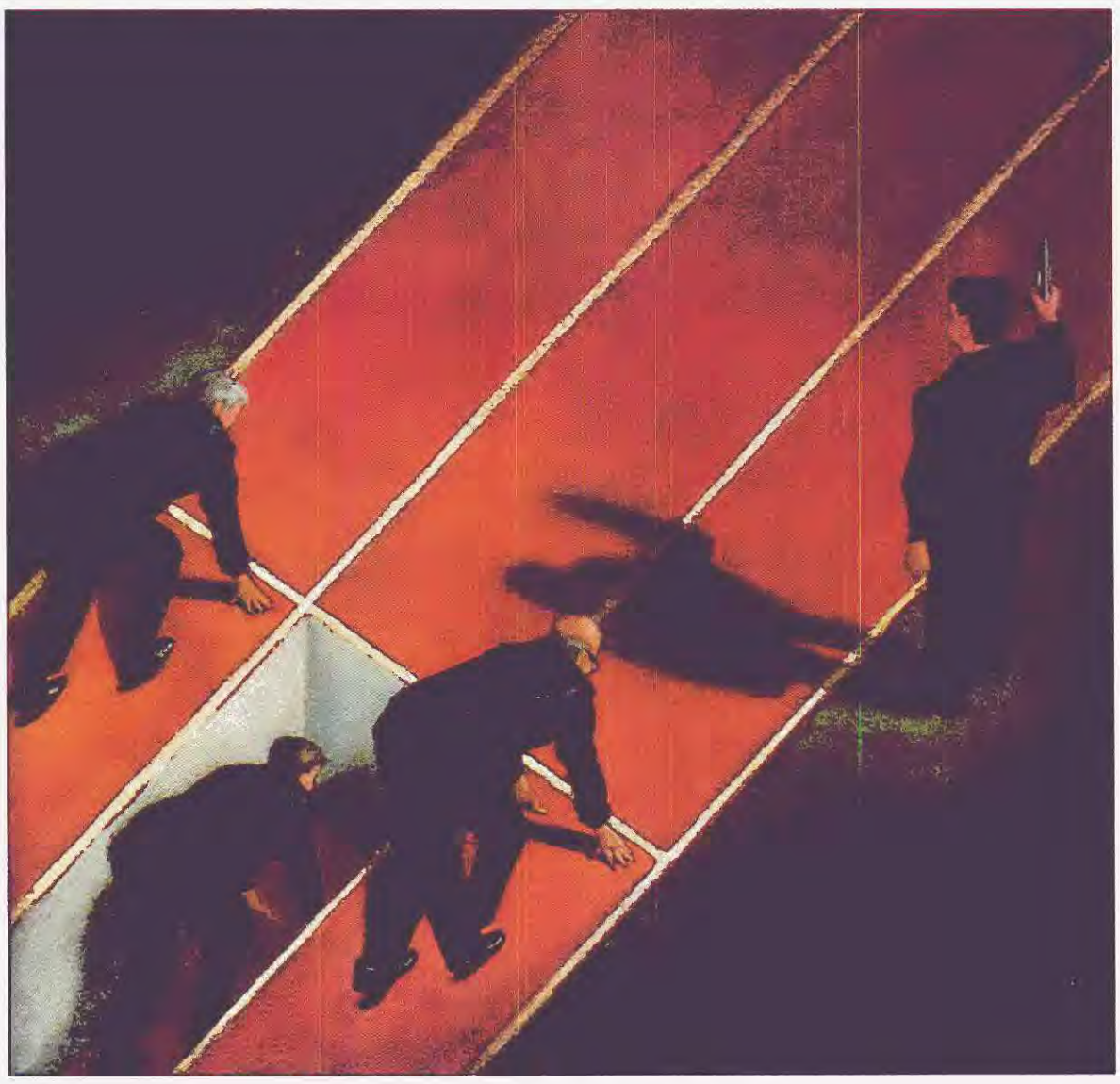
Frank C. Schoonejongen et al. vs. Curtiss-Wright Corp., U.S. Court of Appeals for the 3rd Circuit; No. 92-5695 and No.92-5710.

Tim Jonke/The Image Bank



"Never say never."

When surplus lines producers try to place specialty programs with most insurance companies, they usually find themselves getting nowhere fast.

Many companies have no idea what to do with programs that aren't run-of-the-mill. To buy time, they box producers in with a flurry of petty procedures. That kind of competitive disadvantage just doesn't work in today's market.

At United National Group — one of the largest surplus lines insurers in America — specialty programs are the rule, not the exception. Our companies are resourceful, flexible, and inventive, and when it comes to writing specialty programs, we never say never.

United National Group. Wise enough to listen, strong enough to act.

united national group

The open market for unique risks and specialty programs

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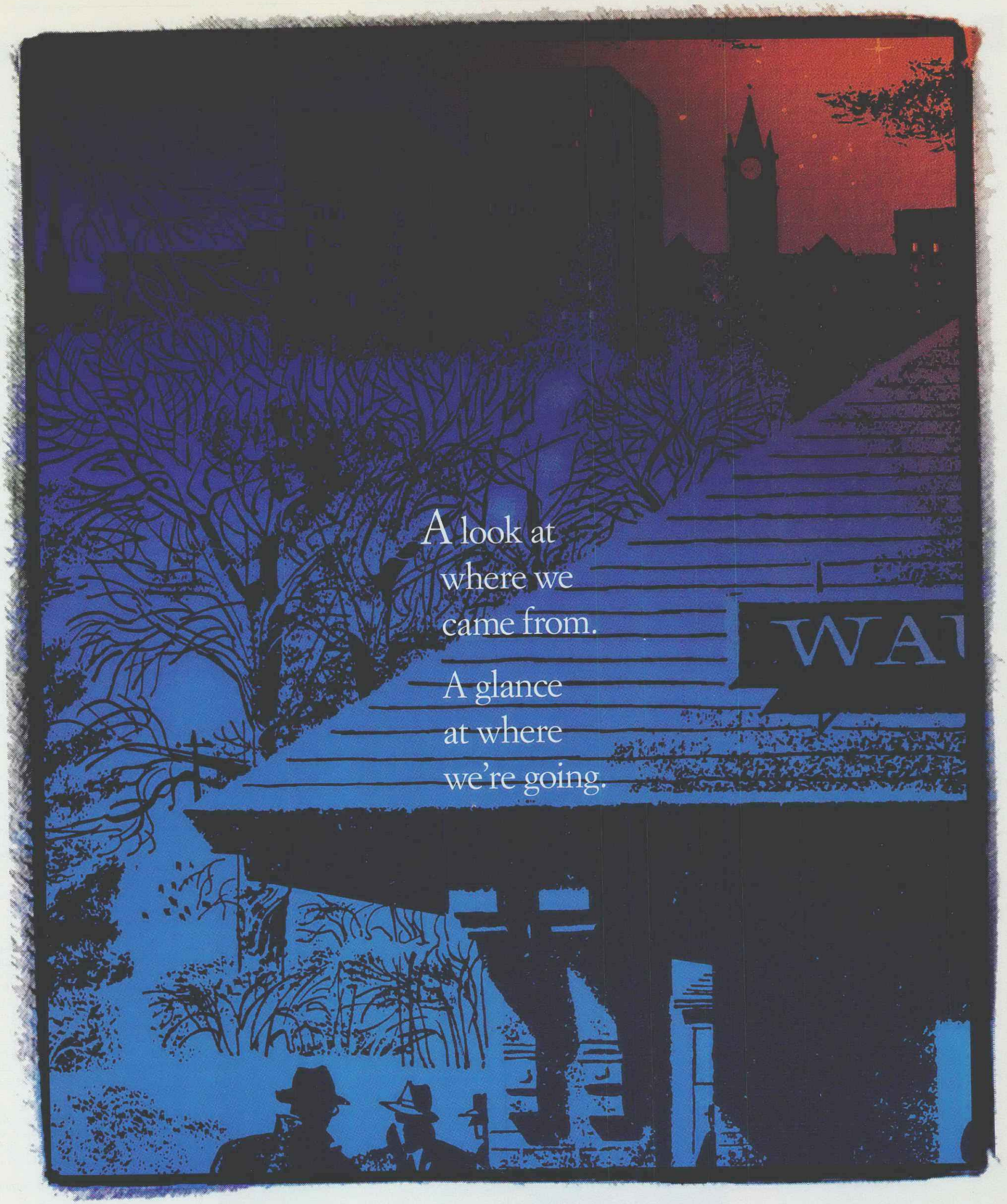

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Domestic partners to get full coverage

Blue Cross & Blue Shield of Massachusetts has become the first major independent health insurer to offer full health and dental coverage to the domestic partners of both homosexual and heterosexual employees.

Claiming domestic partner coverage is emerging as an important employee benefit, BC/BS of Massachusetts last year offered its approximately 6,000 employees the opportunity to obtain basic health coverage for a partner simply by showing proof that they have cohabitated for at least six months and are continuing to live in a shared-responsibility relationship.

Sixty-seven employees opted to enroll in the benefit, which the company said will not be a major cost burden.

Benefit Beat

After insuring various companies over the past two years that have provided their employees a similar benefit, "we found that this benefit was not administratively complex or costly. Employers and consultants have found the claims experience for domestic partners has been the same as for married or single employees," said Arthur Banks, senior vp and president of human resources.

BC/BS of Massachusetts is believed to be the first major health insurer to offer domestic partner health benefits to its own employees, thus "there was no competitive pressure on us to add this benefit since so few employers and no major insurers offer it," Mr. Banks said. "Progressive benefits such as the on-site child care center we opened last September and this make it easier for us to keep valuable employees, lower turnover and recruitment costs, and improve employee satisfaction and morale."

—By Michael Schachner

Law firm pensions

Defined contribution plans are more popular than defined benefit plans among the nation's top 100 law firms, a new survey reports.

Nearly all responding law firms offer 401(k) plans to their staffs: 97.8% offer them to non-legal and paralegal employees, while 95.7% offer them to associates, according to the Segal Co. survey. Slightly fewer—93.4%—sponsor 401(k) plans for equity partners.

Half of the firms matched contributions for non-legal and paralegal staff, the most common match being 50%. Very few firms provide matching contributions for associates or partners. Employer matches ranged from 1% to 6%, but a 3% match was most common, the survey found.

Eighty percent of the firms permitted loans under the 401(k) plan.

In addition, most firms—81.8%—offered five or more investment options. Only 24.4% of the surveyed firms said they had changed or were planning to change the number of investment options offered in order to satisfy the final Employee Retirement Income Security Act 404(c) regulations, according to the study.

The firms were more likely to offer equity partners defined contribution plans other than 401(k) plans, including profit sharing, money purchase or Keogh plans.

Meanwhile, 54.3% of the responding firms sponsored a qualified defined benefit plan for their non-legal and paralegal staff, while 30.4% offered such plans for equity partners. Most firms' defined benefit plans included early retirement provisions and half included disability benefits.

For a free copy of The Segal Co.'s Survey of Retirement Benefits at the Top 100 Law Firms, please contact Mary L. Feldman, vp-public affairs, The Segal Co., 1 Park Ave., New York, N.Y. 10016; or call 212-251-5029.

—By Christine Woolsey

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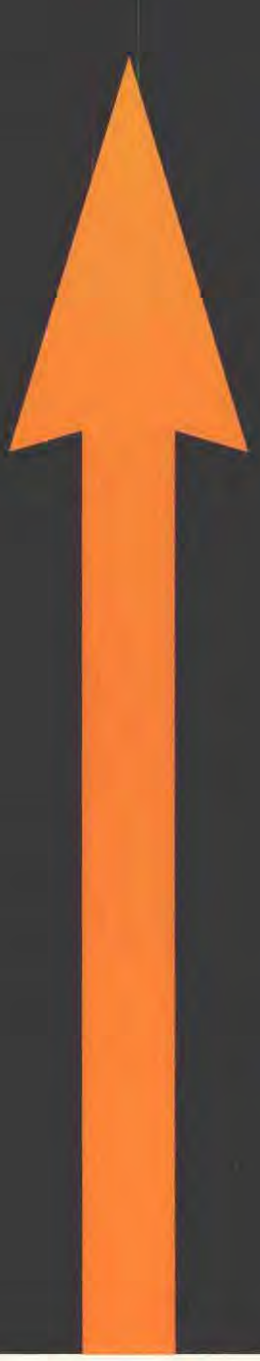

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401(k) plan survey

Companies are allowing employees to make more frequent changes to their 401(k) plan investments, but that is not necessarily improving the quality of long-term investment goals, according to a recent survey by Buck Consultants Inc.

Thirty percent of companies surveyed allowed employees to make either daily or monthly changes to savings plan balances in 1993, up from 24% in 1992 and 12% in 1989.

The percentage of companies that permitted 401(k) account changes only semiannually or annually decreased to 12% in 1993 from 17% in 1992 and 42% in 1989.

The Buck survey found that 58% of companies match a portion of employee contributions up to a maximum percentage of employee pay. The most common match among respondents was 50 cents per dollar contributed by employees, while the most popular limit on matching contributions was 6% of an employee's salary.

Nearly three-quarters of employers offer plan participants three to five investment options. The most common were: "stable value funds," or guaranteed investment contracts, which were offered by 68%; managed stock funds, offered by 59%; balanced funds, offered by 55%; money market funds, offered by 54%; and index stock funds, offered by 50%.

But a Buck consultant warns that more frequent investment changes and the most popular investment option may be a bad mix. "Stable value funds are designed to preserve capital. The fact that this is the most popular investment highlights the conservative nature of participants' 401(k) plan investments. This, combined with frequent investment changes, can threaten the long-term growth potential of retirement balances," said Rich Kloski, a benefit consultant.

Copies of 401(k) Plan Practices and Policies are available for $75 from Carolee Martin, Manager of Marketing, Buck Consultants Inc., 500 Plaza Drive, Secaucus, N.J. 07096-1533.

—By Sara Marley

Health care conference

Registration is still open for the Second Annual *Business Insurance* Winter Health Care Management and Cost Containment Conference, to be held Jan. 19-21 in San Diego.

The registration fee is $795 but is reduced to $595 for employee benefit, human resource and risk managers.

To register, contact International Business Forum, 7 Penn Plaza, 370 Seventh Ave., New York, N.Y. 10001; 212-279-2525. BI

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Opinions

Health care hypocrisy

Like water from a leaky faucet, annoying and disturbing details about President Clinton's health care reform package keep dribbling out of the administration.

Many of the latest details to emerge involve penalties for large employers that opt out of the administration's proposed system of giant state-run or affiliated regional health alliances and establish their own employee health care programs.

Furthermore, details about some hidden traps for employers that enroll in the regional alliances also are trickling out.

While the Clinton administration has made much of the idea that individuals would be able to move in and out of different health plans offered by regional alliances during annual open enrollment periods, apparently the administration doesn't think that it is important that employers should have similar choices.

Specifically, if a large employer chooses to participate in regional alliances, that employer's decision is permanent. If an employer—or, for that matter, its employees—is dissatisfied with the quality of service provided through an alliance, or if an employer believes it can provide the same benefits at a lower price, that's tough luck: The employer cannot opt out of the regional alliance even if the employer would qualify to establish its own health care program.

Of course, under President Clinton's proposal, an employer could always terminate its own corporate alliance and join regional alliances. But why shouldn't the reverse be true?

We sense a little hypocrisy here. The Clinton administration says its proposal would boost competition among insurers and other providers that would have to sell health care plans to regional alliances. But how about some competition for the alliances themselves? If they do a lousy job of providing benefits and services to employers and their employees, why shouldn't employers be able to opt out and set up their own programs to compete with these alliances?

Competition from large-employer plans would only help make the alliances deliver higher-quality medical care at a lower cost.

If that isn't enough, the Clinton proposal as currently

fashioned would put an unworkable—and unreasonable—burden on employers when they would have to decide whether to join a regional alliance or set up their own health care programs.

Under the administration's proposal, that decision would have to be made in 1996—two years before states would be required to establish regional alliances. But, how can employers in 1996 make an informed decision about the pros and cons of joining a regional alliance or establishing their own programs when most regional alliances would not even be up and running?

That's plain stupid, and the stupidity is then compounded by the administration's mandate that employers' decisions would be irrevocable.

While we still think there are some very good proposals contained in the Clinton health care reform package, it is details like these—that are now only coming to light—that convince us the administration proposal is in drastic need of overhaul.

We hope the administration will be open to criticisms and suggestions as congressional hearings on the package begin.

Letters

Hawaiian cartoon was in poor taste: NAIC chief

To the editor: The cartoon accompanying the article in the Dec. 6 issue about the National Assn. of Insurance Commissioners' winter meeting, "No Day in the Sun for NAIC?" was, to put it mildly, in very poor taste. I had thought that images such as the cartoonist's depiction of a larger-than-life balding white male in a suit holding up a forbidding hand to a scantily clad woman of color had gone the way of traveling minstrel shows.

This front-page attempt at style over substance was highly offensive. Ironically, had you decided to pursue the real story behind the NAIC meeting, you could have avoided such insensitivity altogether. The substance of our meeting—the accreditation of 10 more state insurance departments as well as final action on important issues like property/casualty risk-based capital standards, fronting, assumption reinsurance, credit insurance and homeowners insurance—was the real front-page news.

David J. Walsh
President
National Assn. of Insurance Commissioners
Kansas City, Mo.

■ *Editor's note: Much of the literature promoting Hawaii as a travel destination continues to include depictions of suntanned women in grass skirts. The inclusion of such an image in our illustration was intended to suggest a souvenir figurine sold in the state—not to offend anyone.*

In addition, the light-hearted illustration accompanied an article published in the issue that coincided with the NAIC's meeting; full coverage of the NAIC's proceedings appeared in the Dec. 13 issue.

Don't portray reform in bad light

To the editor: Why must a source of technical data like *Business Insurance* resort to sensational and slanted political reporting? We in the insurance industry and the nation need fair and accurate reporting about needed health care reforms.

The headline on an article in the Dec. 13 issue stated that "Health Care Costs Will Rise for Many Under Reform Plan" for obvious political reasons, even though only a minority—43%—of those employers surveyed said their costs would rise by at least $100 per employee.

Why not headline the savings of up to $2,500 per employee per year that the Clinton health care reform plan will generate for some, or that the majority of employers think they will see some savings?

Reporting such as this has turned every insurance broker I know into being negative toward any type of health care reform.

In reality, you should be helping people accept what is necessary and inevitable while helping to enact such changes to the betterment of the system.

Al Long
LFS Benefit Services
Anaheim, Calif.

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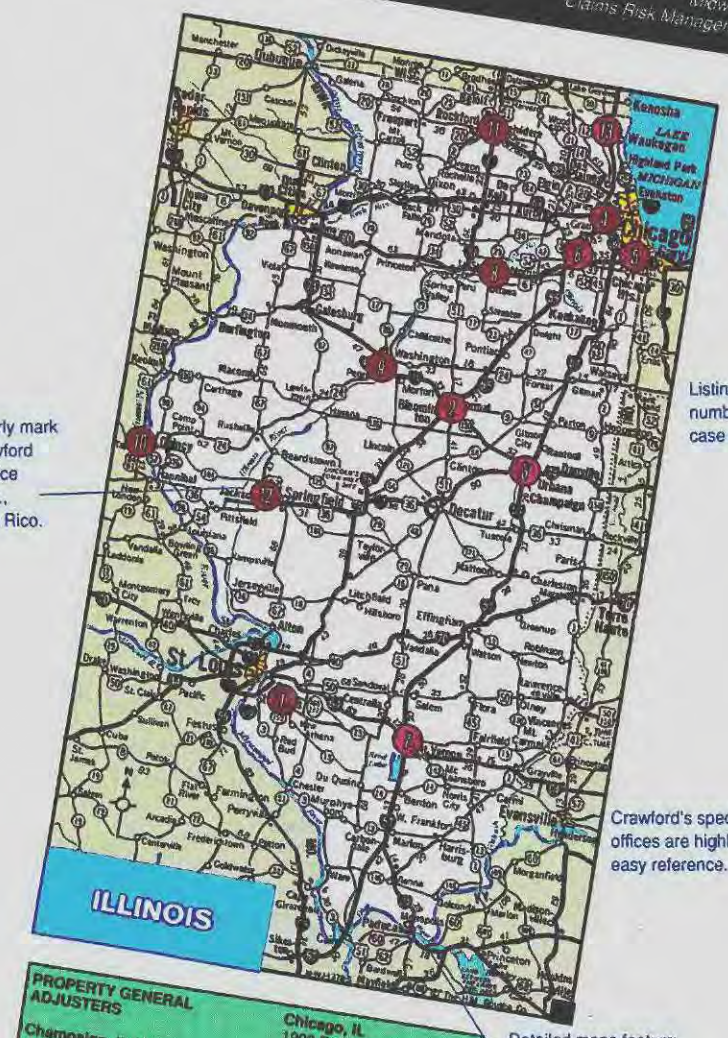

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Deep pockets

Continued from page 2

gence, he said. While juries generally do assess larger awards in medical malpractice suits than in automobile liability suits, there are "alternative explanations" other than jurors being biased against doctors and hospitals, he said.

The question that has to be posed is: "Are juries deciding two cases differently or are they deciding two different cases?" he suggested.

According to Mr. Vidmar, medical malpractice cases and auto liability cases are quite different. In addition to differences in the kinds of evidence brought forward and the number of defendants typically named in the suits, the cases have different types of plaintiffs. Indeed, malpractice attorneys specifically select cases in which the plaintiffs appeal to jurors' sympathies, he said.

There is also no data to support the contentions that jurors are psychologically motivated by uncontrolled sympathy for the victims, he said.

Furthermore, only about 10% of medical malpractice suits filed actually go to trial, he said. None of the earlier research gives any data on the 90% of the cases that are settled or dropped, he said.

"Without knowing about the base of cases from which trials were selected and about any changes in that base, we can conclude nothing about changes in jury behavior from verdict reports," Mr. Vidmar wrote in his report. "The evidence is incomplete."

A plaintiff's attorney agrees that few malpractice cases are decided in favor of the plaintiff.

Nearly 87% of all medical negligence suits brought to trial nationwide are won by the defendants—health care providers, according to Thomas A. Demetrio, a plaintiffs attorney at Corboy & Demetrio in Chicago. Part of the reason for this, he said, is because cases in which real medical negligence occurs typically are settled out of court.

"Risk managers know that with 12 jurors, in a real case of negligence, (the jury is) going to respond," Mr. Demetrio said.

Nevertheless, attorneys specializing in medical negligence cases are divided over whether juries will award larger damages against a hospital with "deep pockets" than an individual defendant.

"The deep pocket theory in the real world is a red herring," said Mr. Demetrio.

"I don't think it exists," agreed Judith A. Livingston, a plaintiff's attorney with Kramer, Dillof, Tessel, Duffy & Moore in New York, adding there are always exceptions.

Other attorneys disagree.

When liability does exist, jurors in malpractice cases tend to find against entities with deep pockets, like hospitals, rather than individual doctors, said Stanley Schwartz, a plaintiff's attorney for Sommers, Schwartz, Silver & Schwartz in Southfield, Mich. "Jurors assume the hospital can pay more."

Mr. Schwartz cited a recent malpractice case in which he was involved that was brought by a boy with hemophilia who suffered an "unsightly scar from temple to temple" as a result of treatment from two hematologists.

The boy sued the two doctors as well as the hospital, alleging he could have been treated without the scarring, Mr. Schwartz said. During the trial, the jurors got to know the doctors and during closing arguments, their families were permitted to sit at the front of the courtroom, he said. In the end, the doctors were acquitted and a "substantial verdict" was rendered against the hospital.

"The hospital has no personality," Mr. Schwartz said. Jurors only see it as a "big building that makes money."

On the other hand, when a doctor is on trial, he or she has a personality and can "smile and romance the jurors." In these cases, jurors will "find against the hospital even if the doctors were the ones who committed the negligence," Mr. Schwartz said.

The fear that a jury will be more likely to hold a hospital liable in a malpractice case than an individual doctor also comes into play in Massachusetts, where hospitals have a charitable immunity cap of $20,000 under state law, according to Dennis Anti, a defense attorney at Keyes & Donnellan in Springfield, Mass.

In a majority of the cases, on the day the trial starts, hospitals are dropped from the suit because plaintiff's attorneys are worried that the jury will "only tag the hospital and only get $20,000," Mr. Anti said.

'The deep pocket theory in the real world is a red herring,' says Thomas Demetrio.

Some attorneys believe the deep pocket theory was created by those who would be hurt by it.

The theory is "a perpetuated notion" put forth to the public by hospitals and other entities that cry they are only being sued because they are a deep pocket, said Ms. Livingston, the New York plaintiff's attorney.

The reality is that jurors are more cognizant today of the litigious environment and are not willing to give plaintiffs something for nothing, according to Duke's Mr. Vidmar.

"I have found, over the years, that juries take their roles very seriously," said Ms. Livingston.

If a so-called deep pocket doesn't belong in the lawsuit rightfully, the defendant will be excluded from the suit before the trial begins, said Mr. Demetrio, the Chicago plaintiff's attorney. And "if a jury goofs up and nails a deep pocket, that's why we have post-trial motions and appellate courts," he added.

When jurors are hearing medical negligence cases, they "don't think about hospitals having lots of insurance to pay," Mr. Demetrio said. "When all is said and done, the jurors do the right thing."

In a controlled study, Mr. Vidmar found that jurors do not award significantly higher damages for negligence against "deep pocket" defendants compared with individual defendants.

The Duke professor surveyed 147 North Carolina individuals who had been called to serve on a jury. The jurors were asked to award damages for pain and suffering to a young woman who had suffered a broken leg and further complications due to negligence. Jurors were given one of six negligence scenarios as the cause of the woman's injuries.

For some jurors, negligence was attributed to an individual doctor,

Continued on next page

THE SECOND ANNUAL

Business Insurance

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CONFERENCE AGENDA

WEDNESDAY, JANUARY 19

6:00 – 7:30 p.m. EARLY REGISTRATION & COCKTAIL RECEPTION
Hosted by Business Insurance and International Business Forum

THURSDAY, JANUARY 20

8:00 a.m. *Continental Breakfast & Registration*

9:00 a.m. OPENING REMARKS BY CONFERENCE CHAIRMEN
Kathryn J. McIntyre
Vice President, Publisher & Editorial Director
Business Insurance

James M. Burcke, Editor
Business Insurance

9:15 a.m. KEYNOTE ADDRESS
Russell C. Coile, Jr., President
The Health Forecasting Group

9:45 a.m. HEALTH CARE REFORM: WHAT THE MAJOR PLAYERS WANT
Panel Moderator:
Jerry Geisel, Editor-at-Large
Business Insurance

Larry Milroy
Director – Benefit Management and Health Services
Rockwell International Corp.

William H. Sharkey, Jr.
Senior Vice President, National Marketing
CIGNA Corp.

G. Rodney Wolford, President & CEO
California Healthcare System

10:45 a.m. *Mid-Morning Refreshments & Table-Top Exhibits*

11:15 a.m. CONTROLLING EXPENSIVE CASES: PRENATAL & WELL BABY CARE
Maureen Corry
Director of Education & Health Promotion
The March of Dimes

Beverly King, Director of Human Resources
Los Angeles Department of Water & Power

12:15 p.m. LUNCHEON FOR SPEAKERS AND ATTENDEES
Hosted by CIGNA Corp., Intracorp and MCC Behavioral Care

1:15 p.m. KEYNOTE LUNCHEON SPEAKER
Jerry D. Gardner, M.D.
Professor of Internal Medicine
Associate Chairman, Department of Internal Medicine
School of Medicine
St. Louis University Health Sciences Center

Continued from previous page
two doctors or a hospital.

For others, negligence was attributed to either one person driving a car, two people or a business corporation.

The survey indicates "there is no support for the hypotheses that jurors would be prejudiced against medical providers in comparison to motor vehicle operators or to corporations that are legally responsible for them," Mr. Vidmar said.

The study found that the average jury awards in each of the negligence scenarios were reasonably similar.

For example, the average jury award against the hospital in the medical negligence suit was $144,339.

The average jury award against the individual driver in the automobile accident negligence suit was $105,063. BI

Health reform

Continued from page 2
payroll tax on part-timers' wages, Mr. Smith said.

Under another newly detected provision, employers establishing corporate alliances would have to pay regional alliances a higher percentage of premiums for low-wage workers than if they had secured coverage for all workers from a regional alliance.

At the same time, benefit lobbying groups say, some of the cost savings touted by the administration for employers joining regional alliances may be illusory.

For example, the ballyhooed cap of 7.9% of payroll on premiums that employers would pay to regional alliances is not as generous as it first appeared.

Under the Clinton plan, the cap only would apply to premiums paid for the standard benefits package that regional alliances offered to active employees.

It would not apply to the cost of supplemental benefits, like adult dental or vision care, or retiree health benefits, which would not be part of the standard benefits package.

As a result, employers shouldn't think that the 7.9% cap on premium contributions would necessarily offer big savings compared with their current health care-related expenditures.

"It would be a mistake for employers to compare current health benefits spending with the 7.9% cap. It may not be a correct comparison because the benefit packages likely will be different," advised Frank McArdle, a consultant with Hewitt Associates in Washington.

These disclosures come amid earlier revelations about other provisions in the Clinton package that would boost employer costs.

The administration said last month that employers with fewer than 20 employees would become the primary payer of health care coverage for employees who stay on the job after turning 65, and Medicare would become the secondary payer (*BI*, Dec. 20, 1993). This so-called working aged provision now only applies to employers with 20 or more employees.

Meanwhile, President Clinton, in a pep talk to his Cabinet and other health plan advisers last week, said the administration will keep up the pressure for enactment this year of comprehensive health care reform legislation.

"This will be a year when we attempt to fix what's broken with our health care system, keep what's right, to emphasize the program that we outlined of guaranteed private insurance for every American, comprehensive benefits that can never be taken away. . .," President Clinton said.

While many employer groups agree with the concept of universal coverage, they are troubled by provisions that would discourage employers from establishing corporate alliances.

Many companies, recent surveys have found, would like to opt out of the regional alliance because they believe they could do a better job of controlling costs and delivering health care benefits than the giant state-run or -affiliated alliances.

But many provisions in the Clinton plan would "stack the deck" against corporate health alliances, said the APPWP's Mr. Smith.

For example, the 1% payroll tax on employers with corporate alliances is based on all wages paid to workers, including those like part-timers enrolled in regional alliances.

"This tax would force large employers into regional alliances by raising the cost of operating a corporate alliance," the APPWP says in an analysis of the Clinton proposal.

There is an additional element of unfairness in the way the 1% payroll tax would be applied, according to the APPWP.

Under the Clinton proposal, states would have until 1998 to establish regional alliances. But employers eligible to establish corporate alliances—organizations with more than 5,000 employees—would have to decide by 1996 whether or not they will set up a corporate alliance or join regional alliances.

If they decide to set up a corporate alliance, they will have to begin paying the 1% payroll tax in 1996—two years before regional alliances would have to be established.

"It is grossly unfair. You are being taxed for something (regional alliances) that may not even exist," Mr. Smith pointed out.

Benefit lobbyists say a related provision also is unfair: Employers would have to make an irrevocable decision in 1996—before regional alliances actually are established—on whether or not to join the alliances or stick with their own programs.

Benefit lobbying groups say employers would be in effect, buying a pig in a poke.

"Since states are not required to form regional alliances until 1998, large employers will be required to choose between the corporate and regional alliances before they have the opportunity to assess regional alliances' effectiveness," the APPWP says.

While employers, after making the initial decision to join, would be locked into a regional alliance, the same would not hold true if they established a corporate alliance. Those employers could later disband their own health care programs and join regional alliances.

But employers establishing corporate alliances would be discriminated against in other ways, the APPWP says. These employers would, in certain situations, have to pay an amount equal to 95% of the premium of the lowest-cost plan the alliance offered for employees earning less than $15,000 a year.

By contrast, employers joining regional alliances generally would only be required to pay an amount—regardless of the income of its employees—equal to 80% of the average premium charged by health plans offered by the regional alliance. BI

1:45 p.m. *Break*

2:15 p.m. COMPLYING WITH ADA & EEOC REGULATIONS WHILE CONTROLLING COSTS

Michael J. Lotito, Managing Partner
Jackson, Lewis, Schnitzler & Krupman

3:00 p.m. *Mid-Afternoon Refreshments & Table-Top Exhibits*

3:30 p.m. ALLIANCES IN THE MANAGED PRESCRIPTION DRUG INDUSTRY

Panel Moderator:
Christine Woolsey, Associate Editor
Business Insurance

Managed Health Care Director
The Upjohn Company

Dennis J. Nirtaut, Manager of Employee Benefits
Continental Bank

4:30 p.m. COCKTAIL RECEPTION
Hosted by The Upjohn Company

FRIDAY, JANUARY 21

8:00 a.m. *Continental Breakfast & Table-Top Exhibits*

9:00 a.m. OPENING REMARKS BY CONFERENCE CO-CHAIR

James M. Burcke, Editor
Business Insurance

9:15 a.m. FAIR & ADEQUATE MANAGED MENTAL HEALTH CARE COVERAGE

Panel Moderator:
Joan Pearson, Principal
Towers Perrin

Ann Collins, Director
Employee Benefits North America
Philip Morris Management Corp.

Stephen Connor, M.D., Medical Director
PacifiCare Behavioral Health/LifeLink

William M. Glazer, M.D.
Associate Clinical Professor of Psychiatry
Yale University School of Medicine

10:15 a.m. *Mid-Morning Refreshments & Table-Top Exhibits*

10:45 a.m. EMPOWERING EMPLOYEES TO MAKE WISE HEALTH CARE CHOICES

Carson E. Beadle, Managing Director
William M. Mercer, Inc.

Dorothy E. Dugger, M.D.
Chief Medical Officer, Intracorp

Paula Roe, Vice President – Compensation & Benefits
Norwest Corp.

11:45 a.m. OUTCOMES MEASUREMENT: CAN IT REDUCE HEALTH CARE COSTS?

Lucy Johns, Independent Consultant
Health Care Planning & Policy

William J. O'Neil
Manager of Health Care & Wellness Programs
Procter & Gamble Co.

12:30 p.m. LUNCHEON FOR SPEAKERS AND ATTENDEES

1:30 p.m. KEYNOTE LUNCHEON SPEAKER

Ellen M. Sanders, Partner
Innovative Health Care Services, Inc.
First Vice President
American Nurses' Association

2:00 p.m. *Break*

2:30 p.m. DEBATING THE COVERAGE OF EXPERIMENTAL TREATMENT

Panel Moderator:
James M. Burcke, Editor
Business Insurance

Terry Rogers, M.D.
Senior Vice President – Medical Affairs
King County Medical Blue Shield

Lawrence J. Schneiderman
Professor – Department of Family & Preventive Medicine and Department of Medicine
University of California–San Diego

3:30 p.m. WELLNESS PROGRAMS: ARE THEY REALLY EFFECTIVE AT CONTROLLING COSTS?

Panel Moderator:
William E. Hembree, Director
Health Research Institute

William B. Baun
Manager – Health Promotion Department
Tenneco, Inc.

Kurt P. Hobbs
Supervisor – Preventive Health Education
Southern California Edison

Ronald Komers, Personnel Director
County of Ventura

4:30 p.m. CONFERENCE ADJOURNS

CORPORATE SPONSORS

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Insurers

Continued from page 1

corporate underwriting of Royal Insurance Co. in Charlotte, N.C.

And, he said, the dynamics of the market appear to be changing. "Up to 1985, when the cycle would turn, the whole industry—both personal and commercial lines—would move. Now, not all markets move in sync. To survive and make adequate returns, you have to figure a way to make a buck in the market you are in now."

Today's market may be the "real" market, Mr. McDonald added. "I don't think you'll see a 1985-1986 repeat. There are too many regulatory restraints put in place to preclude it," he said. "A lot of regulations addressed our own stupidity" and therefore won't change. "We made the bed and now we have to lie in it."

"We assume this is the normal market, but in the back of our heads we don't believe it," said Charles Clarke, commercial lines division president for Travelers Insurance Co. in Hartford, Conn.

"We prepare for a market upturn, meaning we realize we may need more underwriting capital and facilities to absorb growth. On the other hand, we have to cut all expenses and claims if this is the real market and perhaps specialize in specific areas. But we aren't moving away from any (particular lines) dramatically," he said.

The market's sluggishness is affecting almost all lines.

Primary liability insurance pricing remains in the doldrums, according to underwriters.

Other than multiperil insurance, primary general liability coverage and package policies are currently the most competitive lines, Zurich-American's Mr. Basta said.

"We are getting 7% or 8% increases now, but I don't think it'll stay up there for more than a month," said Mr. Clarke.

Rates for primary general liability coverage and package policies are "inching up" but only by the low single digits, said George Ramsdell, senior vp and chief underwriting officer for the agency group of Continental Corp. in Cranbury, N.J.

Bruce Smith, senior vp of Employers Insurance of Wausau in Wausau, Wis., said primary rates have bottomed, but the market for package policies covering primary liability and property remains competitive.

The low-layer excess liability market is "still pretty competitive," said Dennis Busti, president of Reliance National Insurance Co. in New York. Rates are running 5% to 10% lower than last year, he said.

Continental's Mr. Ramsdell called lower-layer rates "pretty flat."

William Adamson, group vp-reinsurance division for CNA Insurance Cos. in Chicago, also said that more than adequate capacity has put a stranglehold on excess liability rates. But those rates are not declining, he said.

A surfeit of capacity appears to be holding down high-layer excess liability rates as well, said Travelers' Mr. Clarke. Rates are "still going down, the (high-layer excess liability) market is still, incredibly, softening," with rates down 5% to 10%.

Excess general liability and excess directors and officers liability accounts will renew as is unless the policyholder's status changes, said Robert Cooney, executive vp of underwriting for X.L. Insurance Co. Ltd. in Hamilton, Bermuda.

But, X.L. will fight to keep some of its long-term clients. "If a long-standing client is being aggressively marketed by competitors, we'll give a little rate relief in order to encourage them to stay with us," Mr. Cooney said.

E&O also will probably renew as is, he said. However, some law firms may see modest increases, especially if they are involved in savings and loan losses.

High-hazard liability renewals also were less than inspiring for insurers, with rates flat at best and sometimes down as much as 5%, said Travelers' Mr. Clarke.

The D&O liability market is a "mixed bag," said Continental's Mr. Ramsdell.

Mr. Clarke said D&O rates are either flat or decreasing by as much as 5%, while Royal's Mr. McDonald said D&O coverage for non-profit organizations is experiencing flat rates at best.

Professional liability rates are equally disappointing, Messrs. Clarke and McDonald agreed. Insurers are vying to write this coverage right now.

Mr. Ramsdell said municipal liability rates have remained fairly stable, with some "modest single-digit" increases.

But another specialty market—surety and bankers bonds—is becoming very competitive, said Reliance National's Mr. Busti.

If insurers see any signs of hope, it's in the property market, which had been one of the softest market segments until Hurricane Andrew.

For example, rate increases for highly protected risks are ranging from flat to up 8% or 9%, said Mr. Clarke. The rates for non-HPR large commercial property risks have risen by about 5%, he said.

"The property market in general is tightening. Industrial Risk Insurers is tightening its underwriting standards. The HPR market is trying to at least remain flat or to get slight increases," Mr. Clarke said.

Mr. McDonald said HPR markets are getting "nominal increases" in the 3% to 5% range.

"Rates are going up; it is very much a case-by-case scenario," said Wolfgang Friedel, senior vp-sales, marketing and international operations of Arkwright Mutual Insurance Co. in Waltham, Mass. Businesses in hurricane-prone areas face rate increases, he said.

But "the majority of hurricane exposures are engineerable," he said. If properties conform to Factory Mutual System specifications, underwriters don't anticipate losses.

Allendale Mutual Insurance Co. sent 70 engineers into South Florida to see what could be done to better protect properties against hurricanes, said Michael McIntyre, senior vp of the Johnston, R.I.-based insurer. Allendale has increased rates for properties in windstorm areas, he said, declining to say how great the increases were.

Allendale has experienced "an inordinate increase in new business" since September, Mr. McIntyre said, attributing the increase to policyholders' search for a stable market. He added that "companies that are positioned to provide good service are getting the business."

Sometimes, good service can mean "just answering the phone," Mr. McIntyre said.

But rates for non-HPR large property accounts remain flat. Some small property, "Main Street America" risks are increasing by 3% to 6%, said Royal's Mr. McDonald.

Zurich-American's Mr. Basta said that despite 1992's record catastrophes and the cumulative weather-related losses in 1993, commercial property rates have actually declined, anywhere from 1% to 10%.

Other insurers said rates for large non-HPR property risks have firmed, with some insurers getting some increases. Continental's Mr. Ramsdell said increases are "very

Continued on next page

HOW KEMPER LOOKS

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Continued from previous page
location-specific." Medium-sized accounts are getting smaller increases than large accounts, he noted.

The rate experiences of other specific lines do not provide any clear omen of the market's direction. For example, boiler and machinery insurance rates are increasing modestly, said Mr. Ramsdell. And, Wausau's Mr. Smith said that commercial automobile liability insurance remains fairly competitive.

Workers compensation insurance has improved in a number of states, opening the possibility of increased competition in 1994 for the often-troubled line, Mr. Smith said.

Reliance National's Mr. Busti said there have been sustainable rate increases in general aviation.

Insurers reported no geographic areas in which the market has definitely firmed, although Mr. Basta pointed to two areas in which competition is more pronounced than for the rest of the country.

The first is New England, with its continuing economic downturn. The other is the workers comp market in some Western and Midwestern states, notably Illinois, Indiana and Wisconsin, where there is price competition for good accounts, he said.

The market's performance as a whole makes insurers cautious in assessing its direction for 1994.

"It has not bottomed out," Travelers' Mr. Clarke commented. "We are running into a lot of competitive pricing on the liability side. Insurers need revenues to meet their goals. Each underwriter is looking at a marketplace that, despite these crazy rates, everyone is still trying to gain market share in. No one is getting out of the business or (refusing) to write anything, except maybe coastal property," he said.

"The market is in a state of flux. It's not bottomed out. We'll still see a shakeout of the liability side because of the glut of capacity," said Royal's Mr. McDonald. "On the property side, capacity isn't really an issue—despite restrictions in catastrophe reinsurance capacity over the last couple of years—because there has been an influx of new capacity in Bermuda. The issue is price."

X.L.'s Mr. Cooney said the influx of new capacity in Bermuda won't have much of an impact on X.L. because most of it is property catastrophe reinsurance. However, he noted, in the excess general liability and excess D&O market, there "seems to be more aggressive capacity coming from commercial insurers that want to write the business." Some of those insurers are dropping rates to gain market share, and "that may be a sign that the market is about to turn."

But, for now, Mr. Cooney characterized the market as "the same old soft stuff. We are not contemplating or banking on any change."

Insurers generally agreed that it's too early to ascertain the impact of several new offshore catastrophe reinsurance facilities.

"It's starting to filter into the system," said Reliance National's Mr. Busti. Although underwriters remain "nervous" about the staying power of some of the new facilities, catastrophe reinsurance rates should begin to fall later in 1994, he said.

Royal's Mr. McDonald does not see a fall coming so quickly. He said that despite additional capacity, cat reinsurance prices will still increase "but not to the extent they did last year or the year before. Last year, on balance, increases could be 20% to 200%, depending on your self-insured retention level. It's safe to say increases will average 10% to 15% on balance in 1994. You won't see a major drop in reinsurance rates in 1994, though."

Property/casualty reinsurance prices may level off in the next six to 12 months, said Himanshu Patel, vp of marketing support for CNA Insurance Cos. in Chicago. He added that he hasn't seen that leveling yet, despite all the new capital going into Bermuda.

The new Bermuda facilities haven't had a significant impact yet and probably won't until their prices drop, said Wausau's Mr. Smith.

"You can get all the reinsurance you want, but nobody's got the money to pay for it," said Continental's Mr. Ramsdell.

Capacity for property catastrophe reinsurance has tightened significantly in some locations, said Travelers' Mr. Clarke.

"In some areas you can't buy the stuff—including Florida, Hawaii and Long Island, N.Y. A lot of us are reducing our exposure in catastrophe-prone states. The fact that we didn't have a storm this year won't change anything." The market is tougher for small property risks that need treaty reinsurance, Mr. Clarke said, noting that facultative reinsurance prices are still "reasonable."

Insurers are uncertain whether or when the new Bermuda facilities will begin vying to reinsure non-property lines:

"That's real capacity, it's not fly-by-night money. It's solid and well-positioned capital, and it's not going to go away. On the property catastrophe side, you'll have to reckon with them. I think it's great, because it gives me another avenue," said Royal's Mr. McDonald.

Although the facilities were explicitly designed to provide property catastrophe reinsurance, the likelihood is that as property coverage becomes less attractive, the money will find somewhere else to go, Reliance's Mr. Busti said.

Insurers are looking for potential unforeseen liabilities, but few could name specific worries.

"We don't know what we don't know," said CNA's Mr. Patel. "Ten years ago, we didn't appreciate the extent of environmental liability the industry might face," he said.

"Lead in water might be more worrisome than lead paint," Mr. Patel predicted. But, he said, "There is not much you can do to prepare, because a lot of it is past exposure and it also depends on court decisions. You can have 'judicial accidents' that could create a huge liability for the industry," he said.

"We price everything as if there is latent injury potential," Travelers' Mr. Clarke said.

Insurers also expressed a lack of concern over the direction national health care reform will take, but they are monitoring the situation.

Property/casualty operations and health insurance operations may become more dependent on each other, Mr. Clarke predicted. "Workers comp is driven by whatever happens in health care reform," he said. However, "we don't see a shift in capacity from either line," despite or as a result of health care reform.

But Mr. Ramsdell said that health care reform "conceivably" could have an "immense impact" on the property/casualty marketplace. If insurers lose their workers compensation premiums, that could lead to a "tremendous upsurge" in competition for remaining business.

"How we underwrite, manage claims and deal with the workers comp system as it exists today will change, regardless of what health care reform plan is adopted by Congress," Mr. McDonald said.

But, he pointed out, "There aren't many multistate insurers with a workers comp and accident and health capability. Once you get past the CIGNAs, Aetnas and Travelers,

Continued on next page

AT PROPERTY INSURANCE

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Insurers

Continued from previous page

it drops off. On paper, it would seem a company with both (workers comp and health insurance operations) would be in good shape going forward. Insurers that only write one or the other will have to align themselves with someone else."

Right now, though, most multiline insurers are taking a wait-and-see attitude. "They are trying to stay attuned to the situation, but they are not acting," he said.

Mr. Basta of Zurich-American said it's too early to know what impact health care reform will have. He said that Zurich-American supports the American Insurance Assn.'s plan for coordinating, rather than merging, workers comp benefits with a reformed health care system. But if there is a significant loss of premium in lines affected by reform, competition will heat up in the remaining lines, he said.

Health care reform is not the only federal initiative that could have an impact on property/casualty insurers' bottom line.

Topping the list is the possible reform of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, better known as Superfund.

If Congress approves a so-called hybrid proposal that more clearly defines liability and slashes transaction costs, "it could reduce litigation costs a bit and improve things somewhat. But it's no miracle," said Travelers' Mr. Clarke.

Royal's Mr. McDonald said Superfund reform "is absolutely essential." He said the American Insurance Assn.'s Superfund Improvement Project's push for reform has caught the attention of Sen. Frank Lautenberg, D-N.J., who is one of the key lawmakers in the Superfund debate. "They've gotten his ear and demonstrated there is a better way to run the railroad," he said.

"The Superfund law is a monster," said CNA's Mr. Patel. "But we are optimistic that something has to happen. If we leave it alone, it'll bankrupt the insurance industry as well as the entire economy." Although CNA is not a member of the AIA, the insurer does belong to the Superfund Improvement Project.

Looking toward the global financial markets, underwriters downplayed the possibility that a falling off in investors' appetites for initial public offerings and in making large new investments in Lloyd's of London mean a capital crunch is in the offing.

"I don't see any change. There is so much capacity out there. Lloyd's didn't collapse" and the cash calls in 1993 were not significant enough to change anything, said Travelers' Mr. Clarke.

"A lot of us don't rely on any one market anymore," he said. "It's such a world market now that" even if one market is troubled, insurers can still find the capacity they need.

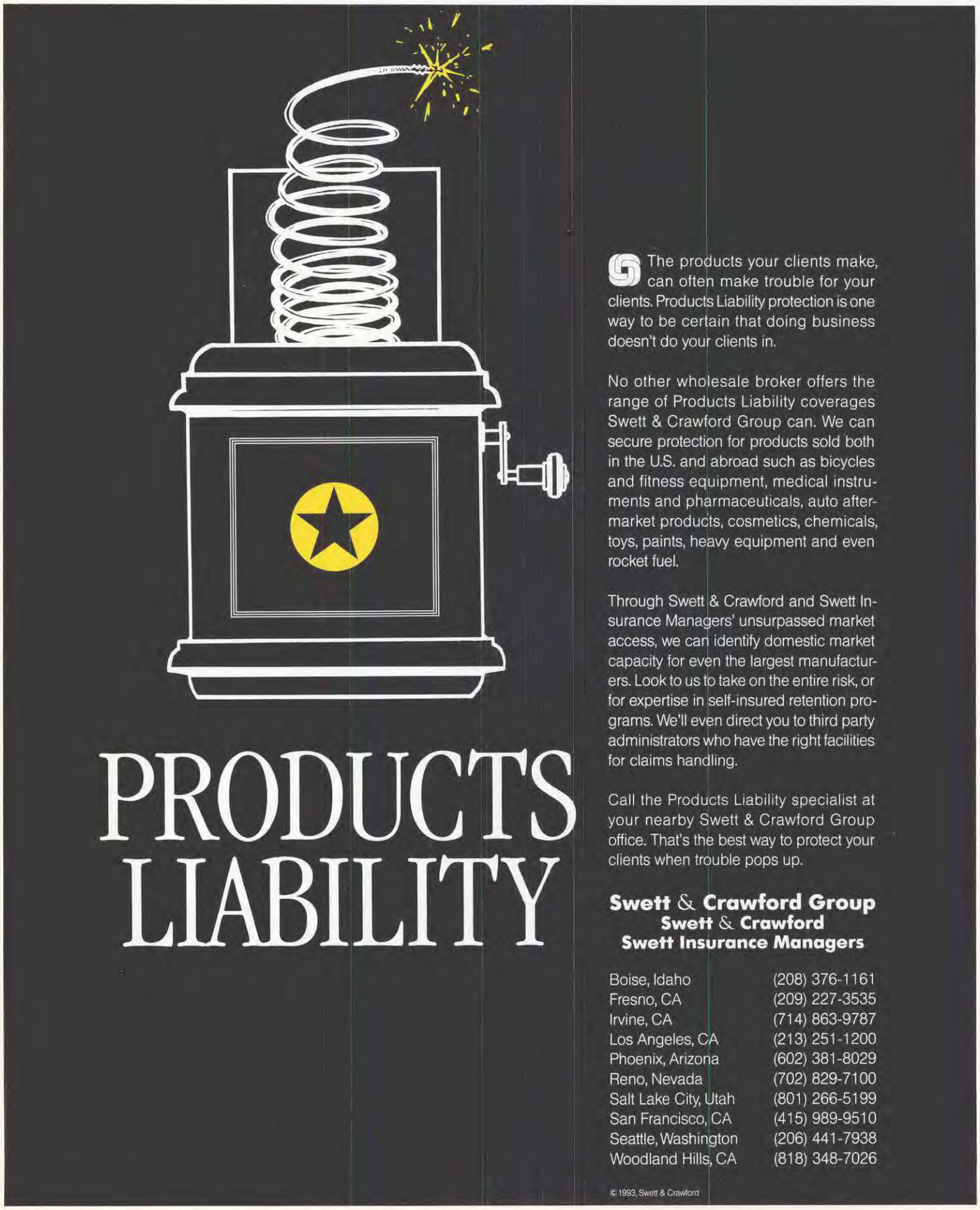
"There's overcapacity in the market today," said Wausau's Mr. Smith. "We're taking the position that the market we're in today is going to be the market—period."

Insurers are taking low interest rates into account as they set their prices, but the possibility of a major stock market correction isn't causing much concern, said Mr. Clarke. "The continued decline in investment income is recognized in rates," he said. But, the weakening stock market isn't impacting property/casualty insurers because "there is very little P/C investment in the stock market."

Looking at 1994 and beyond, underwriters don't see signs of hardening yet.

Continental's Mr. Ramsdell said that pricing has to rise first on the worst business or in the worst places. As long as retention rates for the worst business remain low, there's no hard market, he said.

"I haven't seen anything yet. The signs aren't there," Mr. McDonald said. "But if I could single out one reason why, it would be excess capacity. We are an industry with $160 billion in capacity. I would've thought when Andrew hit at $18 billion and the Oakland fires," we'd see some change. "But the $18 billion from Andrew was something like 10% of surplus. You can argue whether we are adequately reserved, of course. There may be a line of insurance where we aren't. But even if the $160 billion in capacity became $140 billion, it wouldn't make a difference." BI



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Reinsurers

Continued from page 1

seen anything like it, period."

"There's no question that the new capacity has changed the feeling in the market," observed Mark D. Mosca, senior vp with Zurich Reinsurance Centre Inc. in New York. "It's not a market that feels like it's in crisis anymore."

"Everybody is really calm this year," agreed John W. Smithson, chairman and president of PMA Reinsurance Corp. in Philadelphia.

Nine new Bermuda catastrophe reinsurers have been formed with about $4 billion in capital since last June, and several—notably Partner Reinsurance Co. Ltd.—have offered large lines on Jan. 1 renewals (*BI*, Nov. 1, 1993).

"They don't even blush about $15 million to $20 million lines," said Mr. Tremelling. "$5 million in Bermuda is a very, very average line."

Last year at this time, ceding insurers would have struggled to secure $200 million in limits from worldwide reinsurance markets.

This year, a well-rated program could attract up to $400 million in capacity, with Bermuda markets providing a large chunk of the total, said Paul Ingrey, president of F&G Re Inc. in Morristown, N.J.

Finding $250 million in limits this year is "easy" if the reinsurance program is priced correctly, said Steven Bolland, senior vp with Gill & Roeser Inc. in New York.

So much capacity has been restored to the market that many Jan. 1 programs are oversubscribed, and reinsurers are seeing their participations cut back, brokers say.

Reinsurers may offer large lines to a given ceding insurer client and receive firm orders for only a fraction of the line, observers note.

One Bermuda reinsurer, for example, authorized a $30 million line for a potential client—or 20% of a $150 million program—but received an order for only $3 million, or 2% of the program, one reinsurance executive reported.

The Bermuda companies, meanwhile, have also made their presence felt among Lloyd's of London underwriters who have traditionally led many cat programs.

London markets have "thrown more capacity" at certain clients' programs to protect their competitive position against Bermuda reinsurers offering large limits, Mr. Bolland said.

London and Bermuda are "fighting it out over market share," Mr. Tremelling observed.

Although it is still asked to lead many large cat programs, the London market has all but disappeared as a lead reinsurer for small and medium-sized U.S. ceding insurers, said Willis T. King Jr., chairman and chief executive of Willcox Inc. Reinsurance Intermediaries in New York.

Overall, London market catastrophe capacity has probably dropped 20% since the January 1993 renewal season, with Bermuda reinsurers picking up the slack, he said.

Despite the new Bermuda catastrophe reinsurance capacity, price competition has not yet begun in the catastrophe market, brokers and reinsurers agree.

The Bermuda reinsurers "are not cutting their own throats by underpricing the market," Mr. Bolland observed.

Reinsurers are still tightening terms for large ceding companies, while small and medium-sized insurers are renewing at expiring terms, Mr. King said.

"The big guys are getting some increase in retentions and rates, and the small to medium guys are seeing no change from 1/1/93," he said.

"Pricing is still going up. I don't think I've seen one case where the reinsurance premium for a layer has gone down," Mr. Ingrey said.

But it may not be much longer before this changes, several observers predict.

The Bermuda cat reinsurers must meet the earnings expectations of their investors, which may make them more aggressive and fuel price competition, Mr. Ingrey said.

He also observed that many reinsurers may be unhappy having their lines cut back and may offer lower prices to win a larger share of their clients' programs.

"There is a certain inevitability to supply and demand affecting pricing," said William E. Thiele, president and chief operating officer of North American Reinsurance Corp. in New York.

"It's just a matter of time. It's a matter of how many more renewal seasons before you see prices start to come down. I suspect it's not too many more," Mr. Mosca said.

Mr. Tremelling predicted that prices may fall anywhere from 5% to 15% as early as July 1 for some programs.

Meanwhile, one Bermuda reinsurer—Partner Re—has touched off a debate in the market by selling catastrophe coverage directly to some ceding insurer clients, bypassing their brokers.

In November, Partner Re went direct in offering American International Group Inc. $50 million in limits to use as needed throughout its domestic program, bypassing broker Guy Carpenter & Co. Inc. (*BI*, Dec. 13, 1993).

In a letter to other reinsurers on Dec. 1, 1993, Carpenter Chairman Richard H. Blum protested the direct offer of capacity and asked the reinsurers "to assist us in this placement."

"We view this as a threat to the broker reinsurance marketplace, not only on this specific program but for the universe of broker business," the letter said. "It is clear to us that the leverage obtained by Partner Re in this case and others presents a threat to future business opportunities of the broker reinsurance marketplace."

Partner Re President and CEO Herbert Haag has defended the practice, noting that it is up to the ceding company whether it wants to use its broker (*BI*, Jan. 3).

Brokers express different opinions about Partner Re's stance, though.

While a broker may feel compelled to approach Partner Re for its capacity, the broker will also worry that it might eventually be cut out of that part of its client's program, one broker said.

"There isn't a broker in the world that's going to trust these guys," he said.

However, Willcox's Mr. King said Partner Re has been straightforward in explaining its intentions and honoring ceding insurers' decisions whether to use a broker.

"It's not a problem," he said.

While ceding insurers and brokers wait for the catastrophe market to turn soft, the property risk and casualty reinsurance markets are already there.

The non-catastrophe property market is "much the same" as last year, Mr. Bolland reported.

"Generally, prices are flat to slightly lower than last year," he said, noting a "very, very mild softening."

"There's no drastic change one way or the other," agreed PMA Re's Mr. Smithson.

Property per risk treaty business is "at least as distressed as it was last year," according to Mr. Ingrey, who said that while rates are not going down, "they are not getting great increases."

Ceding insurers are continuing efforts to map their exposures and reduce concentrations of risk, said Mr. Thiele, adding that any rate changes are "account-specific and I would say normal and orderly."

Casualty reinsurance pricing has become noticeably softer, though, a change that baffles brokers and reinsurers.

"Casualty reinsurance is more competitive than it has ever been in this cycle," ZRC's Mr. Mosca said. "There's a real hunger on the part of casualty underwriters to write business."

Some reinsurers have even written treaties with profit commissions for ceding insurers based in part on assumptions about future incurred-but-not-reported loss development, he said.

Despite continued weak underlying casualty insurance pricing, "there's a lot of capacity out there that is intent on increasing (market) share no matter how difficult the competitive situation," Mr. Mosca said.

The January renewals this year have been a quieter experience overall, even counting the catastrophe programs, Mr. Tremelling suggested.

"There's nothing this year that's insurmountable," he said. "There have been a lot tougher years. A lot tougher." BI

THE STRENGTH

Atlanta Chicago Columbus Dallas

Managers

Continued from page 1

utility transmission and distribution coverage," Mr. Kronenburg said.

Despite those changes, "for a coastal community in Florida, we did pretty well," he said. "It's better than the worst case. I can live with it.

"My homeowners went up a lot more than that," he added.

That worst case was non-renewal, which the city was facing when negotiations began.

"It took all summer," Mr. Kronenburg said. "We got notice on July 1 that our coverage was canceled, so we had to work from that."

The timing of Jacksonville's renewal helped it to escape the worst rate increases that resulted from Hurricane Andrew.

In 1992, "by Oct. 1 the full repercussions weren't being felt," he said. "By that time (in 1993) things had settled down."

"Property pricing, if you already have it good, can be maintained. But the hits are coming on deductibles," said Gregory Hidden, director of risk and insurance services at American General Hospitality Inc. in Dallas.

Property coverage does not renew at the Dallas-based hotel management firm until April, but he is seeking final bids from insurers no later than Jan. 10.

Mr. Hidden said all property insurers are seeking to impose deductibles based on a percentage of the value of an individual piece of property. In most cases, insurers want a deductible equal to 2% to 3% of property value. Mr. Hidden said he is accustomed to and prefers a flat-dollar deductible.

"The question with percentage deductibles is whose appraised value do you use. I want to use my own, and the insurers will probably agree until there's a claim. That's when their eyebrows will raise up."

Mr. Hidden said he entered this renewal period seeking packages of property, general liability, crime coverage and liquor liability for the company's 71 properties around the country, "but no one carrier is better on all the lines we need than various carriers are on one given thing. We'll end up unbundling it all line by line."

Property prices did climb for some classes of business, though.

The only jump in rates expected by Bank United of Texas is 10% to 15% on real estate foreclosed by the bank, said Mary Isbell, risk manager of the Houston-based bank. But the premium for that line should remain the same because the bank is holding fewer foreclosed properties than in previous years.

Coastal hotels are driving up American International Group Inc.'s blanket property rate, said Merrit W. Fabel, director of corporate risk and insurance.

"These properties are getting more difficult all the time," said Mr. Fabel, who would not specify just how much AIG's property rates are climbing.

"We've had excellent experience," Mr. Fabel noted. "But the overall market is still being affected by the Caribbean storms of (1992), which may be distant memories to some but are still very much alive in the insurance industry."

One reason for the stabilization in most property insurance pricing is that market conditions never got as bad as predicted, according to James Duggan, risk manager for TEREX Corp., a heavy-equipment manufacturer based in Westport, Conn.

"We heard a lot of talk this past summer about massive hardening on property. I can't really say I've seen this," he said. "I know a lot of people rewrote their policies mid-term, thinking the property market would change. But 1993 wasn't a bad year for catastrophes, so that projected hardening didn't fully materialize."

In addition to generally favorable property renewals, workers compensation coverage was a bright spot for some risk managers during this renewal for the first time in years.

A.G. Edwards & Sons Inc., a St. Louis stockbrokerage, will benefit from falling workers comp rates in California and Florida and no increase in Missouri, said Dee Shaw Webster, associate vp.

"Our comp quotes are all within an acceptable range," Ms. Webster said. "The incumbent is including additional services within the premium, like electronic claims review."

"We are a national employer and we utilize a deductible program in all states that allow it to reduce our residual market load," she added. In states like Maine and Rhode Island, where the voluntary market has dried up, the company purchases coverage through mutual insurers established by the states to replace residual market programs.

More insurers are interested in Bank United of Texas's workers comp program, which has grown to 3,200 today from 300 employees in 1988, Ms. Isbell said.

While small increases or flat rates are good news in property and workers comp, prices in some lines of business—particularly directors and officers liability and general liability—are down significantly.

Jim Dineen, director-risk management of Barnett Banks Inc., saw the Jacksonville, Fla.-based banking firm's D&O premium decrease 13% despite a 5% growth in assets, which are a factor in determining the D&O premium.

"The market is a little softer," he said. "And, our bank is doing quite a bit better financially."

At TCF Financial Corp. in Minneapolis, the D&O premium was down 11.6% in a December renewal despite three acquisitions the bank made during the year, according to Sharon L. Jones, risk management officer.

"I thought D&O would be flat to a 5% increase because of the mergers and acquisitions," Ms. Jones remarked. The bank, which currently has $5.2 billion in assets, also has another acquisition pending for the first quarter of 1994.

Bankers blanket bond was down by 50% with "extremely broad terms and conditions," Ms. Jones said.

TCF's bond had been placed in London, but Ms. Jones said she shopped in the domestic market this year.

"Right now, the bond market in the United States is extremely soft," she said. "There are a lot of players out there. Lloyd's traditionally keeps premiums stable. They don't play the high and low ends."

The move from London to St. Paul Fire & Marine Insurance Co. saved the bank $200,000, Ms. Jones said.

The insurance crisis banks faced in the late 1980s is over, she said.

"Those (players) that are around are strong. There is money in the marketplace and they are trying

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Managers

Continued from previous page

to write coverages. The loss exposure is small against property/casualty business with disasters."

Industries other than banking are also enjoying a soft D&O marketplace.

TEREX's policy is renewing in January, Mr. Duggan said.

"It was a clean policy this past year, so it'll renew as expiring. You'd always like to see it go down some after a clean year, but it was whittled down as far as possible in recent years."

American General Hospitality's Mr. Hidden said general liability is the softest line. "Our rates are falling 30% to 40% but mostly because we've been overcharged until recently. Our biggest single GL loss ever is less than $80,000, so we don't really deserve high rates."

Subtracting American General's liability experience from the equation, Mr. Hidden said general liabilities rates are generally falling by 10% to 15%.

L.L. Bean's Mr. Hewitt was anticipating a flat rate for a late January general liability renewal. Miscellaneous coverages like crime and D&O were "flat or slightly down."

Specialty coverages also showed few signs of hardening.

Mari-Jo Hill, senior risk analyst-finance division for SAS Institute Inc. in Cary, N.C., saved 8% when she renewed coverage for a country club on Jan. 1.

Software developer SAS marketed the program and got quotes from three insurers with tailored country club programs, including an association-sponsored program.

The program includes landscaping as well as herbicide and pesticide coverage, so there is some pollution exposure, she said.

The many golf courses in the state helped SAS secure competitive quotes for the course, which is located in Piedmont, N.C., Ms. Hill said.

"I was pleasantly surprised," Ms. Hill said of the renewal, which she is handling for the first time.

And, she expects the same when the company's major coverages renew April 1.

In the largest line, workers comp, "we expect an increase of about 5%, but we are a fast-growing company," Ms. Hill said. "Our payroll alone has increased 15% to 20%."

Other risk managers shared her optimism about renewals that will take place this year.

"From preliminary (proposals), I don't anticipate increases. I expect some decreases," when most coverages come up for renewal in April, said A.G. Edwards' Ms. Webster. She is hoping for a decrease in stockbrokers blanket bond.

"I hope it's going that well for everyone," she said.

Jim Green, risk manager for Justin Industries Inc., is "hopeful" about Feb. 1 primary and excess casualty renewals for the Fort Worth, Texas-based boot manufacturer.

"I do not anticipate any material change in premium," Mr. Green said. "We may see a slight reduction in workers comp," which is underwritten with a large deductible.

Risk managers should be wary of the extended soft market, some observers warn.

"The problem is we're dealing with a cycle that hasn't turned in so long that some risk managers new to the business see a lot of capacity and think things will not change," AIG's Mr. Fabel said. "They're not prepared for a turn and aren't budgeted properly. But if they weren't around in 1984, you can understand their approach."

Risk managers in Canada may already be facing what their U.S. counterparts ultimately will.

Some smaller property and liability programs are renewing at 10% to 15% higher rates, said Robert Patzelt, risk manager with Scotia Investments Ltd. in Bedford, Nova Scotia. His company's major property and general liability policies are already locked into three-year agreements.

Generally, larger property and liability programs are priced "depending on how bad the insurer wants to retain your business and what your experience has been," he said.

"The Canadian domestic market is hardening on both the property and casualty side due to low interest rates and reinsurance problems," Mr. Patzelt said. "No longer are there 12% to 14% interest rates. When it's 4%, the hunger for premiums slows down." BI

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Highlight of renewals is property rate hikes along coasts: Brokers

Otherwise, its business as usual

By SALLY ROBERTS and GAVIN SOUTER

Risk managers renewing property policies in coastal areas will face higher rates and larger deductibles, despite the influx of new capital into the Bermuda catastrophe reinsurance facilities and the lack of significant weather-related catastrophes in the past six months, brokers predict.

The fear of catastrophic losses, coupled with the high cost and dwindling capacity of catastrophe reinsurance, is causing insurers to raise rates for coastal property risks, even if it means losing the accounts.

Although the catastrophe reinsurance capacity crisis has attracted more than $4 billion in capital to new Bermuda-based catastrophe reinsurers, they have yet to provide relief for Jan. 1 renewals, brokers say.

The cost of insuring large property accounts is increasing nationwide, while property rates for medium-size and small property risks outside catastrophe-prone areas continue to be flat or slightly down at renewals, depending on the policyholder's risk history.

While some property rates are firming, liability accounts continue to be soft and competitive. Brokers report little movement in rates for specialty liability lines, with the exception of directors and officers liability coverage and professional liability for lawyers and accountants, which are seeing single-digit increases.

Sexual molestation coverage is difficult to obtain due to an increase in reported cases. Insurers continue to exclude or limit the coverage in general liability policies for churches, schools and municipalities.

Workers compensation continues to be a problem line because fewer insurers are writing the coverage voluntarily. As a result, more businesses are exploring self-insurance options.

One bright spot for U.S. property/casualty insurers is that the overall economy improved slightly over the past six months. A recent Insurance Information Institute study estimates that the industry will end the year with a near tripling of net income to $15.9 billion from $5.8 billion in 1992 (*BI*, Dec. 20, 1993). III also predicted firmer rates in 1994.

Brokers say that an improved economy could ultimately result in more business but is not likely to spark increased rates.

More prosperous clients will still be reluctant to pay higher rates, said Douglas Schenendorf, a partner at Seaman Ross & Wiener Inc. in Syosset, N.Y.

"I don't think that accounts getting bigger will help pricing. Clients have been so well trained to expect lower pricing and have become so used to shopping around that insurers will meet tremendous resistance to price increases," he said.

"As the economy picks up, sales will increase, payroll will increase, businesses will increase and exposures will increase," said Frank White, chairman of Willis Corroon Americas in Nashville.

A more buoyant economy could

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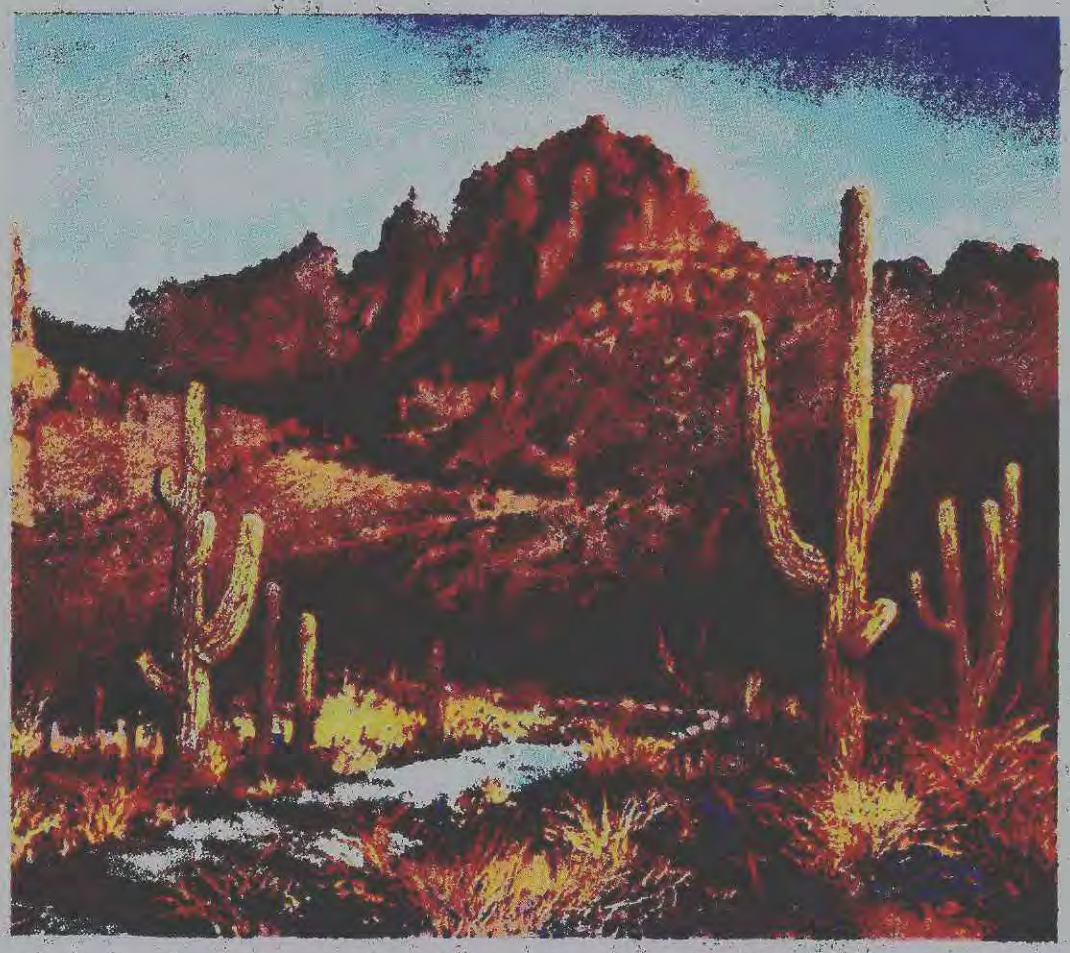

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Brokers

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help increase revenues without increasing rates, agreed Charles Ruoff, senior vp at Sedgwick James Inc. in New York. But greater general economic growth in 1994 is by no means certain. "I'm a pessimist when it comes to the economy, and I don't think that the growth can be maintained into 1994."

John O'Sullivan, a managing director at Marsh & McLennan Cos. Inc. in New York, said the industry's profits may be deceiving.

"Some industry people feel there is a great deal of underreserving" going on. But, because insurers are reporting profits, premium costs will not go up, he said. "But that's just looking on the surface," he said. If insurers are underreserving, they can't depend on investment income and capital gains to offset future underwriting losses. "Down the line, there seems to be an indication that prices will increase. However, the industry typically doesn't do things gradually."

Instead, the industry is likely to keep going in the same direction, Mr. O'Sullivan said. When it winds up in trouble, it won't be able to offset the losses with capital gains and will need a quick infusion of cash, he said. Insurers can get immediate profits with rate increases.

Nonetheless, brokers say not much change occurred in the last six months as most activity for January renewals continues to center on coastal property rate increases.

If risk managers have not renewed coastal property coverage yet, they should expect double-digit premium increases anywhere from 15% to 50%, said Glenn Welch, chief operating officer at Bowers, Schumann & Welch in Washington, N.J. "They can pretty much count on that." They can also count on increased deductibles anywhere from $5,000 to $25,000, depending on the size of the risk, he said.

Companies in coastal areas that suffered losses from Hurricane Andrew, the storm that hit the East Cost Dec. 11-12, 1992, or the East Coast blizzard in March of last year are seeing double-digit increases in premiums, agreed Bruce D. Guthart, executive vp with Kaye Insurance Associates L.P. in New York.

The price increases are driven by the shrinkage in capacity, brokers say.

The number of players underwriting coastal property is very limited, Mr. Welch said. Insurers are willing to lose accounts in order to charge higher rates. However, they "are asking for rate increases and getting it."

Additionally, insurers themselves are unable to find reinsurance capacity and consequently are being forced to limit their windstorm underwriting, Mr. Guthart said.

In some cases, insurers are walking away from business because they do not have sufficient reinsurance protection, he said.

And underwriters are more vigorously insisting on percentage-of-value deductibles rather than flat-dollar deductibles, he said.

That approach dramatically increases the deductible, Mr. Guthart said.

"You might have a small client that had a deductible of, say, $1,000 who now has a deductible of between 2% and 5% of the value, which means that the deductible is in fact increased to between $10,000 and $25,000," he said.

Business interruption deductibles also are being increased by insurers, said Suzanne Douglas, senior vp at Alexander & Alexander Inc. in New York.

Instead of a dollar deductible, insurers are imposing time deductibles, she said.

For windstorm catastrophe coverage on general property risks, insurers are usually insisting on a five-day deductible, Ms. Douglas said.

"In some cases, you can have risks where five days means $30 million, whereas before the dollar deductible would have been between $5 million and $10 million," she said.

But underwriters will be hard-pressed to keep up their "get tough" stance on catastrophe coverage next year if they experience another hurricane-free year, said Sedgwick's Mr. Ruoff.

Underwriters will be hard-pressed to keep up their 'get tough' stance on catastrophe coverage next year if they experience another hurricane-free year, according to Charles Ruoff, senior vp of Sedgwick James Inc.

"Last year, we saw 20% to 40% increases, which have been modified to 15% to 20% this year. If we have another good catastrophe year in 1994, we could see 1995 prices for catastrophe exposures staying neutral," he said.

In addition to rates for catastrophic windstorm coverage, California earthquake premiums have increased by about 25%, said Tom Norton, senior vp with Johnson & Higgins in Pittsburgh.

Reduced capacity in the market has allowed those insurers writing the business to increase their rates, he said.

The capacity has shrunk to such an extent that clients are not getting the coverage limits they want, A&A's Ms. Douglas said.

"We had one renewal where we had to struggle to get $90 million in coverage last year, and this year we can only get $70 million," she said.

Several large insurers have reduced their California earthquake capacity, according to Ms. Douglas. "And there are not the people coming in to pick up the slack," she said.

To alleviate the problem, brokers in some cases are selecting insurers to cover an entire program based on the amount of earthquake coverage the insurers will supply.

"It's easy to find the general coverage, so if I have one carrier that offers $100 million property coverage with $10 million in earthquake coverage and one that offers $50 million and $15 million in earthquake coverage, guess which one I'm going to pick," Mr. Ruoff said.

Outside of catastrophe-prone areas, property insurance renewals are going through with few problems and minimal or no rate increases, or even rate reductions in some cases, brokers report.

Highly protected risk rates are

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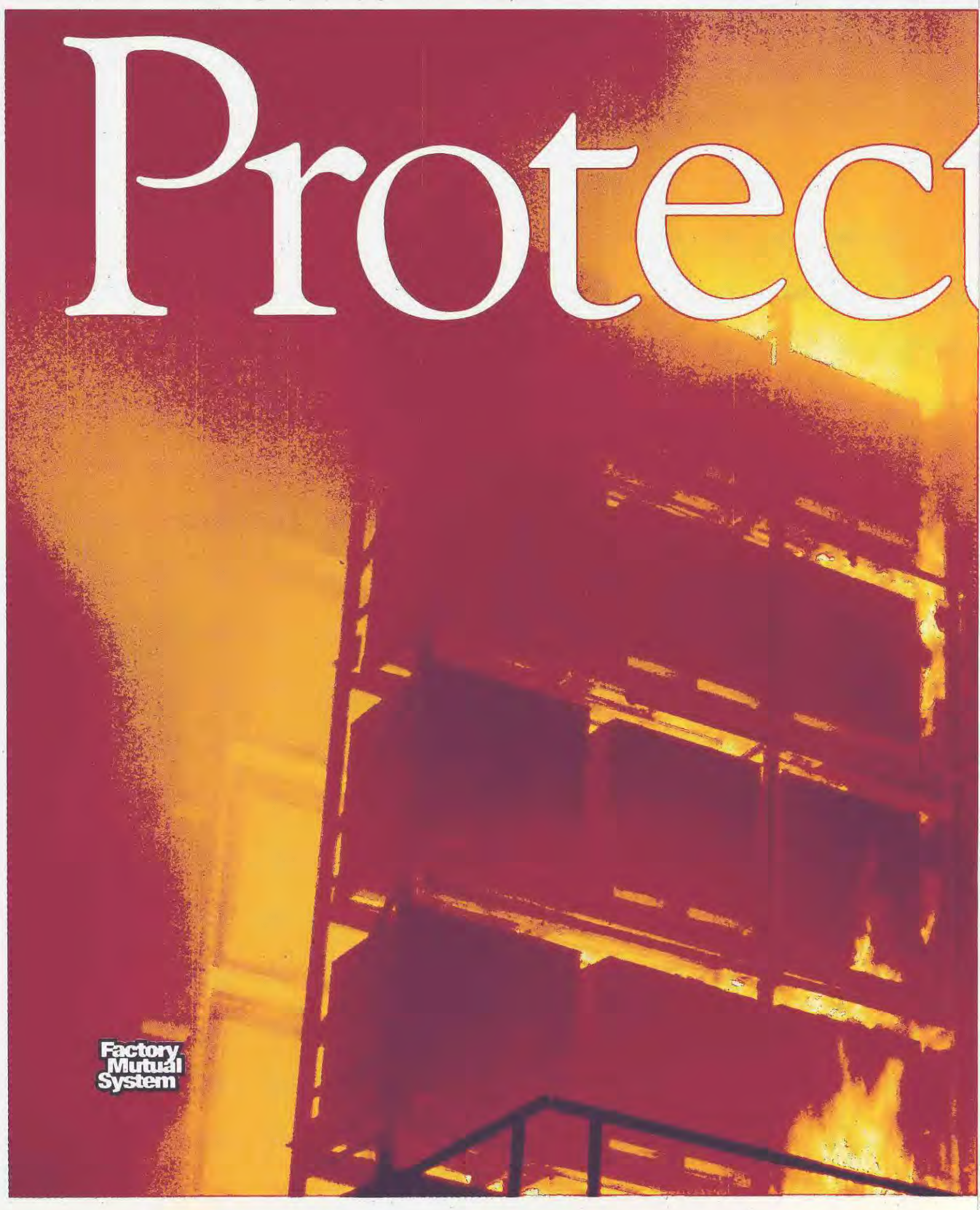

Continued from previous page
going up between 5% and 10%, and the average increase for all non-catastrophe prone large property business stands at about 10%, Ms. Douglas said.

Rates for small and medium-sized property accounts are often not increasing at all, said Patrick J. Gallagher, president of Arthur J. Gallagher & Co. in Itasca, Ill.

"The market has not really changed much this year. You have a certain amount of competition, but for the most part the market is flattish," he said.

In some cases, insurers are willing to reduce premiums to hold on to or win desirable medium-sized accounts, Mr. Gallagher said.

"There are some reductions, but it is not a generally reducing market," he said.

Some non-catastrophe domestic accounts are seeing reductions, agreed Mr. Norton of J&H.

"If you take an account where the properties are not far flung and there are no coastal or California quake exposures, you will find a highly competitive market. In some cases you can get reductions of between 10% and 15%," he said.

Insurers are eager to underwrite midsize and small-account business because it is less volatile than the large-account business, said A&A's Ms. Douglas.

"Insurers think that midsize accounts are less price sensitive and they are not put out to bid so often, so the prices have not been driven down as much as large-account business," she said.

Insurers also are offering price reductions on certain classes of business that have favorable loss experience, said Seaman Ross' Mr. Schenendorf.

For example, many insurers in the New York area are targeting plastics makers and metals manufacturers with special packaged policies, he said.

Liability coverage in general now is 'the darling of the industry,' says Glenn Welch.

However, in many cases the policies are underpriced, Mr. Schenendorf said.

"It's working well for clients, but it will backfire for insurers. You might see a risk where the premium was $50,000 being covered for $20,000, but the risks don't change just because it is part of a package," he said.

For casualty insurance, the market remains soft and competitive with more than ample capacity, brokers report. Few premiums are increasing and, in several areas, insurers are reducing premiums and broadening coverage terms.

Liability coverage in general now is "the darling of the industry," said Mr. Welch, of Bowers, Schumann & Welch. Underwriters are tending to shift their business more to liability accounts because it is a "greater comfort" than property accounts, he said.

General liability risks without any catastrophe exposures can receive up to 15% rate reductions, said Kevin McGill, senior vp with A&A in New York.

Deductibles can be lowered, too, but most clients are choosing to keep them at the same levels as last year, he said.

There is a lot of consistency in rate levels for casualty accounts, said Larry Sorensen, executive vp-corporate marketing for Rollins Hudig Hall Co. in Chicago. "It's most unusual to see rate increases in casualty lines," he said. Most casualty premiums are unchanged or decreasing.

But, for D&O and professional liability policies, risk managers should expect moderate increases, brokers warn.

"D&O has always been relatively hard, even in the softest of soft markets," said Frank C. Witthun, executive vp at Acordia Inc. in Indianapolis.

In general, D&O coverage is up 5% to 7%, and professional liability coverage is up 5% to 10%, said Willis Corroon's Mr. White.

While there are some price increases, "good accounts can still be competitively marketed and price reductions can be achieved," said J&H's Mr. Norton.

One exposure insurers continue to be wary of is sexual molestation coverage, said Mr. Welch. Due to the high-profile cases stemming from schools and churches in the past year, insurers are "trying to find ways to exclude it from (general liability) policies," he said.

In New Jersey for example, the Insurance Department does not allow insurers to exclude sexual molestation coverage, he said. But in other states, insurers are "sublimiting the exposure." This means that a school or church could have a $1 million general liability policy with only a $250,000 limit on sexual molestation claims.

Another troubling area is workers compensation.

It's "a political football" being tossed around by state legislatures, said Acordia's Mr. Witthun.

Some states are approving rate increases at relatively low levels, while other states are decreasing rates, Mr. White said. California, for example, just approved a 7% rate decrease.

Those organizations taking a managed care approach to workers comp are curbing any significant rate increases, said Robert J. Hogan, president of Hogg Robinson Inc.'s brokerage services division in Chicago.

Workers comp may become even stickier as President Clinton considers incorporating the medical portion of workers comp into his proposed health care reform package.

Overall, brokers say they don't expect much change in 1994.

There is "still a good deal of capital, and it appears to be increasing," M&M's Mr. O'Sullivan said. "It's almost getting boring."

"We've had the catastrophes and a lot of people thought (that) would change the market—and it didn't," said Hogg Robinson's Mr. Hogan. "Any organization depending on a market change is engaging in wishful thinking."

Brokers agree that reinsurance is still driving the market. And, even though the increase in property catastrophe reinsurance capacity in Bermuda over the past year has until now had little effect on the U.S. direct property market, brokers say it is likely to in the future.

"The surprising thing is that all that capacity has not yet had an effect. It seems that the carriers either don't have full access to the capacity or they don't know how to access it," said Kaye Insurance Associates' Mr. Guthart.

But the increased reinsurance capacity is likely to affect the direct market soon, said Mr. Gallagher, of Arthur J. Gallagher.

"You can't put $4 billion in to the market without it having some effect," he said. BI

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ASK A BENEFIT ACTUARY

New approach is needed to compute plan liability

Q **Why are discount rates based on settlement interest rates?**

A Over the past several months, I have had discussions with several chief financial officers, controllers and treasurers regarding the selection of discount rates to be used for year-end disclosures of pension and post-retirement medical and life insurance benefit liabilities. The Financial Accounting Standards Board's FAS 87 and FAS 106 each require the disclosure at year end of the company's liabilities based on a discount rate. The discount rate is intended to be the annual rate of return that a third party would expect to earn on funds it received from settling (or assuming) pension or post-retirement benefit obligations. The discount rate is used to discount future projected benefit payments for the time value of money.

This is a hot topic because of the decline since year-end 1992 in yield rates on long-term, high quality debt investments. For example, the Moody's Seasoned AA corporate bond index has declined from a rate of 8.24% in December 1992, to 6.85% in September 1993. It inched up to 7.12% for November 1993. A decrease in the discount rate increases the liabilities.

Recent comments by Walter Schultz, chief accountant for the Securities and Exchange Commission regarding the appropriate methodology for determining discount rates have also heightened interest in year-end discount rates. Mr. Schultz has indicated the organizations filing financial statements with the SEC should select a discount rate based on yield rates on debt instruments rated AA or better. This would be a change for many SEC filers who looked at yield rates on BAA-rated investments.

In the course of my discussions, a controller commented, "This makes no sense. We manage our employee benefit plans for the long term. We invest our pension assets for the long term. But we account for the liabilities as if we settle them today. Why are discount rates based on settlement interest rates?"

The FASB's objectives for FAS 87 provide some guidance in answering this question. The objectives stated in paragraph 6 are as follows:

a. To provide a measure of net periodic pension cost that is more representationally faithful than those used in past practice because it reflects the terms of the underlying plan and because it better approximates the recognition of the cost of an employee's pension over that employee's service period.

b. To provide a measure of net periodic pension cost that is more understandable and comparable and which is, therefore, more useful than those in past practice.

c. To provide disclosures that will allow users to understand better the extent and effect of an employer's undertaking to provide employee pensions and related financial arrangements.

d. To improve reporting of financial position.

Presumably FASB was working toward several of these objectives with FAS 87 and 106 standards regarding discount rates. They were undoubtedly trying to improve the comparability of employee benefit liabilities among corporations sponsoring plans. A standard that placed the vast majority of discount rates within 200 to 300 basis points was probably thought to improve comparability.

FASB was probably also seeking to allow users of financial statements to better understand the extent of employee benefit plan liabilities. The use of a settlement rate was perhaps thought to provide this through a measurement of employee benefit liabilities that was in some sense related to a market.

It is questionable in my mind whether the use of settlement rates accomplishes this better understanding of liabilities for plan sponsors who are managing their employee benefit plans and associated liabilities for the long term, with no thought of settling these obligations in the near term. The vast majority of plan sponsors are in this position.

The valuation of employee benefit liabilities for these plan sponsors should not be based on a current market rate of interest, but rather on the long-term rate of return on the assets that stand behind the benefit promise. For a plan sponsor managing employee benefit obligations for the long term, it is these assets that will settle the obligation, not high-quality debt instruments found in the current market.

If the rate of return on the assets standing behind the benefit promise were used, discount rates might be determined as follows:

- For liabilities where the plan sponsor has segregated and legally restricted assets to provide promised benefits, the long-term expected rate of return on these assets might be used for the discount rate. This would be the situation for qualified defined benefit pension plans.
- For unfunded employee benefit liabilities, the plan sponsor would use the rate of return on investments in the company—commonly referred to as the corporation's internal rate of return—since it is the corporation's assets that will be used to meet unfunded promises. The internal rate of return would be used for most retiree medical plans, since most are unfunded.

In my judgment, if discount rates were to be set as described above, users of financial statements would have a better valuation of employee benefit liabilities. The valuation is improved because consistent assumptions are used for both liabilities and assets. In addition, I believe discount rates would be more stable year to year. One hundred basis point decreases in discount rates in a single year for many corporations would likely be avoided.

If you agree that the current approach for determining discount rates doesn't make sense, you might write Tim Lucas at the FASB: Mr. Timothy S. Lucas, Chairman, Emerging Issues Task Force, Financial Accounting Standards Board, P.O. Box 5116, 401 Merritt 7, Norwalk, Conn. 06856-5116.

Consider a simple two-word letter, "I agree," and attach a copy of this column. Send me a copy of your letter at the following address. Perhaps the FASB might reconsider this position.

ASK, *Business Insurance,* 740 North Rush St., Chicago, Ill. 60611-2590. 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.

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Mr. Miner

This month's column on actuarial issues in the benefits field is written by William J. Miner, an actuary with The Wyatt Co. in Chicago. Richard E. Sherman, president of Pacific Actuarial Resources (PAR) Excellence in Ashland, Ore., answers actuarial questions in the casualty field. Susan M. Werner, director of risk management at Hardee's Food Systems Inc. in Rocky Mount, N.C., answers risk management questions. Dennis J. Nirtaut, manager of employee benefits at Continental Bank Corp. in Chicago, answers questions on employee benefit plans.

Mr. Miner's next column will appear in April.

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

No exclusion for possibility of contamination

A "contamination" exclusion in a business owners' property policy required the actual presence of a foreign substance and not just suspected contamination for coverage to be denied, the Supreme Court of Montana ruled.

Stanley and David Duensing operated a partnership doing business as the Parrot Confectionery. In August 1980, they discovered that a worker had been exposed to hepatitis A. They immediately informed the local and state health departments, as well as their insurance agency. Subsequently, the state issued an embargo prohibiting the movement or sale of any candy without permission.

Parrot's inventory had not been tested, but the owners agreed to voluntarily destroy all existing inventory. They then submitted a claim to The Travelers Cos.

Legal Briefs

for loss of contents and business interruption.

Travelers denied coverage, based on "contamination" and "governmental action" exclusions in the policy. The Duensings sued and lost in the trial court.

The appellate court said the contamination exclusion in the policy was unambiguous: Travelers would not pay for loss or damage to personal property caused by or resulting from contamination.

However, the court noted the exclusion required that there be "contamination," and the contamination must cause loss to personal property. Absent proof of actual contamination, the exclusion did not bar coverage here, the court said.

Duensing vs. Travelers Cos., Supreme Court of Montana, March 29, 1993 (*BI*/03/J.-$10).

'Bonus plan' not a pension plan

The 10th U.S. Circuit Court of Appeals ruled that a "golden career bonus plan" was not an employee pension benefit plan or a pension plan under ERISA.

Charles A. McKinsey, a sales representative for Sentry Insurance Co., was fired in April 1989, shortly after he turned 55. Sentry had a "golden career bonus plan" under which salespeople were given bonus allocations.

He sued, claiming the plan was a pension plan under ERISA and that Sentry did not provide materials about the plan. He lost in trial court.

On appeal, he argued the plan qualified under ERISA because it allowed deferment of bonuses until termination. But the appeals court concluded the plan did not qualify because it did not provide for systematic deferral of payment.

McKinsey vs. Sentry Insurance Co., 10th U.S. Circuit Court of Appeals, Feb. 19, 1993 (*BI*/04/D.-$10). BI

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available by sending a $10 check payable to Mayo H. Stiegler, to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.

Property still tight in surplus lines market

Rates for casualty risks stable or moderately lower

By DEBORAH SHALOWITZ

Surplus lines report

Although prices continue to rise for catastrophe-prone property coverage written by surplus lines insurers, in general the rate increases have tempered significantly from six months ago.

For casualty coverage written on a nonadmitted basis, competition remains keen but not cutthroat. Rates for most liability lines are stable or falling moderately. In some cases, coverage has been broadened with little or no premium increase.

During this renewal season, the limited capacity for catastrophe-prone property risks, especially large ones, is more of a concern than rate increases. Catastrophe-prone property coverage remains a tight market, surplus lines insurers and brokers say.

"If you can smell saltwater, it's reasonably tough," commented Kevin Brooks, president of General Star Indemnity Co. in Stamford, Conn., a surplus lines unit of General Re Corp. "If you can't, it's deja vu."

"The availability of certain property coverage, such as quake and wind, is certainly diminished," noted David Hartoch, president and chief operating officer of Sherwood Insurance Services in Woodland Hills, Calif.

Capacity is down and rates are up for Florida, Gulf Coast and California property coverage, agreed Paul McCain, a property manager with wholesaler Crump Insurance Services of Dallas. However, rate increases are not as dramatic as they were six months ago, he added.

The influx of new capital into Bermuda catastrophe reinsurance facilities and the lack of significant weather-related catastrophes in the past six months could halt or slow the climb of property coverage rates, said Warren Stanley, president and chief executive officer of Swett & Crawford Group in Los Angeles, the nation's largest wholesaler.

"We are still seeing some catch-up in the market" to bring Jan. 1, 1994, renewals to the levels of July 1 renewals, he observed. However, "I suspect the property firming that took place may have reached its zenith and may turn around." Nonetheless, prices continue to firm for coastal property coverage, he said.

Many experts cited rate increases of about 25% for property coverage.

While high-layer excess property coverage is being written at higher attachment points and higher prices, there "appears to be a diminution of panic" about writing the coverage, said Seth Freudberg, president and CEO of United National Insurance Co. in Bala Cynwyd, Pa. "People aren't absolutely panicking to withdraw" from the high-layer excess property market.

There are still some pockets of dramatic rate jumps, though.

For example, rates for property coverage within 10 miles of the coast of Florida have increased a whopping 200% over last year, said Dave Dale, vp of property for Scottsdale Insurance Co. in Scottsdale, Ariz. Furthermore, the insurer broadened the exclusion for wind damage from 2,000 feet to up to five miles from the coastline, he said.

The concern over capacity has increased significantly in the past six months.

Reinsurers are being much more careful about how much catastrophe-prone property coverage they write, Mr. Freudberg noted.

For example, reinsurance underwriters are requiring surplus lines insurers to determine, by ZIP code, where and how much coverage is written so the reinsurer's aggregate book of business in certain ZIP codes is limited, he explained.

"Companies are watching capacity very closely," agreed Marcus Payne, president of Crump Insurance Services. "It's hard to get a big property risk together."

"There are some capacity issues that continue to drive" coastal and quake coverage, Swett & Crawford's Mr. Stanley agreed.

Capacity is quite limited for earthquake insurance, stated Fran Maliszewski, a vp at Sherwood. Rates for earthquake insurance could rise up to 10% in the coming year, she predicted.

However, "in some instances, it's not even price, it's how much capacity we can put together" for earthquake coverage, she said.

Capacity for earthquake coverage will become even tighter in 1994, Crump's Mr. McCain said. "We're going to have a capacity crunch at some point," he predicted.

Currently, it is possible to put together $50 million in limits for earthquake coverage if the buildings are new and they are not in the same area. If there are few, large risks—or the buildings are older or in the same area—then capacity would be more limited, said Mr. Payne.

Some property risks that were written by standard companies are returning to the surplus lines market, said Scottsdale Executive Vp Vickie Kartchner.

Casualty coverage remains competitive this renewal season.

"Casualty is mired in the same sort of rate levels it has been for the last two to three years," said Tony Markel, president of Richmond, Va.-based Markel Corp., which owns several surplus lines companies.

"I think you will see pressure on any (liability) renewal for even a symbolic (rate) cut, just so the broker can say he's doing his job," commented General Star's Mr. Brooks.

"Any class you would call a niche is not a niche anymore," because more and more companies are entering different markets, Mr. Freudberg said. For example, liquor liability is "one of the niches that is no longer a niche." Rate decreases of approximately 7% were necessary this renewal season to keep accounts, he said.

Umbrella liability coverage is "extremely competitive," though rate decreases are "far more mod-

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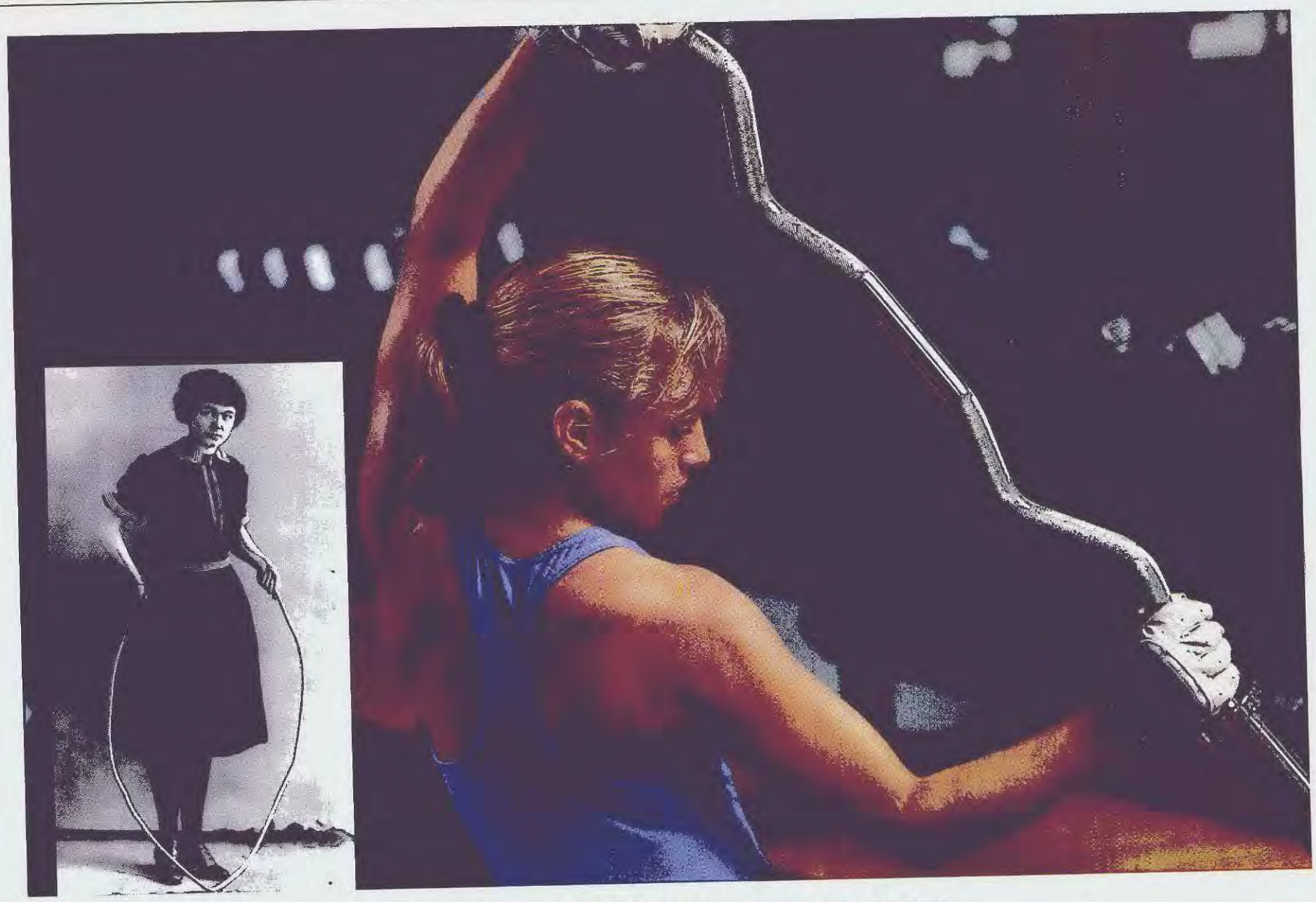

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London

Continued from page 30

They've nicked some accounts but nothing really of relevance because there is an infinite amount of catastrophe property demand," he said.

Mr. Harris, among others, also noted that while London may be losing "safe" U.S. property risks to continued competition and soft pricing, the decision by many big U.S. insurers to pull out of more catastrophe-prone coastal areas is helping the London market replace any lost business, and at very good rates.

"The Yanks are dumping this business, and it's coming via the surplus lines accounts, and by gosh, are we getting the prices. As long as it's chased out into the open and we can aggregate it, it is profitable business," he said.

London underwriters generally are willing to accept the higher-risk U.S. property business as long as they can diversify the book geographically and avoid high accumulations.

But London is generally perplexed by the continued soft primary property market outside catastrophe-prone areas in the United States and some are beginning to doubt whether it will ever turn. Also, U.S. domestic reinsurers' willingness to support a soft market and a perceived higher level of sophistication among U.S. risk managers could mean that London's tough stance may well be short-lived.

"The primary domestic U.S. market is sluggish mainly because of the strength of the domestic companies, which are prepared to write the business at depressed rates. It's simply a question of capacity. I find it inexplicable that this should be the case because the results are simply not there," said John Wetherell, underwriter for syndicate 190 managed by Cater Allen Syndicate Management Ltd.

"In property there are a lot more sophisticated buyers out there—it's not the mid-1980s. They are carrying increased deductibles and increasing self-insured retentions to ameliorate the increases," said James Caulder, director of North American business at Sedgwick Group P.L.C.

"It's fair to say that the domestic U.S. market is buying more reinsurance than was expected but less in London. There is less volume because it can be placed domestically," added Brian Rothwell, director-marketing at reinsurance broker Sedgwick Payne Ltd.

Keith Sheridan, managing director of the non-marine division and worldwide facultative property business at broker Bain Clarkson Ltd., agreed that London has lost business because of the strength of the U.S. domestic market. For the moment, though, underwriters at Lloyd's and in the company market seem determined to resist the temptation to lower rates, Mr. Sheridan said.

"The U.S. property market continues to be soft in comparison with the London market. Although London is struggling to compete for Mid-American business without major catastrophe exposures and a reasonable loss record, a lot of catastrophe business is staying here and holding up. London held onto the renewals where it wanted. And, where the rates are going down, underwriters generally said enough is enough," Mr. Sheridan said.

"It has been as good as some years back. If you go back three years, a lot of (U.S.) business was lost because London refused to follow the rates down. This year, we have got closer to a 100% renewal ratio. About 80% to 90% have stayed by number on renewal," he said.

But most brokers and underwriters say any business lost to the domestic U.S. market at renewals is easily replaced by other business, especially continental European and new Latin American and Far Eastern business.

"Europe has seen almost a total reversal of last year. I have seen more European business in the last four to five weeks than I have in the last 15 years. We are seeing a lot of German business," said Mr. Harris, who is underwriter for A.J. Archer.

Mr. Harris and others in the London market say that European insurers have raised property rates and deductibles across the continent this year, and London has picked up a lot of property business as a result.

London has not been so successful in terms of new business or tougher rates and conditions in the international casualty market. The London casualty market continues to be generally stable, with minor incidents of rate hikes canceled out by reductions in other segments.

The cessation of Merrett Holdings P.L.C.'s active underwriting role for U.S. liability business appears to have had little concrete effect on business written at Lloyd's during renewals (*BI*, Dec. 6, 1993).

But some underwriters fear that the loss of Mr. Merrett at this crucial time in Lloyd's history may have an important psychological impact on the minds of many U.S. customers in the future.

"Merrett was a huge loss to the E&O and D&O markets in Lloyd's. It's all very well saying the business will disperse successfully (to other agencies), but the competition is stiff and it has prompted a scramble," said Cater Allen's Mr. Wetherell.

"Merrett will prove to be a loss. He was a heavyweight and made the rest look like pygmies. He was well-known and respected in the U.S., and the impact on clients will be significant. It is glib to say there will be no real effect," he said.

Mr. Wetherell said he has seen some competition for errors and omissions liability insurance within Lloyd's. "I'm concerned that I've seen incidents of rate-cutting in Lloyd's," he said. "There is no need to be competitive—we have had horrendous losses on accountants and Lloyd's agents (E&O coverage)."

The directors and officers liability market, though, is "pretty stable," said Mr. Wetherell, adding that D&O rates are static and even increasing in some areas, like high-technology risks.

But competition from U.S. underwriters is strong in this market and acting as a brake on most rate hikes, he said.

Sedgwick's Mr. Caulder described U.S. D&O renewals as generally "soft and stable," with a few exceptions, and called the E&O market "not terribly exciting."

Among the few exceptions, he said, was "a big influx of high-tech business and D&O rate increases of 30% to 40% for these risks, mainly because of a loss of domestic capacity," he said.

"In medical malpractice, every renewal has been very, very tough because of a tremendous upsurge in the U.S. market. There have been no increases there. It's not hopeless but very tough," added

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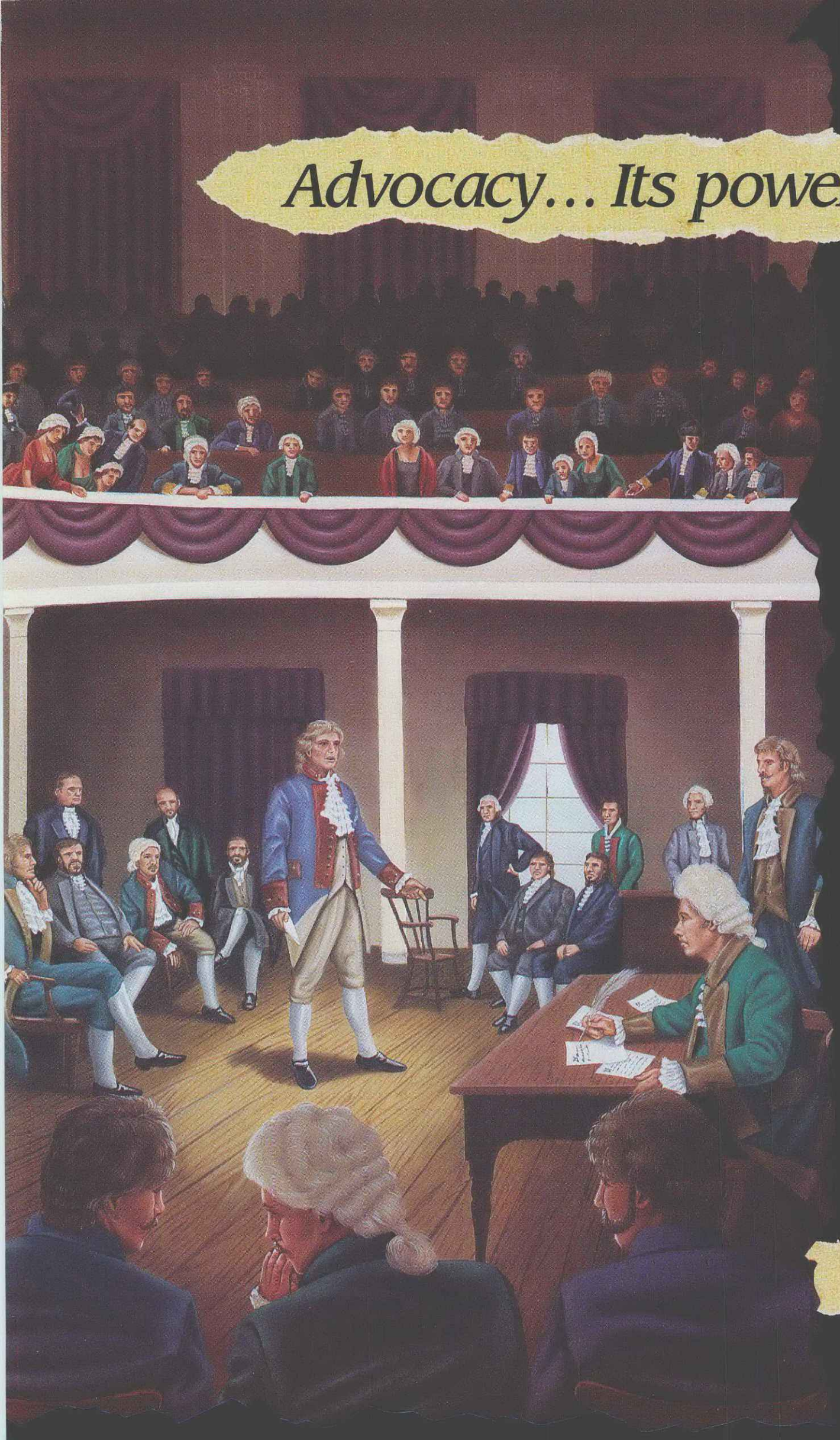

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London

Continued from page 32

Mr. Caulder.

"E&O was pretty stable," he said. "There have been increases on accounts in distress, but the general feeling is that we do not envisage any lower prices. Merrett was a big player, but his main underwriters have all moved on. The net effect could have been more capacity, not less."

There was little change in general liability business in London.

"I don't see any changes from a pricing standpoint on the general casualty book. Nothing is happening there, really," said Mr. Caulder of Sedgwick.

Unionamerica's Mr. Marcell was a little more optimistic than most but also described a sluggish market. "International liability treaty pricing is right, but the development is terrible. After the nadir in 1991, the rates have been picking up but in small amounts," he said.

Janson Green's Mr. Youell described the casualty market as generally "soft" and said that London had lost quite a lot of casualty business. "Overall, renewals have been remarkably calm, which is what the market needed and is good from both the underwriters' and the buyers' perspective. . . .Nothing dramatic has happened," he said.

"It's all been moving upwards, rather than downwards, if anything. The brokers are trying to talk it down, but all the major (marine) classes—energy, liability, hulls and cargoes—are all pretty hard. The only area that seems to be soft is casualty business, especially among the large insureds because Bermuda is so active in this field. ACE, X.L. and the like are all very active. Combined with less capacity in London, they have taken some layers" of casualty programs, especially higher layers, Mr. Youell said.

The energy and marine markets concurred with his assessment. But, to a person, they stressed the need to keep up the pressure on rates despite generally improved loss records and more capacity.

"Excess property rates for oil and energy were up again. There is a capacity shortage for all the big risks and so the rates have mainly been good. The big companies could buy more than $1 billion in coverage two to three years ago, and that is halved now. Therefore, we have a strong market. We are seeing higher deductibles between $50 million and $200 million or higher," said Mr. Wetherell.

He also said that he does not believe new capacity will turn the energy market anytime soon. "It's difficult to buy the reinsurance, but the Lloyd's oil and energy market is strong. Obviously, with the Lloyd's and London company market shakeout, we have lost the easy capacity that was around two years ago. No new capacity has arrived yet because it's a more specialized area," he said.

Mr. Wetherell was also pleased to note that the trend of splitting non-marine risks out of energy insurance packages continues because of reinsurer pressure. "The placements are now normally split, which is a good thing," he said.

Christopher Compton-Rickett, deputy underwriter to Mr. Youell at syndicate 79, said that offshore energy rates had increased again but was unwilling to estimate the range of increases marketwide.

He said that London is still able to offer about two-thirds of worldwide capacity for any single major offshore risk. The only notable challenge to London during renewals came from the U.S. market, which he described as "more emergent than last year."

Despite an improved loss record during 1993 and a much needed improvement in international ship surveying standards, hull rates increased between 12.5% and 25% on average at renewals, according to Peter Chrismas, underwriter with syndicate 735 managed by Wren Syndicates Management Ltd.

He said that the "up-market, household" fleets saw hull rate increases that averaged about 12.5% to 15%, plus increased deductibles and tighter wordings. "Older vessels saw increases more like 25%," he said.

"We are still making progress—not as much as a year ago—but you must remember that this is effectively the fourth round of increases. It's been patchy," said Mr. Chrismas.

"A lot of the corrective work has been done and now we are looking at rises and tightening up of conditions and terms. . . .Fleets with better records have seen lower increases," he added.

Mr. Chrismas applauded the progress made over the last two years by the International Assn. of Classification Societies, which has "cleaned up their act" and enabled underwriters to be more selective. Underwriters rely on classification societies to periodically assess the conditions of ships.

But he admits there will be casualties of tougher underwriting.

"Many of the smaller and older fleets still do not want to know (about improved standards), and a lot of older tonnage will take very restricted coverage or even run the risk themselves. The impact of sorting out shipping is forcing many ships out of business. This is a good thing and will hopefully affect freight rates. When people buy new tonnage, they will get better freight rates as a result," said Mr. Chrismas.

Lesley Maton, underwriter for German insurers Wurttembergische Versicherung A.G. and Gerling Konzern Allgemeine Versicherungs A.G., which recently teamed up to underwrite marine business under one flag at the Institute of London Underwriters, estimated that cargo rates had increased "10% across the board." In addition, deductibles and discounts were "tightened up."

Mr. Maton said he does not believe the loss of some major Lloyd's underwriters from the Lloyd's marine underwriting community will deal the London marine market a major blow.

"It does have an impact if you lose a leader, but currently the market can quite easily absorb capacity that has disappeared. We've got corporate capital and substitute capital in the ILU ready to pick it up," he said.

In agreement with most other underwriters, Mr. Maton does not believe new capacity in London and elsewhere had a material effect on this year's marine insurance renewals but warns it may in the future.

"The market will be affected, but it has not quite filtered through yet. I suspect there will be a lot more capacity, but it won't last long if it doesn't make profits. We (the cargo market) have lost money for years. It's improving slowly. The hull market changed much quicker, but it takes a long time for the cargo market to right itself and take a common view. We are just about creeping up to break-even," he said. BI

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Imperial Holly promotes risk exec

Comings & Goings: Buyers

Wayne Dauterive, 46, has been promoted to director-corporate risk management at Imperial Holly Corp. in Sugar Land, Texas. Mr. Dauterive is responsible for all risk management areas, including the property/casualty insurance program, risk analysis and development of alternative risk management strategies. He reports to William Schwer, senior vp/secretary/ general counsel. Mr. Dauterive joined the sugar refiner and processor as risk manager in 1988, after Imperial Sugar Co. acquired Holly Sugar Corp. of Colorado Springs, Colo., and the new entity was formed. Mr. Dauterive previously was an account executive at Johnson & Higgins in Houston and risk manager for the city of Lafayette, La. He is a deputy member of the Risk & Insurance Management Society Inc., holds the Associate in Risk Management designation and is working toward the Chartered Property & Casualty Underwriter designation. Mr. Dauterive earned a bachelor's degree in economics and political science from the University of Southwestern Louisiana in Lafayette.

* * *

Terry Varner, 41, has been promoted to director of risk management for Perkins Family Restaurants, L.P. in Memphis, Tenn. Mr. Varner is responsible for property/ casualty insurance, claims administration, loss control, safety and security programs for the chain's 126 company-owned restaurants. He joined the company in 1989 as corporate risk manager and was promoted to senior risk manager in 1991. Mr. Varner reports to Joe Colonnetta, vp-finance and investor relations. Prior to joining Perkins, Mr. Varner was senior risk & insurance manager for Federal Express Corp. in Memphis. Prior to that, Mr. Varner served as a multiline adjuster for Travelers Insurance Co. Mr. Varner is a deputy member of RIMS, and also served as president of the Memphis chapter of RIMS for the 1986-1987 term. He holds the Associate in Risk Management and Chartered Property & Casualty Underwriter designations. Mr. Varner earned a bachelor of arts degree in political science from Memphis State University.

* * *

Helen Chue, 33, has joined Chiron Corp. in Emeryville, Calif., as risk manager. In this newly created position, Ms. Chue is launching the biotechnology company's risk management program as it makes the transition from a research and development company to a manufacturer. She is responsible for all property/ casualty insurance programs, including directors and officers liability and workers compensation, as well as for the loss control, safety and environmental health programs. Ms. Chue reports to Treasurer James Kent. Prior to joining Chiron, she was assistant risk manager at Sun Microsystems Inc., a computer hardware and software company in Mountain View, Calif. Prior to that, she was an account executive for Sedgwick James in San Francisco. Mr. Chue is just completing a one-year term as president of the Santa Clara Valley chapter of RIMS. She holds the Associate in Risk Management and the Chartered Property & Casualty Underwriter designations. Mr. Chue earned a bachelors degree in psychology from the University of California at Los Angeles.

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We'd like to report on staff changes in your company's risk management, safety and employee benefits departments. Just drop a note to Roseanne White, Copy Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, or call 312-649-7785. Please send a photograph, too.

Lloyd's battles image problems during renewals

LONDON—An unprecedented level of international press coverage during 1993 of Lloyd's of London's troubles has forced Lloyd's to try to stem negative impressions by U.S. risk managers—and their bosses.

During year-end renewals, Lloyd's brokers repeatedly found themselves countering arguments against placing risks with the market, many of which were made by competitors keen to sully the 305-year-old market's reputation and to pick up any nervous clients.

But the key battle, according to Lloyd's sources, was fought in U.S. risk managers' own boardrooms.

Underwriters and brokers contend that most professional U.S. risk managers proved to be remarkably loyal to the London market, though many first had to persuade their superiors that Lloyd's is still the best market from which to buy their insurance coverage.

"Some people seem to have taken a very negative standpoint, and a lot of risk managers are having to fight rear-guard actions with other management who may be reading more negative commentary in the press and seeing it on the television. Obviously, we try to make sure that everyone gets the facts," said James Caulder, director-North American business at broker Sedgwick Group P.L.C.

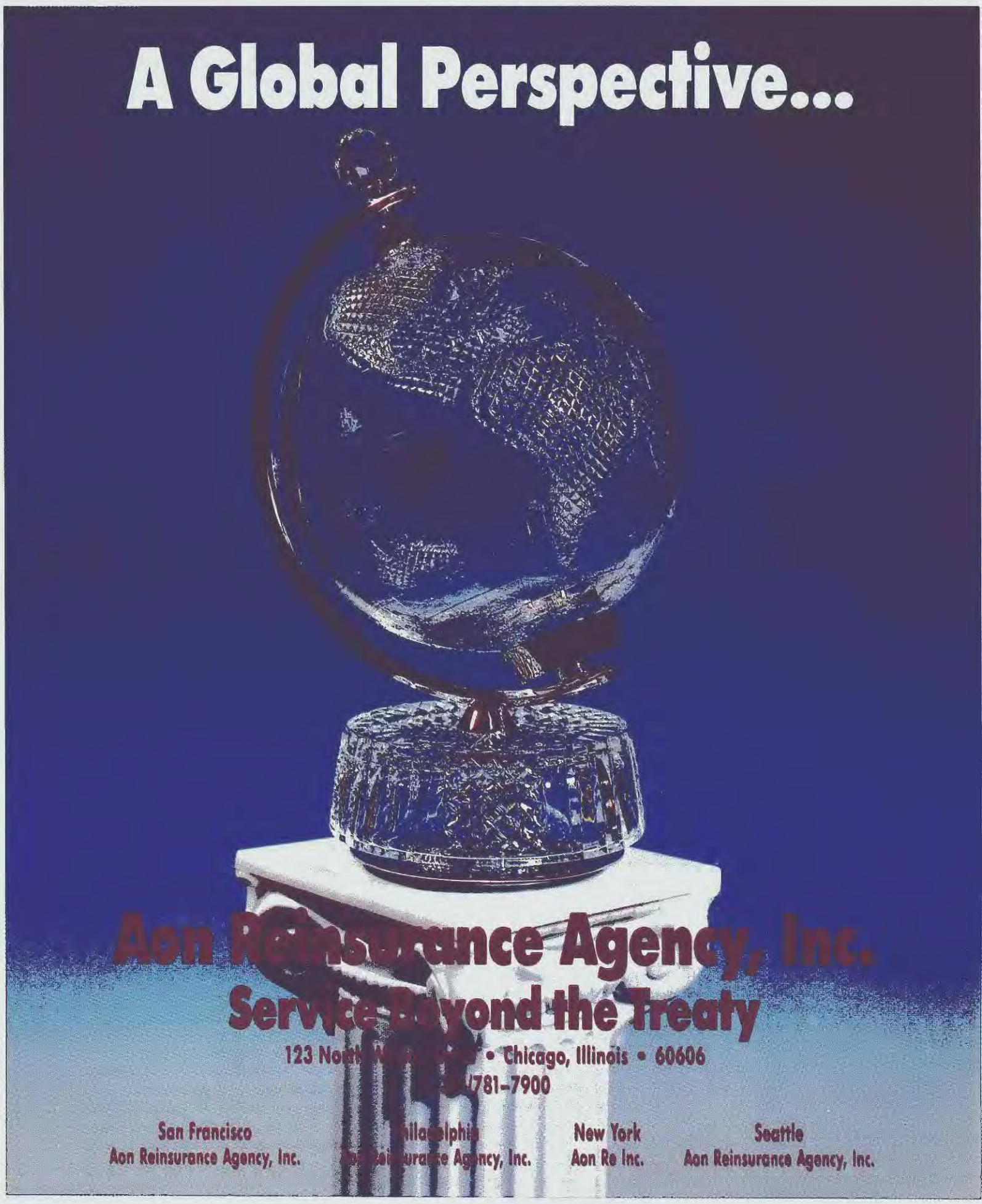
"I don't believe we have lost much U.S. business, but risk managers are finding it tougher. What we do find is that if we are competing with another broker for a program they are trying to place domestically, they are being very aggressive and questioning the solvency of Lloyd's," he said.

"If they don't ask the question, we raise it. I've not heard of anyone suggesting that Lloyd's will not survive, and people are a lot more confident now than they were at mid-year," said Christopher Compton-Rickett, deputy underwriter with syndicate 79 managed by Janson Green Ltd.

Others in the market agreed that Lloyd's public image steadily improved during the year as Lloyd's took steps to address its problems. The unveiling of a business plan in April and the eagerness with which corporate capital embraced its opportunity to join the market later in the year were key initiatives that helped boost buyer confidence (*BI*, Aug. 30, 1993; May 3, 1993).

"Buyers. . .were very concerned about Lloyd's future, but what has happened over the last six months has encouraged them to continue having their business led in Lloyd's," said John Wetherell, underwriter with syndicate 190 managed by Cater Allen Syndicate Management Ltd.

—By Adrian Ladbury



Mental health

Continued from page 3

of care or a change of doctors, it's all there. A steady flow of care is one of the most important things we can offer a mentally ill person," said Dr. Ian Shaffer, vp and chief medical officer with Value Behavioral Health, the Falls Church, Va.-based company that emerged from the recent merger between Value Health's American PsychManagement Inc. and Preferred Health Care Ltd. (*BI*, Sept. 27, 1993).

"If there's one thing that a group can provide, it's continuity of care. With one organization overseeing a patient, there's almost no chance of that person falling through the cracks," said Ron Geraty, executive vp with Medco Behavioral Care Corp., a Park Ridge, N.J.-based unit of Merck & Co. Inc. Medco recently acquired four smaller managed mental health care companies. "And because the groups we contract with are multidisciplined, it also ensures that a patient gets to the right type of provider quicker. If we happen to make an inappropriate referral at the start of treatment, it can be corrected."

But while the managed care companies welcome the boom in new groups, many behavioral health care specialists acknowledge that they would prefer to avoid the burdensome utilization review and outcomes measurement that generally accompany a managed care contract.

"The group movement that has caught fire this past year is more reactionary than anything," said Dr. Alan Axelson, medical director with Intercare Behavioral Health Systems, a 64-member professional group based in Pittsburgh that has serviced Western Pennsylvania for 15 years. "Without managed care, we'd all still be doing fee-for-service outpatient treatment."

But managed care is a reality, and to remain viable, mental health care doctors and clinicians must align themselves with the companies that are getting the employer-sponsored contracts, providers say.

"The explosion in new groups is an effort to survive. But the result is a new way of delivering mental health care that's not bad. We're intervening quicker and improving the continuity of care during the changing of doctors. It's actually a better system because it eliminates delays and problems associated with locating appropriate providers," said Dr. Axelson, whose group has signed contracts with six different managed care companies and a total of 150,000 lives.

Before managed care, different types of mental health groups were formed for different reasons.

"A group used to be a few doctors that shared office space and traded off on coverage. The definition of a group is more concrete now. It's five or more clinicians with different specialties that provide 24-hour coverage, have quality assurances and have computer linkage with payers," said Dr. Alan Daniels, executive director of University Psychiatric Services, a 50-professional, 11-year-old group practice affiliated with the University of Cincinnati.

Dr. Daniels, like his colleagues, acknowledges that group practices are growing because there may be a bleak future for solo practitioners under national health care reform and continued managed care.

"The large managed care companies are literally carving up the market, and there's only limited room left for the individual. These doctors see that more and more mental health care is being managed and it's easier to facilitate a trend than to fight it," he said.

The trend toward managed behavioral health care and new group practices is most pronounced in "metropolitan areas where competition for clients is strongest," said Michael Freeman, director of the Institute for Behavioral Health Care.

But, despite the fact that new group practices are forming in previously unseen numbers, at least one large managed mental health firm avoids contracting with groups if possible.

Human Affairs International, the Salt Lake City-based behavioral health care arm of Aetna Health Plans Inc., believes that by contracting with groups and turning over utilization review responsibilities to them, it loses the ability to manage care effectively, according Alan Savitz, senior vp.

"Some managed care companies are encouraging groups because it's easier to contract with 10 groups than 200 individuals. But group contracts aren't cheaper, and most importantly, we want to continue doing the case management ourselves. I'm not convinced that turning UR duties over to a group practice ensures that quality is maintained," he said.

Mr. Savitz also expressed some concern that if the group movement continues to grow at its current pace, group practices may become so powerful in their own right that they will no longer need a managed care company to act as a middleman between them and employers.

"For now, groups need managed care contracts. But eventually, they may be able to bypass us altogether and contract directly with employers. This is all such a new phenomenon. It seems like yesterday that we were approaching individual mental health doctors and asking them what they thought about group practices and managed care. Their answers were overwhelmingly negative," Mr. Savitz said.

And what about those providers who still think managed care is nothing more than a marketing tool designed to generate massive profits for a corporate entity while denying people the care they need?

This group comprises a large number of providers, and while many are being forced to swallow their true feelings about managed care and join the movement to protect their income, others are still speaking out against it.

For example, the Coalition of Mental Health Professionals and Consumers, based in Commack, N.Y., is a recently formed group dedicated to thwarting the negative impact managed care has on patients and caregivers.

"These managed care companies are pretending to offer quality psychotherapy when they're not," said Dr. Karen Shore, a co-chairperson with the coalition. "They only accept the practitioners that won't advocate on behalf of their patients. They want the least experienced doctors who will turn patients around quickly. There are hundreds of cases out there that support this."

Ms. Shore said managed care sales representatives consistently mislead potential employer clients about managed care quality.

"How much can a salesperson who knows nothing about psychotherapy tell an employer about quality care? We estimate that 75% of the premiums employers pay go to executive salaries, advertising budgets and administration."

However, Mr. Geraty of Medco Behavioral Health said Dr. Shore's assertions that managed care is hurting patients and misleading employers are absolutely false.

"We can show employers that only 5% to 12% of their premiums are going to administration costs and that includes salaries and advertising. Overwhelming evidence shows managed care is providing more services to more people, and patients are satisfied with the quality of care they're getting."

He acknowledged that opponents of managed care can support their position with anecdotes about individuals who were improperly treated. But he said such cases also can be documented in the unmanaged care setting.

"Anecdotes aren't helpful because they aren't consistent with what is happening on a larger scale," Mr. Geraty said. "Studies are what count, and studies show that managed care is working for more patients."

And, Mr. Savitz of Human Affairs International said Ms. Shore's accusation that managed care is not equivalent to psychotherapy may be true, but it's in the best interest of patients.

"There's no evidence that long-term psychotherapy is effective. For many years depression was treated this way without results. Numerous studies show that newer forms of short-term treatment are better."

He disagreed with the common assertion that managed care physicians do not advocate on behalf of their patients. "It seems Ms. Shore is advocating on behalf of her own financial success."

And, regarding her assessment that 75% of premium dollars are going toward executive salaries, advertising and administration expenses, Mr. Savitz said, "That's a total exaggeration. It's just the opposite. At least 75% goes toward claims costs and claims processing." BI

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Datebook

JANUARY

JAN. 19-21. National Health Care Claims Congress in Coral Gables, Fla., sponsored by the Institute for International Research; $1195. Conference Administrator, Institute for International Research Inc., 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 800-345-8016.

JAN. 19-21. Second Annual *Business Insurance* Winter Health Care Management & Cost Containment conference in San Diego, sponsored by *Business Insurance* and International Business Forum. $595 for employee benefit, human resources and risk managers, $795 for others. International Business Forum, 7 Penn Plaza, 370 Seventh Ave, Suite 901, New York, N.Y. 10001; 212-279-2525.

JAN. 19-21. 1994 Atlanta Risk Management Educational conference, sponsored by the Atlanta chapter of the Risk & Insurance Management Society Inc.; $100 for RIMS members, $125 for non-members, $10 for students; after Jan. 7: $125 for RIMS members, $150 for non-members; $10 for students. Donna Hobbs, Equifax Inc. D-13, P.O. Box 4081, Atlanta, Ga. 30302; 404-888-5085.

JAN. 20. Outplacement luncheon meeting in New York, sponsored by WEB Network of Benefits Professionals; $40 for WEB members, $50 for non-members. Barry D. Podob, Vp, Director of Employee Benefits, Interpublic Group of Cos. Inc., 1271 Avenue of the Americas, New York, N.Y. 10017; 212-399-8049.

JAN. 20-21. Product Warnings, Instructions and User Information seminar in Washington, sponsored by the American Bar Assn.; $480 for ABA members, $505 for non-members. American Bar Assn., Division for Professional Education, Dept. NI758, 541 N. Fairbanks Court, Chicago, Ill. 60611-3314; 1-800-964-4253.

JAN. 23-25. Understanding Managed Care conference in San Antonio, sponsored by the Group Health Assn. of America; $650 for GHAA members, $750 for non-members. **Also Feb. 27-March 1** in Washington. GHAA, 1129 20th St. N.W., Suite 600, Washington, D.C. 20036; 202-778-3236.

JAN. 23-26. National Security and Risk Management Conference in Phoenix, sponsored by the American Bankers Assn.; $755 for ABA members, $995 for non-members. American Bankers Assn., P.O. Box 630236, Baltimore, Md. 21263-0236; 202-663-5000.

JAN. 24-25. Eleventh annual Insurance, Excess and Reinsurance Coverage Disputes seminar in Los Angeles, sponsored by the Practising Law Institute; $535.50 for PLI members, $595 for non-members. **Also Feb. 7-8** in New York. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5710.

JAN. 24-25. Outcomes in the New Health Care Environment: Measuring, Managing and Applying the Results conference in San Francisco, sponsored by the Institute for International Research; $1,195. Conference Administrator, Institute for International Research Inc., 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103; 800-345-8016.

JAN. 24-25. Successful Strategies for Prescription Drug Benefit Design and Pharmacy Delivery seminar in Lake Buena Vista, Fla., sponsored by Infoline Inc., a unit of International Business Communications; $1,095. Infoline Inc., 225 Turnpike Road, Southborough, Mass. 01772-1749; 508-481-6400.

JAN. 24-25. Workers Compensation Managed Care seminar in Santa Monica, Calif., sponsored by the Institute for International Research; $1,195. Conference Administrator, Institute for International Research Inc., 708 Third Ave., New York, N.Y. 10017-4103; 800-345-8016.

JAN. 25-26. Business-Health Solutions '94: The Health System Reform Conference for Employers in Washington, sponsored by the Assn. of Private Pension & Welfare Plans and the National Assn. of Manufacturers; $475 for members of APPWP or NAM, $575 for non-members. National Assn. of Manufacturers, 1331 Pennsylvania Ave. N.W., Suite 1500-North Tower, Washington, D.C. 20004; 202-637-3126.

JAN. 26-28. 1994 Hawaii Captive Insurance Forum in Honolulu, sponsored by Tillinghast and the Hawaii Captive Insurance Council; $650 for HCIC members, $725 for non-members. Eileen Callahan Wroe, Conference Director, Towers Perrin, 100 Summit Lake Drive, Valhalla, N.Y. 10595; 914-745-4611.

JAN. 26-28. Third annual West Managed Health Care Congress in Anaheim, Calif., sponsored by the National Managed Health Care Congress; $895. NMHCC Conference Registration, Bay Colony Corporate Center, 1000 Winter St., Suite 4000, Waltham, Mass. 02154; 617-487-6700.

JAN. 26-28. Implementing the Deming Management Philosophy seminar in Nashville, Tenn., sponsored by The Quality Insurance Congress; $825. The Quality Insurance Congress, c/o Willis Corroon, P.O. Box 305024, Nashville, Tenn. 37230-9943; 615-872-3274.

JAN. 27. FAS 112: What Should Employers Be Doing? breakfast meeting in New York, sponsored by WEB Network of Benefits Professionals; $30 for WEB members, $45 for non-members. Barry D. Podob, Vp, Director of Employee Benefits, Interpublic Group of Companies Inc., 1271 Avenue of the Americas, New York, N.Y. 10017; 212-399-8049.

JAN. 27-28. The Environmental Law Course in Chicago, sponsored by Executive Enterprises; $995. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6990; 1-800-831-8333.

JAN. 27-28. Reform: Third Annual Managed Healthcare Conference in Sarasota, Fla., sponsored by the Florida West Coast Healthcare Coalition; $275. Gene Piatek, West Coast Healthcare Coalition Inc., 6637 Superior Ave., Suite C, Sarasota, Fla. 34321; 813-923-1697.

JAN. 28. Health Law: Critical Developments, Complex Changes seminar in Bloomington, Minn., sponsored by Minnesota Institute of Legal Education; $195. MILE, 200 Foshay Tower, 821 Marquette Ave. S., Minneapolis, Minn. 55402; 612-339-6453.

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June 13	June 1
August 22	August 10
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David H. Elliott named chairman of MBIA

David H. Elliott, president and chief executive officer of MBIA Inc. and its operating subsidiary, MBIA Corp., became chairman of the Armonk, N.Y.-based company Jan. 1.

Mr. Elliott succeeds **William O. Bailey**, who retired.

Other insurer changes:

Lars-Goran Nilsson named president and chief executive officer for Home Holdings Inc. in New York. He succeeds **Anders Aberg**, who has been named vice chairman while remaining a director. Mr. Nilsson also retains the title of president and CEO of The Home Insurance Co. Also at The Home, **Charles W. McConnell II** joined Home Insurance Co. as senior vp and chief actuary.

Kenneth J. Gorman named chairman and CEO of the Atlantic Mutual Cos., and **Klaus G. Dorfi** named president and chief operating officer in New York. Mr. Gorman, who had been president and COO, succeeds Edward K. Trowbridge, who retired from Atlantic Mutual after 41 years with the company. Mr. Dorfi had been senior executive vp.

Edwin G. Pickett joined TIG Holdings Inc. as senior vp and chief financial officer in New York. Mr. Pickett assumed the responsibilities of **Edward D. Santos**, senior vp and chief accounting officer, who resigned to pursue other interests.

Comings & Goings: Industry

Jim Baldyga and **Robin Maley** have been named vps of Continental Insurance HealthCare, a unit of Continental Corp.

Robert E. Broatch named senior vp-finance for Aetna Life & Casualty Co. in Hartford, Conn.

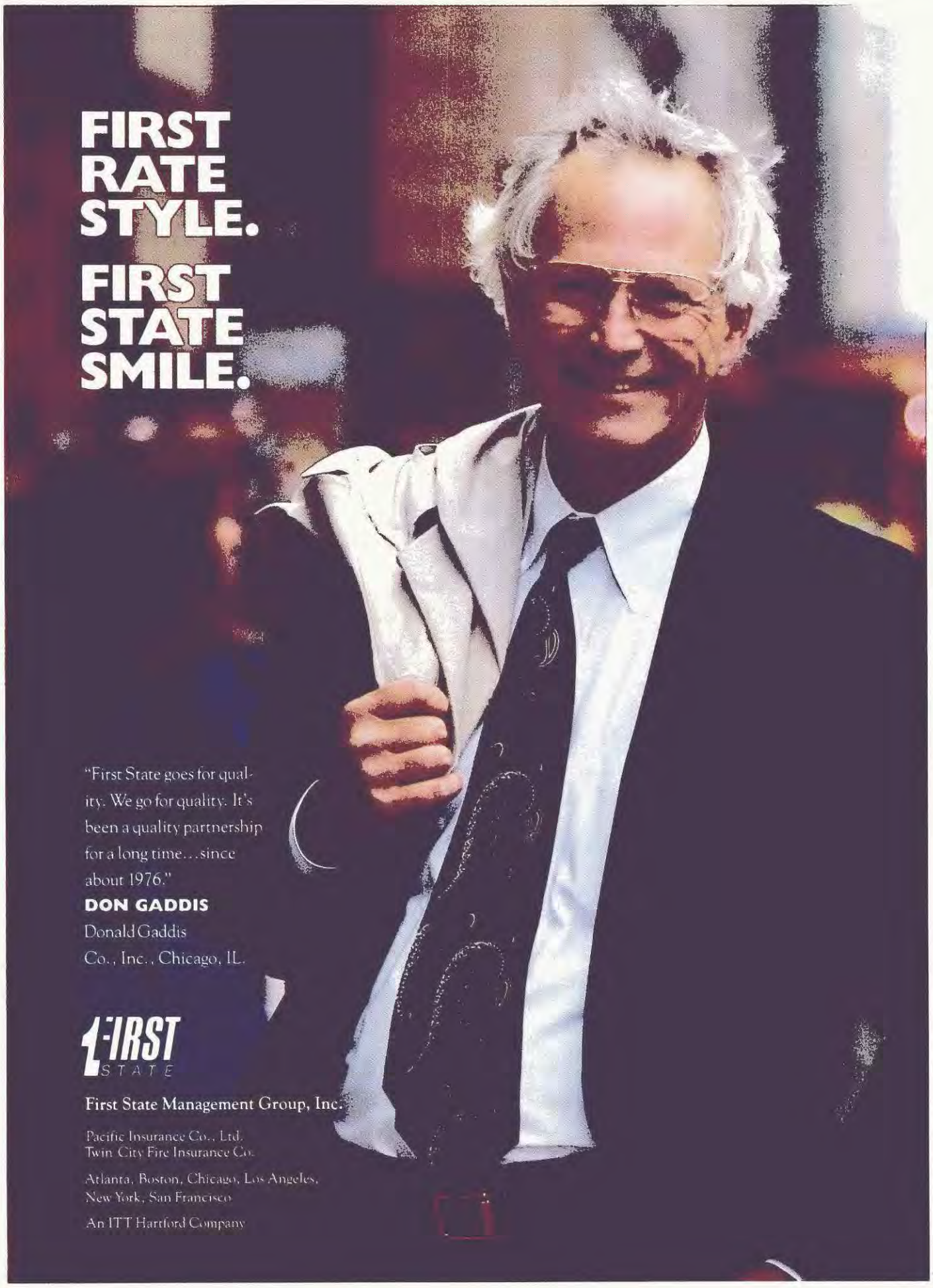
Harleysville Group Inc. announced several appointments: **Thomas E. Roden** named executive vp-insurance operations; **James C. O'Neill** named executive vp-subsidiary operations; **Bruce J. Magee** named senior vp and chief financial officer; **Ronald L. McKissick** named senior vp-Pennsylvania operations.

Patrick O'Brien named vp-underwriting for the Workers Compensation & Indemnity Co. of California, a Continental Corp. unit. Also at Continental, **Jose Guerrero** named senior vp-home office claims for Marine Office of America Corp., a New York-based subsidiary.

Robert L. Shoptaw named CEO of Arkansas Blue Cross & Blue Shield. He succeeds Dr. **George K. Mitchell**, who retired.

Donald B. Sharp named vp/director of ceded reinsurance operations at Crum & Forster Insurance Co. in Parsippany, N.J.

Richard M. Ravin named chairman and CEO of Combined Insurance Co. of America and **John E. Johnston** named vice chairman of Combined, a Chicago-based subsidiary of Aon Corp.



Other suppliers

Robert D. Krinsky named chairman of The Segal Co., a New York-based actuarial, employee benefits consulting firm. He succeeds **Robert D. Paul**, who retired. Also at Segal, **Dale B. Grant** named vice chairman; **Howard Fluhr** named president and CEO; and **Richard M. Frenzel** named executive vp.

Frederick E. Dopfel named president of Russell Miller Inc., an investment banking firm in San Francisco.

Stephen D. Linehan named president and chief operating officer of ValueRx, a pharmaceutical benefit management firm in Avon, Conn.

Suzanne M. Meehan named a risk management consultant at Rollins Hudig Hall of Ohio Inc. Also at RHH of Ohio, **Brian E. Mahoney** named vp/risk control consultant.

Gary Lake has joined A. Foster Higgins & Co. Inc. in Washington as a principal and national leader of the firm's health and welfare actuarial practice.

Howard B. Lapin and **Donald A. Penn** joined the Chicago office of Buck Consultants Inc. as benefit consultants. Also at Buck, **Janet M. Soderberg** joined the New York office as a principal and compensation consultant.

Agents/brokers

John W. Gussenhoven named chairman of Johnson & Higgins Holdings Ltd., the London-based parent of the J&H's wholesale and retail insurance brokerage operations in the United Kingdom and Ireland.

Dennis M. O'Brien named executive vp of Willis Corroon Construction Services Corp., a New Hyde Park, N.Y.-based subsidiary of Willis Corroon Corp.

Robert F. Salmon named senior vp in the Los Angeles office of Fine Arts Risk Management Inc., a division of the Near North National Group.

David H. Chase named chairman and CEO of Rollins Hudig Hall of Rhode Island Inc., a Providence-based subsidiary of Rollins Hudig Hall Co.

John B. Hovland joined Rollins Hudig Hall of Northern California Inc. as a vp in the San Francisco office.

Norman Newman joined Kaye Insurance Associates as a vp specializing in fine arts insurance.

Reinsurance

Gregory P. Aristoff joined American Re-Insurance Co. as a vp in the international division. Also, **Robert B. Henry** named senior vp at AM-RE Brokers Inc., a wholly owned subsidiary of American Re in Princeton, N.J.

Scott D. Moore joined Partner Re Holdings Ltd. in Bermuda as senior vp and chief financial officer.

Jean M. Willig named vp at Skandia America Group in New York responsible for the management of complex casualty claims.

John Countryman named senior vp-casualty facultative reinsurance at Reliance Reinsurance in Philadelphia, a unit of Reliance Group Holdings Inc. **Charles A. Krause III** joined as a vp-treaty underwriting.

Kathryn Grant named vp-claims at Underwriters Reinsurance Co. in Woodland Hills, Calif. BI

INTERNATIONAL

U.S. bank settles with Maxwell pensioners

By ADRIAN LADBURY

LONDON—Bank of America will pay $37 million to settle claims by pension plan trustees of the Mirror Group relating to pension funds misappropriated by publisher Robert Maxwell.

The bank's decision has raised hopes among the pension trustees of the Mirror Group, one of the companies controlled by Mr. Maxwell, that other financial institutions will follow suit.

Pension beneficiaries of all of the Maxwell-controlled companies are owed up to 450 million pounds ($654.8 million) (*BI*, Dec. 16, 1991). The Mirror Group trustees involved in the settlement account for about 200 million pounds ($291.2 million) of this.

The first major trial in the scandal directly relating to the pensioners, which involves two leading fund managers and an investment bank, is scheduled to begin in the United Kingdom at the end of this month.

San Francisco-based Bank of America has agreed to pay the pension beneficiaries 25 million pounds ($37 million) of the 38 million pounds ($56.2 million) that was sought by the plan trustees in a joint action against Bank of America and Zurich-based Credit Suisse.

The trustees are continuing their action against Credit Suisse. A trial is set for October.

The trustees claim that both banks failed in their role as custodians of certain assets that belonged to the newspaper group's pension plan.

Bank of America, which did not admit any liability under the settlement, says the payment will not hurt its financial position. The bank would not disclose any details about insurance that might cover the settlement.

"Bank of America acted as custodian for the Mirror scheme," said Tom Brooks, Bank of America's London based-assistant general counsel.

"The bank holds none of the

Continued on next page

Oil Casualty sharpens its competitive edge

Bermuda insurer making product, premium changes

By ROGER SCOTTON

HAMILTON, Bermuda—Liability insurer Oil Casualty Insurance Ltd. is scrapping coverage conditions that the company believes have hindered its ability to compete.

OCIL writes $100 million of umbrella general liability coverage excess of a $50 million attachment point in the United States and excess of $20 million elsewhere.

Other changes, which were approved Dec. 22 at a special shareholders' meeting, include the introduction of a new option offering a drop-down endorsement to its umbrella general liability policy and an increase in brokerage commissions.

The changes, which went into effect immediately, come at a time when OCIL also is proposing modifications of its premium structure in response to U.S. accounting standards that remove the benefits of multiyear retrospectively rated reinsurance.

The measures that OCIL expects to make it a more competitive market for excess liability products include:

- Dropping a provision under which new OCIL policyholders had to buy shares in the company equivalent to 30% of the first year's premium or post a non-refundable deposit.
- Introducing a retroactive coverage plan allowing coverage as far back as Jan. 1, 1986.
- Offering a drop-down en-

Continued on next page

Corporate capital debuts at Lloyd's

Publicly traded funds for corporate investors in Lloyd's of London

	Capital raised (in millions of dollars)*
London Insurance Market Investment Trust Ltd.	$414.4
CLM Insurance Fund	127.3
Angerstein Underwriting Trust	99.2
HCG Lloyd's Investment Trust	96.2
New London Capital P.L.C.	88.8
Delian Lloyd's Investment Trust	75.5
Masthead Insurance Underwriting	59.2
Premium Underwriting P.L.C.	48.8
Syndicate Capital Trust	47.4
Finsbury Underwriting Investment Trust P.L.C.	44.4
Abtrust Lloyd's Insurance Trust	44.4
Hiscox Select Insurance Fund	44.4

* Dollars calculated at the year-end 1993 exchange rate of 1.48

Source: Lloyd's of London

GRAPHIC BY CHRIS ROY

AGF chairman resigns to take advisory post

PARIS—Michel Albert resigned Wednesday as chairman of the French state-owned insurer Assurances Generales de France.

Mr. Albert immediately assumed an appointment on France's Monetary Policy Council, a new advisory group for the state-owned Banque de France. Membership on the council prohibits one from serving on any other positions in finance or industry, an AGF spokeswoman said.

A successor to Mr. Albert has not yet been announced.

However, the French press last week speculated that possible successors are: Antoine Jeancourt-Gallignani, chairman of banking group Banque Indosuez; Bernard Esambert, former chairman of investment group Cie. Financiere Edmond de Rothschild; and Jean Arvis, chairman and chief executive officer of Groupe Victoire.

Mr. Albert had served 11 years as head of AGF, which is slated for privatization later this year or in early 1995.

—By Aline Sullivan

GLOBAL BRIEFS

Spanish merger

MADRID—Spanish insurer Union y El Fenix Espanol will merge within three months with AGF Seguros, the Spanish subsidiary of Assurances Generales de France, said UFE President Alberto de la Puente.

The Spanish insurance supervisory authority, Direccion General de Seguros, placed UFE under government supervision on Dec. 30, after intervening to prevent the collapse of Banco Espanol de Credito, UFE's parent.

Banesto, as the fourth-largest Spanish bank is called, holds 28.9% of the insurer.

The merged entity will be controlled by AGF, Mr. de la Puente said.

After the merger, AGF is expected to hold just over 60% of the merged company, while Banesto will keep 14%, Mr. de la Puente said.

Mr. De la Puente also announced revised results for 1993, stating that the insurer had losses of 12 billion pesetas ($84 million) for the year.

An AGF spokeswoman in Paris said the company had not made

Continued on next page

$1.34 billion in funds boosts 1994 capacity

By ADRIAN LADBURY

LONDON—Lloyd's of London is beginning 1994 armed with just more than 900 million pounds in corporate capital ($1.33 billion), which translates into underwriting capacity of about 1.6 billion pounds ($2.37 billion) from corporate investors.

And Lloyd's Chairman David Rowland predicted last week that underwriting capacity provided by individual members would exceed last year's total of 8.8 billion pounds ($13.2 billion), bringing the market's total underwriting capacity "in excess of 10.5 billion pounds" ($15.54 billion).

"If last January I had dreamed that the market could offer this much capacity this year, I would not have given myself the credit for the dream," Mr. Rowland said. A total of 25 investment trusts have led Lloyd's into this new era, in which corporate investors have joined the ranks of individual names who have supported the market for more than 305 years.

The corporate investors raised

Continued on next page

Russian insurers to bear plane crash losses

Russian insurers are expected to retain all losses from two Russian airplane crashes that occurred just eight days apart.

The aircraft, both operated by offshoots of the former state-owned airline Aeroflot, were insured in the Russian market for hull damage. None of the risk was ceded to international insurance or reinsurance markets.

Aviation insurance is a relatively new concept for domestic flights within the former Soviet states, insurance sources say. However, approximately 8,000 aircraft are flying around the Commonwealth of Independent States, and aviation insurers expect aviation coverage to become a more important market.

After the breakup of the Soviet Union, Aeroflot was broken up into approximately 170 airlines when regional authorities claimed aircraft on the ground and started their own airline operations. What was once Aeroflot is now operating as Aeroflot International, flying only international routes.

The former state-owned airline retained all domestic losses but had aviation coverage and reinsurance from international markets for its international exposures. Aeroflot International continues this practice, while newly formed Russian domestic insurers cover the regional airlines for losses on domestic flights.

In the most recent of the two crashes, a three-engine Tupolev Tu-154 airliner crashed Jan. 3 en route to Moscow from Irkutsk. The jet crashed shortly after takeoff after an engine caught fire, according to news reports. All 111 passengers, including 16 foreigners, and the nine crew members were killed. It is one of the worst Russian air disasters in a decade.

GRAPHIC BY CHRIS ROY

The aircraft was operated by Baikal Air, an offshoot of the former Soviet state airline company. Baikal Air is a regional airline in Russia serving the region around Lake Baikal in Siberia. The plane was insured for hull damage through Vladivostok-based Dalrosso Insurance Co. The insurance was written in rubles, but no figure for the sum insured has been released, according to sources within Lloyd's of London's aviation market. The hull was valued at 1.2 billion rubles ($962,400), sources say. The airline had no liability coverage.

The earlier crash involved an Antonov-26 airliner that crashed Dec. 26, 1993, in Gyumri, Armenia, its final destination, en route from the Russian city of Krasnodar. Thirty-one passengers and five crew members were killed; one passenger survived. The operator of the airliner was Krasnodar Aviation, another Aeroflot offshoot.

That aircraft was insured by a new Russian aviation insurer, Avigos, but no figures for the sum insured were available.

—By Maria Kielmas

INTERNATIONAL

OCIL

Continued from previous page
dorsement to the umbrella general liability policy, permitting the OCIL retention to drop down as a result of erosion of underlying aggregates by virtue of claims payments. However, the coverage would not drop down beyond the policy's regular minimum attachment points.

• Increasing brokerage commissions to 12% from 5% for the first year of business and 8% for each renewal year on continuing brokered accounts. The higher commissions, which are intended to match those being offered by competitors such as X.L. Insurance Co. Ltd., will apply to both umbrella general liability and D&O policies.

President and Chief Executive Officer Doyle Stephens says the changes are in direct response to increased competition "in form rather than on price."

He said the share purchase or non-refundable deposit requirement "put OCIL at a severe competitive disadvantage."

But, Mr. Stephens stressed, "We have no intention of participating in a long-term premium rate war. We may want to match what the market does, but we will not be generating revenue at any cost. That is not our strategy."

He described the changes as a sign of maturity for OCIL, which was formed in 1986 to service the needs of the petroleum industry at a time when commercial markets had ceased to provide coverage for its liability risks.

Other changes relate to the impact of new Financial Accounting Standards Board rules on OCIL's premium rating plans (*BI*, July 26, 1993). Because OCIL provides for retrospective premium payments to be made by those policyholders that have incurred losses, its rating plans are expected to be subject to the accounting rules, which are retroactive to Jan. 1, 1993.

According to an OCIL letter to shareholders, the implications of the new rules are clear—"the smoothing effect of multiyear retrospectively rated insurance contracts on financial statements is no longer available under GAAP accounting."

Under the FASB rules issued last year, policyholders will be required to immediately report in their financial results all retrospective premium payments immediately, as opposed to accounting for them in future years as they are paid.

As a result, OCIL will offer the option of "fixed-cost, annual insurance coverage," as well as its regular rating plans.

According to the OCIL letter, rates for the new fixed-cost product, which contains no retrospective premium and is to be restricted to a maximum limit of $75 million, will be 15% higher than those charged under the retrospective plan.

Oil Insurance Ltd. also has told shareholders of a proposed "optional endorsement within the existing rating and premium plan, which could be made available to members who have the need or desire to eliminate their retrospective or penalty premium obligation in favor of a fixed annual cost insurance coverage."

The OIL letter states: "Within this endorsement, members would have the further option of taking either 100% fixed annual cost insurance or some lesser percentage, but no less than 60% quota-share of a $200 million limit."

The measures precede the announcement of the companies' 1993 financial results.

"We had a very good year and, provided we end it without adverse developments, OIL's capital and surplus will finish close to $1 billion compared to $568 million a year ago," said Mr. Stephens. The absence of major losses along with improved investment returns contributed to the results, he said.

If the proposals, due to be voted on at a special shareholders meeting, are adopted, Oil Casualty Insurance expects to become a far more competitive market for excess liability products.

OCIL, whose capital and surplus exceeds $200 million, is now financially stronger than it has been for years, he added. BI

This announcement appears as a matter of record only.

HCG LLOYD'S INVESTMENT TRUST PLC

JO Hambro Conning Grimston Limited
(Adviser to HCG Trust)

HCG Corporate Advisers Limited
(Licensed Lloyd's Adviser)

The Undersigned is a principal in the ongoing management of the £65 million HCG Trust and provided analytic and advisory services in creating and structuring the above entities and selecting the Lloyd's of London syndicates to be supported by the HCG Trust.

Conning & Company

Maxwell

Continued from previous page
pension fund assets which are the subject of the court proceedings, nor did the bank gain any significant benefit from acting as a custodian for the Mirror scheme," he said. "We view this settlement as an appropriate means of contributing to the restoration of the pension funds without (causing) delay and uncertainty to pensioners and the bank (with) lengthy court proceedings, and of putting this claim by the trustees behind us."

The trustees were delighted with Bank of America's decision.

"We compliment Bank of America on being one of the first financial institutions to accept a commercial and public responsibility to contribute to the restoration of the pension funds. This is a substantial contribution, made without lengthy and costly legal action," said Colin Cornwall, chairman of the Mirror Group Pension Trustees.

Mr. Cornwall said in an interview that he hopes Bank of America's action will persuade other parties that are being sued by the trustees to settle.

Including the Bank of America settlement, the Maxwell pension funds have recovered at most 50 million pounds ($72.8 million) of the approximately 450 million pounds they are owed, Mr. Cornwall said.

In the only other major recovery, National Westminster Bank P.L.C. in June 1992 released shares in an Israeli pharmaceutical company to liquidators of Bishopsgate Investment Management Ltd., another Maxwell company. The ownership of the shares had been under debate.

Under pressure from retirees and their dependents, the British government appointed Sir John Cuckney, a leading U.K. financial executive, to negotiate with financial institutions holding Maxwell pension assets to return them to the various Maxwell plans.

Sir John appointed Sir Peter Webster, a former High Court judge, to carry out the task. Last September, Sir Peter started work on a "global settlement" between the pension plan beneficiaries and the institutions. He has approached an undisclosed number of institutions and, according to Mr. Cornwall, is busy trying to sort out a deal acceptable to both sides.

But progress is slow and trials loom. One of the biggest cases is set for Jan. 25, involving U.K. pension fund managers Invesco MIM and Capel-Cure Myers Capital Management and New York-based Lehman Bros.

The trustees seek 50 million pounds they allege the fund managers incorrectly channeled into Mr. Maxwell's private interests. They also seek up to 150 million pounds ($222 million) in damages for negligence.

But Mr. Cornwall hopes that the cost and time involved in such a trial can be avoided and that the three defendants will follow Bank of America's lead.

"It's possible, yes, and we certainly hope so," he said. "We are getting a feeling amongst the defendants that they could settle. Some say they would rather wait for Sir Peter's global settlement, but it is highly unlikely there will be anything ready by the time the case gets under way." BI

Corporate capital

Continued from previous page
904 million pounds ($1.34 billion) in capital as of late last month, according to figures published by Lloyd's. Of this total, syndicates will use just more than 800 million pounds ($1.18 billion) of this capital to underwrite about 1.6 billion pounds' worth of business.

Under the corporate capital rules laid out in Lloyd's business plan last year, providers of corporate capital may underwrite twice as much business as the capital they raise (*BI*, May 3, 1993). Individuals generally can write up to three times the amount they deposit with Lloyd's.

Not all of the corporate capital generated is being invested, though, partly because some of the trust advisers were unable to secure sufficient syndicate allocations in time for the mid-December deadline (*BI*, Nov. 1, 1993). The trusts also are setting aside money to take advantage of preemption rights that will provide them with first options on expanded capacity for 1995 on syndicates they invest in this year. That would let trusts increase their lines next year without going back to the money markets.

In addition, part of the corporate money will be used to pay Lloyd's advisers and managing agents.

With the positive projections for the market's 1994 capacity, which Lloyd's hopes to release later this month, members agents have expressed surprise at the resilience of the current membership. Last summer, many agents were predicting that individual member capacity for 1994 would fall to as low as 4 billion or 5 billion pounds ($5.92 billion or $7.40 billion) from 8.88 billion pounds ($13.45 million) in 1993.

However, the arrival of corporate investment boosted individual members' confidence in the market, according to agents. This confidence, coupled with the introduction of Members Agents Pooling Arrangements, caused the turnaround.

MAPAs are pooled investment vehicles, similar to mutual funds, in which a member's capacity is spread among a variety of syndicates. MAPAs enable members to underwrite business in amounts up to four times greater than the capital they commit (*BI*, Aug. 30, 1993).

Twelve of the corporate funds are quoted on the London Stock Exchange (see chart, page 39), and 13 are private corporate investment vehicles. The quoted funds generated 804 million pounds ($1.19 billion) in capital, while the private corporate vehicles raised 100 million pounds ($148 million).

The largest quoted vehicle is London Insurance Market Investment Trust Ltd., which raised 280 million pounds ($414.4 million). The biggest private launch was Lomond (formerly Murray Underwriting Ltd.), with 27 million pounds ($40 million) in capital.

Four of the private corporate vehicles, which together represent 13 million pounds ($19.2 million) in capital, are remaining anonymous.

Trading among the quoted vehicles has been lively. Nine of the launches are trading at a premium, leaving only three that have fallen below the issue price.

As of Dec. 5, the 12 launches have had a net gain of 93 points, and the combined market capitalization has risen by just over 77 million pounds ($114 million).

Shares in Premium Underwriting, a 13.2 million pound ($19.5 million) vehicle and one of the two trusts launched by Premium Underwriting P.L.C., have risen to 122 pence ($1.81) per share from its 100 pence ($1.48) issue price. The worst performer so far is Abtrust Lloyd's Insurance Trust, which was trading at 95 pence ($1.37) per share last Wednesday against an issue price of 100 pence per share.

By value, the biggest gain so far has been made by London Insurance Market Investment Trust Ltd., which has added a whopping 50.4 million pounds ($74.6 million) to its market capitalization since its launch and was valued at 330.4 million pounds ($489 million) last Wednesday. Its share price stood at 118 pence ($1.75) per share against an issue price of 100 pence per share.

Not all of the planned corporate capital vehicles ultimately entered the market, however. Two proposed U.S.-backed trusts were among those canceled.

Sponsors of Lutine Capital Corp. Ltd., a proposed U.S.-backed $300 million corporate trust, was shelved due to insufficient funds and insufficient time to meet the Lloyd's deadline for capacity allocation (*BI*, Dec. 27, 1993). For the same reasons, Salomon Brothers canceled the $300 million trust it planned to launch with Johnson & Higgins (*BI*, Dec. 13, 1993). BI

GLOBAL BRIEFS

Continued from previous page
any statement yet about the UFE situation.

—By Maria Kielmas

New association

ADELAIDE, Australia—The establishment of a public risk managers' association as a separate entity from the Assn. of Risk & Insurance Managers of Australasia has angered some ARIMA members.

The Australian Public Risk Management Assn. is modeled on the Public Risk Management Assn. in the United States. But ARIMA members say there are not enough risk managers in Australia to have two separate risk management organizations.

APRIMA is holding its inaugural annual conference April 14-15, at Sydney's Novotel Brighton Beach Hotel.

Scheduled speakers include: Albert Fierro, risk manager, Assn. of Bay Area Governments in San Francisco; and Frank James, general manager, Redwood Empire Municipal Insurance Fund in Sonoma, Calif.

Michael McMahon, executive director of APRIMA and general manager of a New South Wales municipal council, said APRIMA is "not at loggerheads" with ARIMA.

There is room for both organizations, Mr. McMahon said, and APRIMA was set up in response to public risk managers' particular needs.

APRIMA will be affiliated with the U.S. organization and will use PRIMA's educational and training services.

—By Kate McIlwaine

Insider Trading

American International Group Inc.: Patrick J. Foley, vp, indirectly sold 300 shares of common stock at $89.88 per share on Oct. 21, and now directly and indirectly holds 19,258 common shares.

Houghton Freeman, director, exercised an option for 28,995 shares of common stock between $16.37 and $51.20 per share on Sept. 30, and now directly and indirectly holds 1,314,485 common shares.

Axel I. Freudmann, vp, exercised an option for 281 shares of common stock at $16.37 per share on Oct. 18, and now directly holds 2,069 common shares.

Maurice R. Greenberg, chairman, exercised an option for 37,500 shares of common stock at $16.37 per share, and disposed of by gift 213 shares at $16.37 per share from Oct. 1 to Oct. 29.

Mr. Greenberg also indirectly purchased and acquired by gift 311 shares, and disposed of by gift 744 shares of common stock at an unreported price from Oct. 14 to Oct. 29.

In addition, Mr. Greenberg indirectly purchased 189 shares of common stock at $83.63 per share on Nov. 23, and now directly and indirectly holds 11,204,232 common shares.

Frank Petralito, vp, exercised an option for 1,500 shares of common stock at $16.37 per share on Oct. 29, and now directly holds 5,601 shares of common stock.

American International Group's stock was trading at $88.13 per share on Dec. 30.

Aon Corp.: Newton N. Minow, director, indirectly purchased 5,000 shares of common stock at $51.83 per share on Nov. 9, and now indirectly holds 10,000 common shares.

Aon stock was trading at $48.25 per share on Dec. 30.

Argonaut Group Inc.: Charles E. Rinsch, president, exercised an option for 20,000 shares of common stock at $10.25 per share from Nov. 3 to Nov. 4, and now directly and indirectly holds 94,693 common shares.

Argonaut Group stock was trading at $30.50 per share on Dec. 30.

Chubb Corp.: Percy Chubb, officer and director, exercised an option for 4,000 shares of common stock between $30.22 and $36.38 per share on Nov. 16. To cover expenses of the transaction, Mr. Chubb sold 1,799 shares for $77.44 per share on Nov. 16.

Mr. Chubb also indirectly sold 20,000 shares of common stock at $82 per share on Nov. 1, and now directly and indirectly holds 247,637 common shares.

David S. Fowler, vp, disposed of by gift 3,243 shares of common stock at an unreported price on Oct. 27.

Mr. Fowler also indirectly acquired by gift 3,243 shares of common stock at an unreported price on Oct. 27, and now directly holds 3,536 common shares.

Donn H. Norton, vp, sold 578 shares of common stock at $82.75 per share on Oct. 25. Mr. Norton also sold 1,000 shares of common stock at $79.88 per share on Nov. 3, and now directly and indirectly holds 4,558 common shares.

Chubb Corrine Trust, trustee, sold 20,000 shares of common stock at $82 per share on Nov. 1, and now directly holds 106,780 common shares.

Chubb stock was trading at $78.63 per share on Dec. 30.

CIGNA Corp.: H. Edward Hanway, officer of subsidiary, sold 1,737 shares of common stock at $65 per share on Nov. 12, and now directly and indirectly holds 5,384 common shares.

CIGNA stock was trading at $63.25 per share on Dec. 30.

Continental Corp.: Richard D. Osborne, director, purchased 400 shares of common stock at $29.88 per share on Nov. 5, and now directly holds 1,000 common shares.

Continental stock was trading at $27.63 per share on Dec. 30.

General Re Corp.: Edmond F. Rondepierre, vp, exercised an option for 1,860 shares of common stock at between $55.50 and $55.81 per share from Nov. 10 to Nov. 11. To cover expenses of the transaction, he turned in 932 of them for $113.13 each from Nov. 10 to Nov. 11, and now directly and indirectly holds 12,588 common shares.

General Re stock was trading at $106.25 per share on Dec. 30.

Hartford Steam Boiler Inspection & Insurance Co.: Gordon W. Kreh, president, purchased 400 shares of common stock at $45 per share on Nov. 30. Mr. Kreh also indirectly purchased 400 shares of common stock at $45 per share on Nov. 30, and now directly and indirectly holds 9,890 common shares.

Hartford Steam Boiler stock was trading at $44.50 per share on Dec. 30.

Lawrence Insurance Group Inc.: Albert H. Lawrence, chairman, purchased 2,300 shares of common stock at $4.50 per share from Oct. 18 to Oct. 19, and now directly and indirectly holds 13,162,632 common shares.

Lawrence Insurance Group's stock was trading at $3.63 per share on Dec. 30.

Marsh & McLennan Cos. Inc.: David D. Holbrook, president, sold 548 shares of common stock at $83.38 per share on Oct. 22, and now directly holds 18,876 common shares.

Gregory F. Vangundy, officer, exercised an option for 5,000 shares of common stock at $49.38 per share from Nov. 22 to Nov 30.

To cover expenses of the transaction, Mr. Vangundy turned in 3,078 shares for $80.19 per share from Nov. 22 to Nov. 30 and sold 2,196 shares in the open market between $79 and $79.25 per share from Nov. 22 to Nov. 30, and now directly holds 17,968 common shares.

Marsh & McLennan stock was trading at $81.38 per share on Dec. 30.

Maxicare Health Plans Inc.: Chilmark Capital Corp., beneficial owner, indirectly sold 53,900 shares of common stock at $10.06 per share on Nov. 19, and now indirectly holds 238,320 common shares.

Maxicare Health Plan stock was trading at 9.75 per share on Dec. 30.

NAC Re Corp.: Herbert S. Winokur, director, purchased 4,000 shares of common stock between $28.88 and $29 per share on Nov. 18, and now directly holds 6,000 common shares.

NAC Re stock was trading at $29.13 per share on Dec. 30.

Poe & Brown Inc.: V.C. Jordan, officer and director, indirectly disposed of by gift 25,000 shares of common stock at an unreported price on Oct. 23, and now indirectly holds 129,181 common shares.

Poe & Brown stock was trading at $18 per share on Dec. 30.

SAFECO Corp.: John W. Ellis, director, purchased 500 shares of common stock at $56.13 each on Nov. 5, and now directly holds 4,012 common shares.

Richard W. Hubbard, vp, exercised an option for 1,550 shares of common stock at $24.50 per share on Nov. 29, and now directly and indirectly holds 32,472 common shares.

Toni Rembe, director, purchased 250 shares of common stock at $56.25 per share on Nov. 5, and now directly holds 2,250 common shares.

SAFECO stock was trading at $54.63 per share on Dec. 30.

Transamerica Corp.: James R. Harvey, director, indirectly exercised an option for 65,713 shares of common stock at $48.25 per share on Nov. 1.

To cover expenses of the transaction, Mr. Harvey turned in 54,080 shares for $57.69 per share on Nov.1, and now indirectly holds 112,529 common shares.

Transamerica stock was trading at $56.75 per share on Dec. 30.

Trenwick Group Inc.: Stephen H. Binet, officer of subsidiary, exercised an option for 7,500 shares of common stock at $10.82 per share on Nov. 11, and sold 4,500 shares at $39 per share on Nov. 11, and now directly holds 13,906 common shares.

Paul Feldsher, officer of subsidiary, exercised an option for 7,500 shares of common stock at $10.82 per share on Nov. 10 and sold 4,500 shares at $39 per share on Nov. 10, and now directly holds 11,343 common shares.

Alan L. Hunte, vp, exercised an option for 9,750 shares of common stock at $10.82 per share on Nov. 23 and sold 4,750 shares at $38 per share on Nov. 23, and now directly holds 15,209 common shares.

Stephen R. Wilcox, director, disposed of by gift 200 shares of common stock at an unreported price from Nov. 12 to Nov. 26 and sold 700 shares at $39 per share from Nov. 12 to Nov. 26, and now directly holds 4,100 common shares.

Trenwick Group stock was trading at $38.75 per share on Dec. 30.

U.S. Healthcare Inc.: Leonard Abramson, officer and director, sold 300,000 shares of common stock between $52 and $53 per share from Nov. 4 to Nov. 5, and now directly and/or indirectly holds 1,575,473 common shares and 10,022,322 class B common shares.

Michael Cardillo, officer, sold 5,000 shares of common stock at $51.75 per share on Nov. 4, and now directly holds 42,000 common shares.

Allen Misher, director, sold 5,000 shares of common stock at $51.59 per share on Nov. 5, and now directly holds 5,000 common shares.

David B. Soll, director, sold 20,000 shares of common stock at $52.25 per share on Nov. 4, and now directly holds 188,098 common shares.

U.S. Healthcare stock was trading at $57.50 per share on Dec. 30.

USF&G Corp.: Norman P. Blake, chairman, indirectly purchased 700 shares of common stock at $13 per share from Nov. 1 to Nov. 10, and now directly and indirectly holds 46,750 common shares.

Stephen A. Cook, retired, exercised an option for 17,303 shares of common stock between $8.50 and $9.56 per share on Oct 11, and now directly and indirectly holds 27,903 common shares.

USF&G stock was trading at $15.13 per share on Dec. 30.

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Late notice

Continued from page 3

coverage, saying Metro failed to provide timely notice.

A state court cleared Metro of any liability in April 1992, but the girl's estate appealed. Metro then settled the case for $25,000.

Metro sued American Employers, seeking an undetermined amount of defense costs. Metro had intended to seek recovery of its settlement costs separately.

In the defense cost coverage dispute, a U.S. District court cited several Ohio decisions in ruling that an insurer can deny a claim when given late notice only if the delay jeopardized the handling of the underlying claim.

But, the 6th Circuit panel, citing other Ohio cases, ruled that the late notice provision of an insurance policy is the "essence" of the contract. Linking enforcement of the provision to a determination of whether an insurer is prejudiced by a late notice makes the provision superfluous, the court said.

The 6th Circuit panel noted that there is conflicting Ohio case law on the issue of whether late notice voids coverage even if the delay does not prejudice the insurer.

The conflicting case law also is unclear on whether an insurer or its policyholder bears the burden of proving whether or not a late notice prejudiced the insurer.

A concurring judge in the 6th Circuit's opinion believes that the Ohio Supreme Court should resolve ambiguous state case law on the issue.

Mr. Lee, Metro's attorney, complains that the 6th Circuit's ruling, instead of interpreting Ohio case law, changes insurance law in Ohio.

•

American Employers Insurance Co. vs. Metro Regional Transit Authority, 6th U.S. Circuit Court of Appeals; No. 92-4151.

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Security guards

Continued from page 3

private detectives and security guards. New York recently passed a law setting minimum standards for registration, training and liability insurance coverage for proprietary and contract guards.

The security guard industry traditionally has opposed state and federal regulations. But with increased regulation appearing inevitable, the industry is trying to control the process, said Robert D. McCrie, professor of security management at John Jay College of Criminal Justice at City University of New York.

Insurers that offer liability coverage for security guard services support such laws.

"It's absurd that New York didn't have any training or regulation in effect" other than a fingerprinting requirement, said Bryan Brownyard, president of Brownyard Group in Bay Shore, N.Y. Brownyard insures about 3,000 security guard firms, covering about 1 million guards.

Brownyard, which insures both proprietary guards and contract guard companies, offers a manuscripted commercial general liability policy with errors and omissions coverage for failure to perform. This policy includes coverage for claims involving: assault and battery; personal injury—which includes false arrest, invasion of privacy, libel and slander; and lost key coverage, which would cover costs for re-keying a building if a guard loses a passkey. Normally, there is a $1 million combined single limit with a $3 million aggregate, but this can go up to $10 million, he said.

The number of suits against guard companies alleging failure to perform has increased dramatically in the last six to 10 years, said Mr. Brownyard, "and losses are tremendous."

"Security guards have become America's scapegoats," said Robin DeYoung, vp at CoverX Corp., a specialty underwriting manager in Southfield, Mich.

But laws that set minimum standards and expectations for guards may stem the tide of litigation, by outlining what the guard company is—and isn't—liable for, Ms. DeYoung suggested.

Meanwhile, insurers, risk managers and lawyers agree that the essential step in protection against such suits is a thorough background check of guard applicants.

All employers are required to provide a safe work environment for employees and the public. But the courts apply a higher standard of care in hiring and retaining personnel to employers that hire guards. And even that already-higher standard of care continues to rise, warned Gwen Carroll, a partner at Coffield Ungaretti & Harris in Chicago, and head of its labor and employment law group.

For example, she said, in 1979, a court ordered an Illinois detective agency to pay $20,000 in damages to a woman who was assaulted in her apartment by a security guard employed by the agency.

The guard used his passkey to enter her apartment and threatened her for hours with a .357-caliber Magnum handgun. Although the guard wrote on his job application that he had never been arrested, he in fact had two arrests on his record, which was never checked.

The Illinois court wrote: "The employer knew, or should have known (the guard) was unfit for the position sought to be filled."

While the courts don't say an employer must do a background check, if there is some record of violence or crime and the employer didn't check it out, "the chances of an employer not being held liable are virtually nil," Ms. Carroll said.

Employers' liability is unlimited in this type of personal injury tort claim, she added.

"The Exxon kidnapping case has been a terrible problem for the security industry," said David Stulb, director-claims management and forensic accounting services at Deloitte & Touche in New York. "This shows senior management they need to make sure due diligence in hiring is done without violating the applicant's rights."

Screening potential hires is tricky, thanks to numerous state laws that guarantee right to privacy, Ms. Carroll agreed.

For example, applicants for security guard positions at Target Stores claimed that the personality exam it forced applicants to take violated their right to privacy. The test included questions about their sexual preferences, sexual fantasies, religious beliefs and bathroom habits.

Target, which is owned by Minneapolis-based Dayton Hudson Corp., agreed to pay $1.3 million to settle the applicants' class-action lawsuit in July.

Nevertheless, when hiring someone to serve in a security position, it is essential to do a thorough screening process, Ms. Carroll emphasized. The employer should:

- Tell an applicant up front that a stringent background check will be made and have the applicant sign a waiver allowing this. "This may screen out those who are playing fast and loose with their resumes," she said.
- Take special care with the job application. In many states, an employer may legally ask the applicant to list criminal convictions, but the employer may not ask about arrests.
- Because past employers are often reluctant to divulge information about a former employee to prospective employers, make the applicant obtain the information himself.
- Demand references and check them out thoroughly. "Verify that former employers are who they say they are and not the applicant's girlfriend," said Ms. Carroll.
- Ask former employers to send evaluations of the applicant's job performance, requesting specific examples in which the applicant displayed—or lacked—good judgment, bravery or honesty.
- Check to see if the applicant's licenses are valid.
- Start a file on the applicant, and document every call, reference check and address check.

Continued on next page

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Continued from previous page

• Do not use personality tests during the application process. "You are on treacherous ground if you use this before hiring," she said. Such tests are better used after someone is hired, to see if the person is suitable for a job change or promotion, Ms. Carroll said.

A much better strategy is to focus on the background check, she said. Courts "will give employers a lot of rope" in merely checking out the truthfulness of a job application.

Some risk management consultants advise employers to bypass these employment concerns and go right to a security guard firm.

"Leave it to the professionals," said William Granahan, chief operating officer and senior consultant at Betterley Risk Consultants in Worcester, Mass.

Another reason to turn to security companies is to transfer some of the risk associated with having guards, he pointed out. But, whether a company decides to use proprietary or contract guards, there are certain things to keep in mind, said Mr. Granahan.

Employers should make sure they hire a person who is appropriate for the required work. For example, a guard at a college campus who would be called on to break up fights and conduct investigations for drug use should fulfill higher training and fitness requirements than a guard who only watches the entrance to an office building, he said.

And, employers should outline guards' duties and responsibilities in a formal procedures booklet, Mr. Granahan advised. This outline not only helps the guards understand the accepted procedures—like whether they are to carry guns or to become involved in altercations—it also gives employers "a much better chance of not being found at fault in court."

And, employers should inform their insurers about their security guards and their duties, he said. "Make sure your insurance program would respond" to such exposures, he advised. BI

Allocating cat capacity

New capital not deployed in troubled areas, insurer says

By JUDY GREENWALD

SAN FRANCISCO—The insurance industry is having trouble allocating the new catastrophe reinsurance capacity available in Bermuda to where it is needed, says an insurance executive.

Gerald A. Isom, president of CIGNA Property & Casualty Cos. in Philadelphia, points out that the "industry has all kinds of capacity to do all kinds of things," but he is not sure it has begun to deal with the dislocations catastrophes can cause.

He spoke with other executives at a roundtable discussion entitled "Follow the Yellow Brick Road: An Executive Overview of Oz" during a recent Insurance Industry Day sponsored by the Golden Gate chapter of the Society of Chartered Property & Casualty Underwriters.

Mr. Isom pointed out that a disproportionate share of Hurricane Andrew losses in Florida were paid by a few companies, and those insurers have found they are overexposed relative to their surplus. But insurance regulations prevent the insurers from reducing their exposures, and other insurers are unwilling to enter the area, he said.

"So we have an interesting dichotomy, that if we have the ability to handle catastrophes, why can't we solve the capacity problems that exist in certain areas?" asked Mr. Isom.

While new Bermuda reinsurers offer capacity, that capacity is still needed in Florida, said Mr. Isom. "Maybe we have the capital, but I don't know if we have sorted out that capital yet in a way that solves the issues at hand," said Mr. Isom.

Looking at the issue from a different perspective, John N. Lombardo, president and chief executive officer of Munich American Reinsurance Co., said "the industry has responded rather well" to the recent spate of catastrophes.

The catastrophes have caused some material dislocation in the retrocessional market, which has forced reinsurers to look at where they buy their retrocessional capacity, he said. It has also forced companies to look at their catastrophe exposure and concentration, Mr. Lombardo added.

"The fact is the industry could take another hit," he said. "I don't think there's any dire negative impact" that has come out of the catastrophes aside from the fact it has forced companies to engage in disciplined portfolio management.

Mr. Lombardo noted also that

Continued on next page

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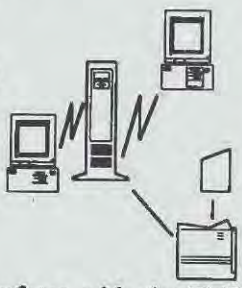

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Roundtable

Continued from previous page

"pundits" now describe casualty insurance as a positive alternative to underwriting property insurance. Mr. Lombardo said he cannot understand this in light of what has happened with the tort system, asbestos, environmental liability and general liability losses.

Ten years ago, in a hard casualty market, insurers "found" property and "couldn't write property fast enough," remarked Richard A. Nielsen, president and chief operating officer of Johnson & Higgins. "Now it's coming full circle."

Participants also discussed when the market will turn.

"I don't know. Who does?" said Mr. Isom. The market has changed significantly in the last 15 to 20 years, as well as since 1984, he said.

"We're so fragmented," he said, pointing to insurer specialization and alternative risk financing mechanisms, as well as personal lines and workers compensation, which have their own cycles.

About all that can be considered traditionally cyclical is the commercial package business, which accounts for only 15% of the market, Mr. Isom said.

"I think if we're waiting for the industry to cycle, we're going to be waiting a long, long time," he said.

Mr. Lombardo noted the capital gains that have helped sustain the industry may run out, creating negative cash flows. It is negative cash flow, more than the impact of another storm "or some rantings by CEOs of major companies" that is likely to lead to rate increases, he said.

The market today is not monolithic, Mr. Isom said. Every company has its own agenda, and that is serving to exacerbate the soft market, he observed.

He agreed that negative cash flow will be the critical factor. But, he added, "I don't see any industry uplifting. I see parts of it uplifting at different intervals."

On other issues discussed by the panel:

• Reg Bowers, a Lafayette, Calif.-based insurance and reinsurance consultant who has worked at Lloyd's of London, questioned whether Lloyd's will be able to resolve the numerous lawsuits filed by names.

"Can we resolve these problems of legal action?" he asked.

• Mr. Isom predicted that globalization will play a very important role in the insurance industry, with many companies expanding around the world.

Smaller agents must try find out how they can become involved in this process, said Harlan Miller, president-elect of the Alexandria, Va.-based Independent Insurance Agents of America. "We're going to have to prepare ourselves," said Mr. Miller, who is also president of Hamman, Miller, Beauchamp & Deeble in Long Beach, Calif.

• Mr. Nielsen observed that the increase in rating agencies evaluating insurers permits a "broader, deeper analysis."

He added, however, that while J&H has a full-time staff looking at insurer solvency, without actually being in a boardroom, one "simply cannot know what's going on."

Listening to talk on the "street' can be valuable to smaller agents and brokers, Mr. Miller said. Asking finance companies if they will finance a policy can be valuable as well, he said. "They have better input than we do, sometimes."

• Mr. Nielsen predicted there will be further consolidation in the brokerage and agency business.

"I don't see how a generalist in our business can make it," said Mr. Isom. For the sophisticated insurance buyer, he added, this is probably an improvement because the buyer will be able to deal with people who are better at what they do.

• "Rightsizing" will continue, said all panelists.

"It's going to be more work for the agencies," said Mr. Miller. "If we don't adapt and become more efficient ourselves, we're going to feel it even more," he added.

The session was moderated by Norman A. Baglini, president and CEO of the American Institute for Chartered Property & Casualty Underwriters. BI

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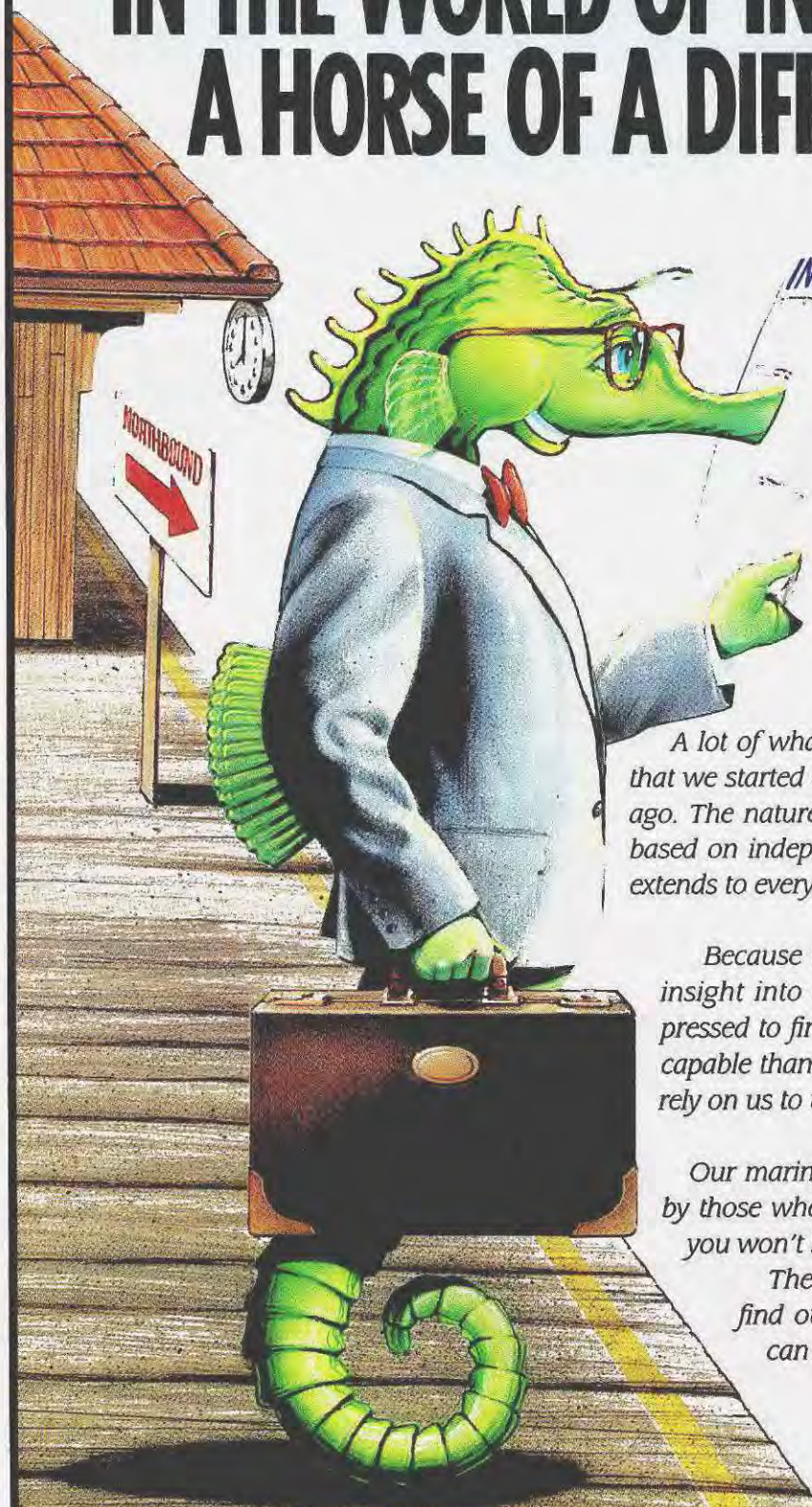

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Executive evaluates predictions made in '90

By JUDY GREENWALD

SAN FRANCISCO—The capital structure of the property/casualty insurance industry is changing even faster than was apparent just 3½ years ago, says Joseph W. Brown Jr., chairman, president and chief executive officer of Talegen Inc.

For instance, Mr. Brown had predicted in 1990 that the industry would face a 15% to 20% reserve shortage by the end of the decade following a major write-down of assets. But, at a seminar last month, he acknowledged he was wrong by a "whole bunch." In fact, it will reach a 15% deficiency even before the middle of the decade, he says.

Mr. Brown discussed the accuracy of several predictions he had made in 1990 for the decade ahead at a recent Insurance Industry Day sponsored by the Golden Gate Chapter of the Society of Chartered & Property Casualty Underwriters.

He had made his original predictions at the Russell Miller National Insurance Symposium-Leadership Conference in San Francisco in April 1990 (*BI*, April 16, 1990).

Mr. Brown said one factor evident from comparing his predictions with what has actually occurred is that "change is occurring in our industry and that the pace is accelerating, not decelerating."

Furthermore, he said, "the method of delivery and the nature of our products to achieve the needs of our customers, our owners, or our fellow employees is not a static equation," he said. "New and innovative practices are coming into being and may well displace the current significant players."

Another lesson is that "the real capital in this business is human capital," and the best-educated, most intelligent participants can obtain capital to provide better products and better returns "in a very rapid fashion."

In addition, "knowledge and technology are becoming intermerged," Mr. Brown said. To be a significant player, "you have got to get on the technology bandwagon and understand what this can mean" for improving an insurer's performance and strategic position.

For individuals, he told the audience, "if you're with a company with a winning formula, challenge your management to keep evolving it." If this is not the case, challenge the company to develop such a formula. Otherwise, he said, find companies that "seem to be oriented to these changes."

Discussing his specific predictions for capital, Mr. Brown said he had

Continued on next page

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predicted there would be a major asset write-down of at least 20% of property/casualty insurers' assets. In fact, he was wrong, he said, because interest rates fell and people took gains as they wrote off bad assets.

He had also predicted the traditional premium-to-surplus ratio of 2-to-1 would be replaced by a ratio of 1-to-1 because premium is an "inappropriate" measure of the degree of risk assumed by insurers. With the introduction of risk-based capital standards, among other factors, Mr. Brown said, he thinks this prediction will come true.

Yet another prediction in this area was that several dozen environmental claims would not yet be recognized. While this forecast was accurate, said Mr. Brown, he had underestimated the magnitude of the issue, with 14 out of the top 20 insurers already having suffered environmental losses of at least $100 million.

Mr. Brown had also predicted federal insurance regulation would be inevitable before the end of the decade.

However, he acknowledged he had underestimated the National Assn. of Insurance Commissioners' ability to change the way it looked at regulating insurers.

Pointing to the NAIC's move toward accreditation and the introduction of risk-based capital standards, he said, "We are seeing a major change." Although federal insolvency regulation could still happen in the next seven years, "I think we're a better-regulated industry today than I would have guessed from the perspective of three years ago, and I'm quite pleased about that."

Among Mr. Brown's other predictions:

- Five of the top 10 insurers would see major changes in ownership. With several changes having already taken place and others about to, this prediction so far is holding true, said Mr. Brown.
- Foreigners or global players would control at least 20% of the U.S. market. As of 1992, global players accounted for 17.5% of the market, he said, adding, "I think I'm going to be low on that forecast."
- Specialty regional insurers would grow to gain a 35% market share from a 20% share. "I think the trends are there," said Mr. Brown, adding he will stick with that forecast. We are now seeing a "more focused look at our industry" and "seeing less and less companies that think they can do everything."
- Regional brokers would grow faster than national brokers. Once Marsh & McLennan Cos. Inc. is discounted from the list of national brokers, this is true, said Mr. Brown, adding he will stick with this prediction.
- Differences in the cost structures among brokers would become more evident. This is already clear from the differences in brokers' reported margins, indicating which will be the "acquirer" and which the "acquiree," he said.
- One insurer among the top 20 would emerge with a major strategic tactical difference in how it approaches information technology. While this has not happened so far, he said, it still might in the next seven years.
- The Superfund law would be amended, after acceptance that retroactive and joint and several liability was the equivalent of issuing speeding tickets 10 years after the speed limit was changed.

Today, "there is a clear recognition" of the necessity for change. Superfund will be amended within the next couple of years and there will be additional amendments before the decade is over, said Mr. Brown. BI

ABA draft

Continued from page 2
ance Assn. in Washington.

Reducing exposure to retroactive liability is "consistent with accepted jurisprudence," said Peter A. Lefkin, vp-federal affairs for Fireman's Fund Insurance Co. in Washington. "The current system is not only grossly inefficient, but unfair as well."

Mr. Lefkin called the ABA draft another example of "distinguished people" analyzing Superfund's problems and reaching the conclusion the liability system must be fixed. He cautioned, though, that while the growing call for reform is "helpful," only a handful of people—including President Clinton and Vice President Al Gore—have the individual influence to sway the debate decisively.

In addition to modifying liability, the ABA draft calls for greater public funding for Superfund cleanup through several possible new taxes, although it does not endorse any specific one.

The Comprehensive Environmental Response, Compensation and Liability Act of 1980, which created Superfund, must be reauthorized by Congress this year or the federal government will lose its ability to levy special taxes on certain industries to help pay for cleaning up polluted sites. Superfund has been criticized by insurers, businesses and President Clinton for encouraging litigation among the parties that are potentially responsible for site cleanup and thus delaying remediation.

The ABA proposal says that allocation of responsibility for cleaning up Superfund sites should be amended to reflect that:

- "New liability not be imposed retroactively on persons who at the time they acted. . .did not know, or reasonably would not have known, that responsibility for cleanup would arise.
- "New strict liability not be imposed based on status," meaning that strict liability should not be imposed without regard to the potentially responsible party's conduct.
- "Liability be allocated to responsible parties based on each party's contribution to the harm.
- "Responsibility be allocated prior to required payment through alternative methods of dispute resolution or other procedures that encourage prompt and efficient compliance.
- "Responsibility not feasibly or equitably allocated to liable parties be paid through broader-based financing approaches, including taxes which garner revenues from those who benefit or have benefited from activities which produced hazardous waste."

'We cannot stand by idly and profit from other people's misery,' says the ABA's draft.

The draft proposal will be reviewed by the ABA's Board of Governors when it meets in Kansas City during the first week of February. The board of governors can recommend that a proposal be approved, rejected or decline to recommend either. The board will then pass its recommendation to the House of Delegates, which meets on Feb. 7 and 8.

"There will be some suggested changes. I'm sure we'll see some language changes," said David S. Baker, chairman of the ABA's Standing Committee on Environmental Law and a partner in the Atlanta law firm Powell, Goldstein, Frazer & Murphy. Mr. Baker added that it is hard to predict how the House of Delegates will vote on the proposal.

"There's certainly no shortage of opinions on what should be done," said John Easton, an Arlington, Va., attorney who headed the ABA task force. Mr. Easton is a former Vermont attorney general and was general counsel to the U.S. Department of Energy during the Bush administration.

Mr. Easton said he had charged his task force with offering specific recommendations where possible, while allowing those recommendations to remain flexible enough to win the support of a broad range of interests.

"Obviously, a favorable decision by the board of governors" would help win approval in the House of Delegates, he said. Although Mr. Easton could not predict how the proposal will fare with the House of Delegates, he said it has so far received considerable support, with only one of the more than a dozen task force members opposing the draft.

Mr. Baker said that the ABA's decision to examine Superfund came in part because lawyers had been singled out in President Clinton's first State of the Union address as profiting from the transaction costs of Superfund while polluted sites languished without cleanup.

"Lawyers take a bad rap here for a bad law," said Mr. Baker.

The public perception of attorneys' cashing in on the system—and of public perception that Superfund isn't working—is acknowledged in the ABA's draft.

"We cannot stand by idly and profit from other people's misery," says the draft.

The draft also holds that the results of Superfund "are hardly surprising. The original statute reflected a hasty, incomplete compromise that left many policy issues unresolved by Congress. They were left to be resolved through the painful, time-consuming and inefficient process of case by case adjudication."

Mr. Easton said that the omission of which taxes should be levied was deliberate.

"We realized that if you're going to take the approach that we're proposing, we would need additional public financing," he said. But he pointed out that members of the task force disagreed over what tax would be best, and decided to endorse the principle of additional public funding rather than the specifics of how that funding would be raised. BI

Cities avoid cleanup liability

By MARK A. HOFMANN

NEW HAVEN, Conn.—A federal court ruling that reduces municipalities' Superfund liability could benefit private entities as well, says the lawyer who successfully argued the case.

Under the ruling, municipalities do not have to share in the cost of landfill cleanup if there's no proof that the waste contains hazardous substances specifically listed by the Environmental Protection Agency.

While the case involved public entities, "this isn't just about municipalities, this is about everybody," said William A. Butler, a partner in the Washington law firm Steptoe & Johnson.

Mr. Butler represented 23 Connecticut municipalities that held they shouldn't have to share in the cost of cleaning up two sites in Beacon Falls and Naugatuck because there was no proof that their wastes contained chemicals considered toxic by the EPA.

"The judge has said, and I think very appropriately, there is no proof that the municipalities, or small businesses or some of the big businesses (involved in the case) have disposed of a chemical that's on EPA's list," said Mr. Butler.

However, he added, the question is not whether, but when the ruling will be appealed.

The attorney who represented a coalition of businesses that tried to force the municipalities to share in the estimated $70 million cost of the cleanup agreed.

"It's only a question of when. We are confident that this ruling will not withstand appellate review by the U.S. Court of Appeals for the 2nd Circuit," said John O'Leary, a partner with Pierce, Atwood, Scribner, Allen, Smith & Lancaster in Portland, Maine.

'This isn't just about municipalities, this is about everybody,' says attorney William A. Butler.

The 2nd Circuit, like other federal courts, has ruled in the past that if a waste contains hazardous substances, then that waste is a hazardous substance itself and the party who dumped it is subject to Superfund liability, Mr. O'Leary said.

"There is absolutely no legal support for what the court has done in this case," said Mr. O'Leary.

The decision, handed down on Dec. 20 by U.S. District Judge Peter C. Dorsey in New Haven, involved a case dating back to the early 1980s when the EPA began an inquiry into who was responsible for dumping hazardous substances at the two landfills, which were owned by the Murtha family.

The EPA sued a number of corporations, including some very large potentially responsible parties like The B.F. Goodrich Co. and Uniroyal Chemical Co. Inc., to recover cleanup costs. The corporations then sued the Murthas, who themselves sued the towns that had dumped waste at the landfills.

After discussing the particular actions of the towns and a variety of private companies that used the landfills, Judge Dorsey wrote: "The fact that waste contains items which were made with, by use of, or incorporated components or elements that constituted or in turn contained hazardous waste is not a sufficient basis for finding that disposal of such waste constitutes disposal of hazardous waste."

Mr. Butler, the municipalities' attorney, suggested that corporations could avoid liability by making the same argument as the Connecticut towns.

Meanwhile, the ruling was lauded by municipal representatives.

"Anything that provides additional relief regarding liability to municipalities in regard to Superfund is something we would be happy about. We're cautiously optimistic because you never know what will happen on appeal," said a spokesperson for the National League of Cities in Washington.

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B.F. Goodrich Co. et al vs. Harold Murtha, et al. vs. Risdon Corp., et al. Civil No. N-87-52. U.S. District Court for the District of Connecticut, Dec. 20, 1993

Court to decide fee dispute in cleanup case

By JOANNE WOJCIK

WASHINGTON—The U.S. Supreme Court will decide whether private parties may recover attorneys' fees from polluters as part of the "necessary costs of response" under the Comprehensive Environmental Response, Compensation and Liability Act, better known as the Superfund law.

The fees in question were incurred in negotiating the scope of cleanup activities, identifying other parties responsible for the contamination and litigating cost-recovery actions.

The petition for Supreme Court review challenges two separate decisions by the 9th U.S. Circuit Court of Appeals.

In *Stanton Road Associates vs. Lohrey Enterprises*, a dry cleaning plant owned by Lohrey Enterprises, which was located on property contiguous to Stanton Road's property, allowed hazardous chemicals to spill onto the adjoining easement.

Stanton Road sued under Superfund to recover the costs of remedying the situation, and the trial court ordered Lohrey to pay $1.1 million in cleanup costs and $126,197.78 in attorneys' fees. The 9th Circuit reversed the lower court's award of legal fees.

In *Key Tronic Corp. vs. United States*, hazardous waste disposed by Key Tronic, a Spokane, Wash.-based computer keyboard maker, and by the U.S. Air Force was found to have contaminated the water supply at a landfill in Spokane County, Wash. (*BI*, Dec. 20, 1993).

After each party settled its liability for cleanup costs with the government, Key Tronic sued the Air Force, seeking attorneys' fees for the costs associated with searching for other potentially responsible parties, including its lawsuit against the Air Force. The district court awarded fees, but the 9th Circuit reversed the award.

In both cases, the appeals court concluded that the phrase "necessary costs of response" and the term "enforcement activities" in the definition of response are not explicit enough to justify an award of attorneys' fees.

Amicus briefs in support of the petitioners are due by Jan. 27, while briefs in support of the respondents are due 30 days later, on Feb. 28.

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Stanton Road Associates vs. Lohrey Enterprises, 9th U.S. Circuit Court of Appeals; 984 f.2d 1015 (1993). Key Tronic Corp. vs. United States, 9th U.S. Circuit Court of Appeals; 984 F.2d 1025 (1993).

Art theft

Continued from page 3

cause of its name recognition. Mr. Gray said the Gregor probably was taken as an afterthought.

Police said they arrived five to 10 minutes after the alarm sounded. The FBI has joined the investigation because the stolen artworks might be transported across state lines.

Since no picture frames were found near the scene, authorities suspect that the paintings were removed from the building while hidden under clothing.

Authorities were unsure how many thieves were involved. But Mr. Smith suspects there were two thieves, because two paintings were stolen.

The gallery had video cameras and authorities are checking whether they were operating during the theft. Police said late last week that they had leads but no suspects in the case.

Authorities would not comment on whether the hit was professional.

But Mr. Smith said the thieves' actions were amateurish and audacious, because of the noise they made in smashing the glass when the building was still filled with people.

Messrs. Smith, Gray and Block said they had no concerns about the adequacy of security at the gallery. "No one can protect themselves from all eventualities," Mr. Smith said.

No ransom demands had been made as of late last week, though such demands are common in such cases, an FBI spokeswoman said. But the gallery would never agree to pay a ransom because that would set a "terrible precedent," Mr. Gray said.

From 1983 through 1992, more than $551.8 million in art thefts were reported to the FBI, though that figure does not include the value of a dozen masterpieces stolen from the Isabella Stewart Gardner Museum in Boston in 1990 (*BI*, March 26, 1990).

Many of the items stolen in that 10-year period, including the Gardner museum masterpieces, have not been recovered.

But, "important things usually turn up—whether it's quickly or in the long distance—when they get into the visible marketplace," Mr. Smith said. BI

Gregor's "Early Fall, Heyworth"

Pension disclosure changes

Employers may have to release more financial data

WASHINGTON—The Labor Department is asking for public comment on whether employers should be required to disclose more financial information to employees about the health of their pension plans.

In addition, the department wants to know whether certain reports that employers must provide to employees, like summary plan descriptions and summary annual reports, can be streamlined.

In its announcement, published in the Dec. 27 issue of the Federal Register, the department said it is evaluating the extent to which current disclosure requirements ensure that employees receive timely and useful information about their benefit plans.

Benefit experts say information on benefits provided to employees must be simplified.

"Employers are spending a lot of money preparing reports that employees don't read. There has to be a better way of disclosing information without giving employees so much paper that they don't read what is given to them," said Martha Priddy Patterson, director of employee benefits policy and analysis at KPMG Peat Marwick in Washington.

Currently, employers must provide, among other things, a summary annual report, which lists the value of benefit plan assets.

In addition, employers must distribute to employees, generally within 90 days of becoming a plan participant, a summary plan description. An SPD describes how benefit plans operate and the benefits that are provided.

If an employer makes a significant change or amendment to a benefit plan, employees must be notified of that change within 210 days after the end of the plan year.

These amendments must be incorporated in updated SPDs, which are distributed every five years. If no changes have been made during the five-year period, a new SPD must be furnished every 10 years.

Many benefit experts say that employees pay virtually no attention to summary annual reports.

To make the report more useful, the department wants to know whether all employers should be required, in the case of defined benefit plans, to disclose detailed information on the funding status of the plan; currently, only employers with plans that are less than 70% funded are required to disclose such information.

In addition, the department wants comments on whether employers should disclose in the SAR information on benefit guarantees provided by the Pension Benefit Guaranty Corp. and whether an employer has received permission from the Internal Revenue Service to delay required contributions to its pension plan or whether the employer missed making a required contribution to the plan.

For SPDs, the department is asking whether any currently required information can be deleted. In addition, the department wants to know how frequently employers think SPDs should be updated.

The department also is requesting information on whether there are alternative means of furnishing SPDs to employees.

Comments, preferably at least six copies, should be sent to the Department of Labor, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N-5669, Washington, D.C. 20210. Attention: DISCLOSURE RFI. The deadline is Feb. 25.

—By Jerry Geisel

Risk management consultant formed

Markets

MEMPHIS, Tenn.—A new insurance claims and risk management consulting firm, Bill Hamm & Associates, has been formed in Memphis, Tenn.

The firm offers a variety of risk management services, including exposure identification and loss experience analysis; tailored safety and loss control programs; and environmental and safety compliance audits. It also offers claims consulting and other specialized services to captives, excess and surplus lines insurers, and reinsurers. Specialized services for insurers and reinsurers include prequote surveys of potential policyholders and underwriting and/or claims audits of existing clients.

Bill Hamm, the firm's president, has 30 years of risk and claims management experience, having held positions with E.H. Crump Cos. in Memphis and Browning-Ferris Industries Inc. Robert Gold, the firm's vp and risk management/loss control specialist, has 15 years of experience in those fields.

The company is located at 1703 Lockett Place, Memphis, Tenn. 38104; 901-274-6860, fax: 901-274-5924.

Diagnostek purchase

ALBUQUERQUE, N.M.—Diagnostek Inc. has acquired Chronitech Health Services Inc., a provider of speciality pharmacy, home care medication and infusion services to the HIV and AIDS market.

Diagnostek provides managed prescription drug plans and services to employers and insurers.

The acquisition is valued at approximately $9 million in cash and Diagnostek stock, of which $3 million has been placed in escrow pending achievement of certain operating targets.

Chronitech operates two specialty AIDS retail pharmacies in San Francisco that offer comprehensive patient education, counseling, advocacy and assistance with billing and insurance reimbursement in addition to dispensing oral medication.

Through a joint venture with Olsten-Kimberly Quality Care Inc., Chronitech also provides medication to home-bound patients in the San Francisco Bay area.

The acquisition now allows Diagnostek to provide oral medication through Olsten-Kimberly Quality Care's home nursing programs. Diagnostek will also provide infusion and medical supplies to Olsten-Kimberly Quality Care in the western United States.

Diagnostek estimates that the acquisition and anticipated joint venture business will generate more than $40 million in revenues in fiscal 1994. BI

Updates

Underfunding rising: PBGC

WASHINGTON—The gap between assets and liabilities in underfunded single-employer pension plans climbed nearly 40% in 1992, rising to $53 billion from $38 billion the year before, a federal agency said last week.

The Pension Benefit Guaranty Corp. reported that underfunded plans in 1992 had $235 billion in liabilities and $182 billion in assets. In 1991, underfunded plans had $165 billion in liabilities and $127 billion in assets. Seventy-two percent of the underfunding is in plans maintained by just 50 companies, which are primarily in the steel, auto, tire and airline industries.

The PBGC attributed the rise in underfunding to declining interest rates as well as loopholes in the law that allow employers with underfunded plans to minimize contributions to the plans.

Employers Casualty insolvent

AUSTIN, Texas—A Texas state court judge last week declared Employers Casualty Co. insolvent and placed the Dallas-based property/casualty insurer into temporary receivership.

ECC's liabilities of $357.6 million exceeded assets by $79.8 million, making ECC the second-largest property/casualty insurer failure in Texas history, after the Texas Employers Insurance Assn., which went into receivership in 1991 (*BI*, Dec. 16, 1991; Jan. 21, 1991).

ECC was ordered to stop writing new and renewal business in February 1992, when its liabilities were estimated to exceed assets by $50 million (*BI*, Feb. 17, 1992).

Virtually all of the policies written by ECC, about half of which were workers compensation coverage, have expired, the Texas Department of Insurance said.

The Texas Property & Casualty Guaranty Assn. will assume responsibility for paying Texans' covered claims. Most guaranty funds will pay up to $100,000 per claim for most lines of coverage, but will pay an unlimited amount for workers comp claims.

Texas accounts for 82% of ECC's net exposure, or $281.1 million. Other states with large exposures are: Alabama, with $18.2 million; Georgia, $7 million; Pennsylvania, $5.8 million; Alaska, $4.5 million; Oklahoma, $3.4 million; and Louisiana, $3.2 million.

$9.95 million settlement

OIL CITY, Pa.—Agoura Hills, Calif.-based Heritage Life Insurance Co., a unit of motor oil company Quaker State Corp., has decided to pay $9.95 million to avoid the cost of appealing a $21.7 million jury verdict to Wescal Credit Insurance Agency of Orange County, Calf.

Wescal, which acted as the insurer's managing general agent from 1984 to 1990, won the damages in a breach of contract lawsuit that was tried last year in a state court (*BI*, Sept. 13, 1993).

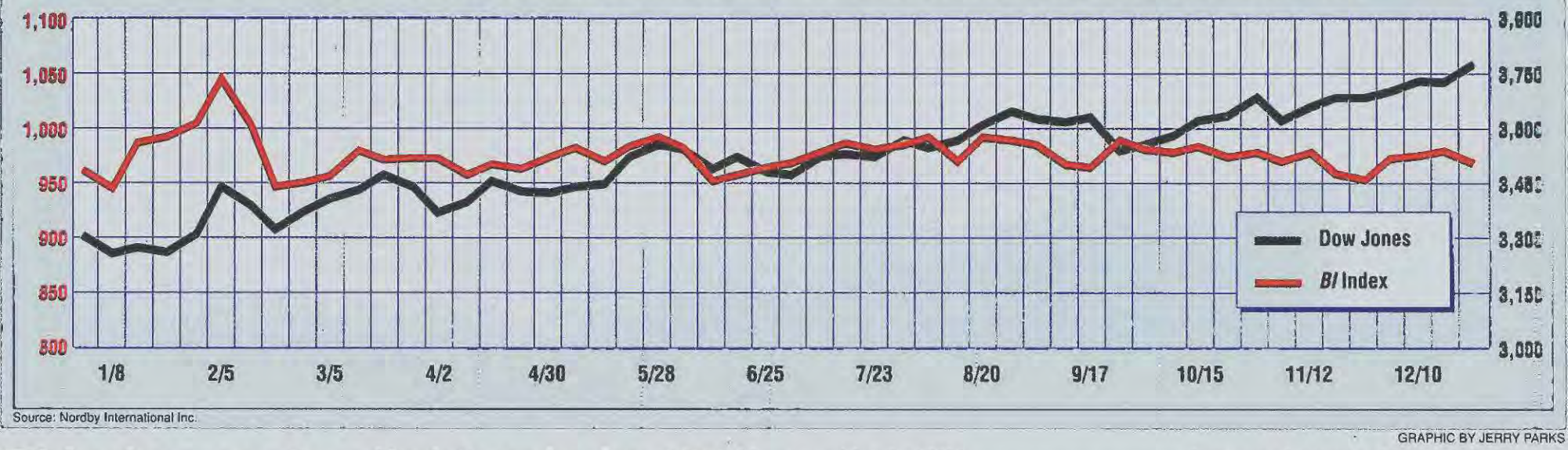
The settlement will be paid out of a $5 million reserve established by Quaker State in the third quarter of 1993, plus capital gains the company realized in the fourth quarter.

Briefly noted

Lloyd's of London has extended by two weeks the deadline for loss-making members to decide upon a 900 million pound ($1.33 billion) settlement offer following the discovery of errors in the original calculations (*BI*, Jan. 3). The deadline is now set for Feb. 14. . . .Newport Beach, Calif.-based **Pacific Mutual Life Insurance Co.** has completed the sale of $150 million of surplus notes, a type of debt obligation. The approximately $147.5 million in net proceeds from the sale will be added to the company's capital base. . . .The rate of **work-related injuries and illnesses** fell in Oregon for the fourth consecutive year in 1992 to a record low of 8.8% per 100 full-time workers, an overall decline of 18.5% from 1988 levels. . . .Supporters of a **pay-at-the-pump, no-fault auto insurance** initiative in California will delay seeking qualification for the measure until the March 1996 ballot. . . .California Insurance Commissioner John Garamendi has ordered **State Farm Insurance Group** to show cause why its auto and homeowners insurance rates are not excessive. The insurer must appear in hearings to determine if its rates should be rolled back and what steps should be taken to correct alleged deceptive practices and illegal charges to customers. . . .**The Travelers Indemnity Co.** will refund about $350,000 in deductibles stemming from Hurricane Andrew claims by 1,500 condominium owners. Travelers had collected separate deductibles for contents and property assessment, but the Florida Insurance Department insisted that policyholders file only one claim and pay one deductible. . . .**Blue Cross & Blue Shield of the National Capital Area** will eliminate about 700 jobs from its current workforce of 2,900 during the next year to reduce administrative costs. Alleged mismanagement at the health insurer was the subject of a Senate investigation last year (*BI*, Feb. 1, 1993). . . .The California Division of Workers' Compensation has issued final regulations covering the bulk of the state's comprehensive **workers comp reform legislation** signed into law last summer (*BI*, Dec. 6, 1993). . . .The Clinton administration is setting up a task force to determine whether the federal government should set up a program to compensate hundreds of individuals who were exposed to or injected with radioactive materials during **experimental government tests** in the 1940s and 1950s. . . .Employers can wait until the end of this year to formally amend their pension plans to incorporate a provision in a 1993 law that reduces to $150,000 the amount of employee compensation that can be considered in making contributions and **calculating pension benefits**, the Internal Revenue Service announced. . . .The National Organization of Life & Health Guaranty Assns. has rejected a proposal to settle the **Executive Life Insurance Co.** litigation (*BI*, Jan. 3). NOLHGA says it will not endorse the proposed settlement because its structure is unsatisfactory, does not preclude additional litigation and could disrupt the opt-out process that began last month.

1993 in review

Business Insurance Stock Index and Dow Jones 30 Industrials



Source: Nordby International Inc.

GRAPHIC BY JERRY PARKS

BI Index posts slight gain in 1993

The *Business Insurance* Index ended 1993 up slightly from where it started the year, rising 24.0 points to 969.1 on Dec. 23 from 945.1 on Jan. 8.

Meanwhile, the Dow Jones 30 Industrials posted a 16% gain in 1993, rising 520 points to 3775.9 Dec. 23 from 3255.0 on Jan. 8.

The *BI* Index, which tracks 84 commercial insurance industry stocks, reached a peak of 1045.8 on Feb. 5, while the low for the year occurred Jan. 8, at 945.1.

Insurance stocks fell last week, as the *BI* Index lost 2.6 points to 975.9 Jan. 7 from 978.5 on Dec. 31, 1993. Advancing issues for the week were led by: Safeguard Health Enterprises, up 15.0%; Acceptance Insurance Cos., up 14.0%; and E.W. Blanch Holdings Inc., up 8.6%. Declining issues for the week followed: Lawrence Insurance Group, down 10.3%; Hilb, Rogal & Hamilton, down 6.7%; and Aetna Life & Casualty, down 6.6%. The most active issue was American International, 4.2 million shares traded. The *BI* Index fell 0.3%; the Dow Jones 30 Industrials rose 1.8%; the NYSE Composite rose 0.5%; and the Standard & Poor's 500 rose 0.7%.

Small-group reforms take effect in Texas

AUSTIN, Texas—Texas's Small Employer Health Insurance Availability Act is now effective, guaranteeing companies with three to 50 employees access to renewable, standardized health care plans.

By the end of 1993, 52 insurers and health maintenance organizations in the state were certified to provide coverage that meets the law's requirements to Texas's small-employer market.

Under the law, insurers must include the following coverage options among the products they offer to small groups:

- Preventive primary care, covering doctor visits, vaccinations, mammograms and other routine medical care. However, insurers can limit coverage for these services to a maximum of five hospital days per year.
- In-hospital benefits, which cover hospitalization and up to 90 days of follow-up care. Preventive and primary care benefits must be purchased separately.
- A standard benefit plan that covers only basic medical services.

The new law also prevents health insurers from excluding some employees with pre-existing conditions. Beginning Sept. 1, 1995, insurers cannot turn down a group solely because it contains some high-risk or ill employees.

The purpose of requiring insurers to offer standardized benefit plans is to facilitate price comparisons and provide employers with lower-cost alternatives to products already on the market, explained Texas Insurance Commissioner J. Robert Hunter.

Small employers that purchase health plans after the law's Jan. 1 effective date must pay at least 75% of their employees' premiums. However, they are not required to contribute toward the cost of coverage for dependents.

If at least 40% of a company's employees want a more generous benefit plan than the standard package, the law requires it to be made available, though the added cost is likely to be borne entirely by the employees.

The law does not mandate that employers must purchase health insurance for their employees, Mr. Hunter noted.

—*By Sara Marley*

British Issues

Jan. 6 Companies	Price pence	P/E	Div. pence	Yield %	1 week High—Low pence	pence
Comml Union	661	N/M	29.8	4.5	661—645	
Genl Accident	740	N/M	33.8	4.6	740—708	
Gdn Royal Exch	235	N/M	9.0	3.8	235—228	
Royal	337	N/M	8.0	2.4	340—334	
Sun Alliance	411	N/M	17.8	4.3	411—385	
Brokers						
Bradstock	154	17.3	6.9	4.5	154—150	
CE Heath	421	20.2	20.0	4.8	421—402	
Hogg Group	160	17.8*	10.4	6.5	160—148	
JIB Group	182	17.9	9.5	5.2	182—176	
Lloyd Thmpson	283	19.0	8.4	3.0	283—269	
Lowndes Lmbrt	443	16.0	16.8	3.8	443—436	
PWS Holdings	78	11.6	5.0	6.4	78—76	
Sedgwick Grp	194	23.3	7.5	3.9	194—182	
Steel Brl Jones	127	N/M	15.0	11.8	127—121	
Willis Corroon	240	22.5	8.3	3.5	240—224	

Source: Philip Olsen, London

* Estimated

BI Industry Stock Report

JAN. 3, 1994 THROUGH JAN. 7, 1994

BROKERS		Price	Weekly % change	Year to date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt./Bk. value
Acord a Inc.	NYS	25.25	2.54	2.54	27.63	18.38	10	0.44	1.74	14	9.57	2 64
Alexander & Alexander	NYS	20.50	3.14	3.14	28.88	17.63	375	1.00	4.88	37	5.02	4 08
E.W. Blanch Holdings Inc.	NYS	18.88	8.63	8.63	23.50	16.50	14	0.32	1.70	18	3.60	5 24
Gallagher Arthur J. & Co.	NYS	35.88	0.35	0.35	37.38	25.50	131	0.72	2.01	18	6.26	5 73
Hilb, Rogal & Hamilton	NYS	12.25	-6.67	-6.67	16.88	11.38	71	0.48	3.92	19	2.73	4 49
Marsh & McLennan	NYS	82.13	0.92	0.92	97.63	77.00	634	2.68	3.26	19	15.03	5.46
Poe & Brown	OTC	17.75	-1.39	-1.39	21.25	16.25	31	0.40	2.25	31	2.60	6.83
BROKERS	AVERAGE		1.1	1.1					2.8	22		
INSURERS/REINSURERS												
ACE Ltd.	NYS	29.75	-2.46	-2.46	36.00	25.50	354	0.40	1.34	7	25.37	1.17
Acceptance Insurance Cos.	NYS	13.25	13.98	13.98	15.63	8.25	65	0.00	0.00	15	9.11	1.45
AEGON N.V.	NYS	56.00	2.28	2.28	58.50	41.13	38	1.22	2.18	12	32.78	1.71
Aetna Life & Casualty	NYS	56.25	-6.64	-6.64	66.25	43.38	1767	2.76	4.91	19	65.43	0.86
Allied Group Inc.	OTC	26.38	5.50	5.50	32.75	19.66	126	0.52	1.97	8	10.45	2.52
Allmerica Prop. & Casualty	NYS	64.38	-0.39	-0.39	66.50	51.50	42	0.48	0.75	5	46.94	1.37
Allstate Corp.	NYS	28.63	-3.78	-3.78	34.25	27.13	1191	0.72	2.52	14	12.26	2.33
American General	NYS	28.50	0.00	0.00	36.50	26.25	1686	1.08	3.79	11	21.31	1.34
American Heritage Life Ins.	NYS	19.13	2.68	2.68	25.34	17.25	47	0.60	3.14	12	12.44	1.54
American Indemnity/Fin'l	OTC	14.00	7.69	7.69	16.25	6.00	27	0.12	0.86	5	16.18	0.87
American International	NYS	84.88	-3.69	-3.69	100.25	73.41	4192	0.40	0.47	14	40.25	2.11
American Re Corp.	NYS	28.00	-0.88	-0.88	41.75	25.75	582	0.00	0.00	23	16.36	1.71
Aon Corp.	NYS	47.88	-0.78	-0.78	58.50	46.25	904	1.80	3.76	15	31.79	1.51
Argonaut Group	OTC	30.25	-0.82	-0.82	35.50	28.25	201	1.00	3.31	10	25.52	1.19
AVEMCO Corp.	NYS	19.63	4.67	4.67	25.50	16.75	18	0.44	2.24	16	7.75	2.53
Baldwin & Lyons Inc.	OTC	15.00	0.84	0.84	16.25	11.16	8	0.20	1.33	11	34.75	0.43
Berkley W.R. Corp.	OTC	33.88	3.44	3.44	50.50	32.00	1101	0.40	1.18	13	26.31	1.29
Berkshire Hathaway Inc.	NYS	16550.00	1.38	1.38	17800.00	11350.00	1	0.00	0.00	-	7742.67	2.14
Chandler Insurance	OTC	5.50	0.00	0.00	5.88	3.50	4	0.00	0.00	13	8.87	0.62
Chubb Corp.	NYS	77.13	-1.91	-1.91	96.38	75.75	1840	1.72	2.23	18	45.65	1.69
CIGNA Corp.	NYS	63.13	-0.20	-0.20	68.38	56.50	1120	3.04	4.82	11	79.82	0.79
CNA Financial Corp.	NYS	75.13	-4.60	-4.60	101.00	74.25	89	0.00	0.00	-15	75.07	1.00
Continental Corp.	NYS	26.88	-2.71	-2.71	34.63	24.38	1301	1.00	3.72	11	34.73	0.77
EXEL Ltd.	NYS	43.63	-3.06	-3.06	52.25	42.00	479	1.20	2.75	7	29.54	1.48
Fremont General Corp.	NYS	23.88	-1.04	-1.04	28.75	21.00	169	0.72	3.02	8	19.81	1.21
Frontier Insurance Group	NYS	43.63	-0.57	-0.57	50.00	36.72	62	0.60	1.38	14	14.78	2.95
Gainsco Inc.	ASE	9.00	0.00	0.00	17.69	8.25	158	0.04	0.44	12	3.27	2.75
General RE Corp.	NYS	105.00	-1.18	-1.18	133.38	104.75	1816	1.88	1.79	13	49.90	2.10
Guaranty National Corp.	NYS	17.50	0.00	0.00	24.75	17.25	47	0.48	2.74	10	10.44	1.68
Harleysville Group	OTC	27.88	-2.19	-2.19	32.75	22.63	194	0.64	2.30	14	18.35	1.52
Hartford Steam Boiler	NYS	45.50	2.25	2.25	59.88	42.63	146	2.12	4.66	53	18.03	2.52
HCC Insurance Holdings	OTC	30.50	0.83	0.83	35.75	16.50	51	0.00	0.00	21	14.94	2.04
Home Holdings Inc.	NYS	17.75	2.90	2.90	18.00	17.00	413	0.00	0.00	-	19.96	0.89
ITT (Hartford Group)	NYS	91.13	-0.68	-0.68	94.88	69.00	1441	1.96	2.15	-	55.03	1.66
Kemper Corp.	NYS	38.13	6.27	6.27	43.00	26.13	678	0.92	2.41	-9	33.69	1.13
Lawrence Insurance Group	ASE	3.25	-10.34	-10.34	8.63	3.25	26	0.00	0.00	-	4.17	0.78
Liberty Corp.	NYS	24.63	-0.51	-0.51	34.75	23.75	250	0.56	2.27	10	20.00	1.23
Lincoln National	NYS	41.75	-2.91	-2.91	48.25	34.69	1811	1.64	3.93	9	31.41	1.33
Markel Corp.	OTC	40.25	4.55	4.55	40.50	32.25	58	0.00	0.00	11	20.21	1.99
Mid Ocean Ltd.	OTC	26.50	-6.19	-6.19	34.75	25.00	312	0.00	0.00	14	20.24	1.31
Mutual Risk Mgmt. Ltd.	NYS	28.25	-5.83	-5.83	32.75	21.16	577	0.28	0.99	20	11.39	2.48
NAC Re Corp.	OTC	29.00	-0.43	-0.43	44.75	28.00	363	0.16	0.55	16	17.23	1.68
National Re Corp.	NYS	29.00	-5.31	-5.31	39.63	27.50	618	0.12	0.41	9	14.18	2.05
Navigators Group	OTC	35.00	0.00	0.00	39.00	28.50	5	0.00	0.00	19	16.99	2.06
Nobel Insurance LTD.	OTC	8.25	8.20	8.20	8.25	5.75	107	0.00	0.00	3	6.84	1.21
NWNL Companies	NYS	32.38	-0.38	-0.38	38.75	24.31	419	0.80	2.47	13	21.65	1.50
Ohio Casualty Corp.	OTC	63.75	-0.39	-0.39	72.00	57.63	157	2.84	4.45	11	45.85	1.39
Old Republic Int'l	NYS	22.63	0.56	0.56	27.63	21.50	419	0.44	1.94	9	21.06	1.07
Orion Capital Corp.	NYS	32.63	5.67	5.67	37.50	27.41	127	0.72	2.21	9	24.32	1.34
Phoenix RE Corp.	OTC	26.00	-5.45	-5.45	38.25	15.25	969	0.28	1.08	-	11.88	2.19
Provident Life	NYS	30.50	-3.56	-3.56	31.88	25.63	55	1.04	3.41	12	30.72	0.99
Re Capital Corp.	OTC	13.38	-1.83	-1.83	16.50	13.25	93	0.28	2.09	14	16.88	0.79
Reliance Group Holdings	NYS	7.50	-3.23	-3.23	10.38	5.63	752	0.32	4.27	3	2.99	2.51
RLI Corp.	NYS	27.50	2.80	2.80	28.63	24.13	58	0.56	2.04	13	18.62	1.48
St. Paul Companies	NYS	87.13	-2.92	-2.92	98.00	75.00	429	2.80	3.21	-40	52.24	1.67
SAFECO Corp.	OTC	53.13	-2.75	-2.75	66.75	53.13	1999	1.80	3.39	10	38.95	1.35
SCOR U.S. Corp.	NYS	13.00	2.97	2.97	20.75	12.38	14	0.32	2.46	20	14.69	0.88
Seibels Bruce Group	OTC	1.69	-3.54	-3.54	2.13	0.31	629	0.00	0.00	-1	1.90	0.89
Selective Ins. Group	OTC	30.13	-0.41	-0.41	31.00	20.50	105	1.12	3.72	20	22.92	1.31
Sphere Drake Holdings	NYS	16.75	1.52	1.52	21.63	15.50	40	0.12	0.72	17	N.A.	N.A.
Statesman Group Inc.	NYS	12.75	2.00	2.00	15.72	9.75	120	0.00	0.00	6	8.65	1.47
TIG Holdings	NYS	23.00	1.66	1.66	28.00	20.25	612	0.20	0.87	-9	17.14	1.34
Tokio Marine & Fire	OTC	53.75	-0.46	-0.46	67.00	45.50	15	0.37	0.69	-	57.72	0.93
Torchmark Corp.	NYS	45.25	1.12	1.12	64.75	41.13	682	1.12	2.48	13	15.15	2.99
Transatlantic Holdings	NYS	52.50	-1.64	-1.64	61.50	49.00	140	0.36	0.69	14	24.57	2.14
Travelers Corp.	NYS	31.13	2.05	2.05	38.88	23.75	0	1.60	5.14	-8	31.77	0.98
Trenwick Group Inc.	OTC	38.25	-1.29	-1.29	49.75	37.63	182	0.88	2.30	12	26.00	1.47
United Fire & Casualty	OTC	36.25	0.69	0.69	42.75	34.75	4	1.08	2.98	-	28.96	1.25
Unitrin	OTC	42.50	0.00	0.00	46.75	39.00	210	1.40	3.29	19	37.69	1.13
UNUM Corp.	NYS	52.75	0.48	0.48	60.13	47.75	790	0.80	1.52	14	21.25	2.48
US Facilities Corp.	OTC	12.13	2.11	2.11	14.00	6.50	96	0.00	0.00	11	10.48	1.16
USF&G Corp.	NYS	14.25	-5.79	-5.79	19.63	11.75	2078	0.20	1.40	-	9.63	1.48
USLICO Corp.	NYS	16.38	-0.76	-0.76	20.00	15.00	24	0.24	1.47	-6	23.61	0.69
USLIFE Corp.	NYS	38.25	-1.29	-1.29	45.75	35.75	120	1.24	3.24	11	39.48	0.97
Washington National	NYS	23.00	-5.15	-5.15	28.00	21.75	258	1.08	4.70	10	28.84	0.80
Zenith National Ins.	NYS	22.50	1.69	1.69	29.25	20.38	28	1.00	4.44	11	15.82	1.42
Zurich Reinsurance Centr.	NYS	27.25	-3.54	-3.54	36.38	26.25	461	0.00	0.00	-	23.99	1.14
INSURERS/REINSURERS	AVERAGE		-0.4	-0.2					2.0	9.3		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	26.50	1.92	1.92	30.00	17.38	411	0.00	0.00	18	9.50	2.79
Pacificare Health Sys.	OTC	40.00	5.96	5.96	57.50	25.50	440	0.00	0.00	18	3.90	10.26
Safeguard Health Enter.	OTC	14.38	15.00	15.00	14.63	7.75	174	0.00	0.00	17	5.04	2.85
Sierra Health Services	ASE	23.25	4.49	4.49	24.00	11.50	306	0.00	0.00	17	1.73	13.44
TakeCare Inc.	OTC	51.75	-5.05	-5.05	57.50	25.75	478	0.00	0.00	17	13.84	3.74
United Healthcare Corp.	NYS	77.13	3.18	3.18	78.75	40.00	1297	0.00	0.00	35	9.46	8.15
U.S. Healthcare	OTC	57.13	-0.65	-0.65	60.63	36.75	4173	0.64	1.12	23	5.21	10.96
Wellpoint Health Networks	NYS	31.25	1.21	1.21	39.75	23.00	350	0.00	0.00	18		
HMOs	AVERAGE		3.3	3.3					0.1	18		
ALL COMPANIES	AVERAGE		1.3	1.4					2.2	13		

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