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Business Insurance®

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

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Updates

Rep. Norwood reintroduces PARCA bill in 106th Congress

WASHINGTON—Rep. Charles Norwood, R-Ga., will try again in the 106th Congress to win passage of his Patient Access to Responsible Care Act.

Rep. Norwood last week reintroduced PARCA, which would allow patients to sue insurers, HMOs and other health plans for punitive and other damages allowed under state law for improper denial or delay of care.

Employers also could be sued if they exercised the authority to review claims, as many employers now do. The Employee Retirement

See **Updates** *on next page*

Employers get break on changing plans for 401(k) rollovers

By JERRY GEISEL

WASHINGTON—The Internal Revenue Service is giving employers one more year to comply with a law designed to close a 401(k)/IRA tax loophole that complicates plan administration.

Employers complained that they didn't have enough time to modify their benefit administration systems to comply with the 1998 law, which was scheduled to take effect last week.

The law bars hardship withdrawal rollovers of pretax 401(k) contributions to individual retirement accounts. Using this technique, financially savvy employees can avoid a 10% penalty tax that normally applies on 401(k) plan hardship withdrawals (*BI*, Aug. 10, 1998).

Employer complaints that they needed more time to modify their benefit programs apparently were heard by the IRS.

Under IRS Notice 99-5, employers in 1999 can allow employees to directly roll over to IRAs any 401(k) hardship withdrawals funded through pretax contributions. By Jan. 1, 2000, though, direct rollovers to IRAs of 401(k) plan hardship distributions made from pretax contributions will be barred, as called for by the law.

Alternatively, employers can opt to comply immediately with the law and no longer allow workers to directly roll over hardship withdrawals of pretax 401(k) contributions to IRAs.

However, employees at companies complying with the new law can—for 1999 only—make a hardship withdrawal and still avoid the 10% tax penalty by rolling over the funds to an IRA themselves. This must be done within 60 days of receiving the hardship distribution.

After 1999, though, hardship withdrawals of pretax 401(k) contributions cannot be rolled over by an employer or employee to an IRA.

This option to take a one-year reprieve will be welcomed by employers that had faced only a few months in which to overhaul pension plan administration systems to comply with the new rules.

"This is really good news. When you have automated payment systems, you cannot just quickly turn these things on and off," said Frank Roque, a consultant with Hewitt Associates L.L.C. in Lincolnshire, Ill.

"This is a very common-sense approach on the part of the IRS," said Henry Saveth, an attorney

See **Hardship** *on page 34*

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NEWSPAPER

Liberty Re quits amid low returns

By SARAH GODDARD

LONDON—Less than 15 months after gaining authorization to write reinsurance in London, Liberty Re Ltd. is shutting its doors.

Although Liberty Re's pullout means the withdrawal of £250 million ($412.7 million) of capacity, analysts and market executives say it will take more than one reinsurer's departure to turn the London market.

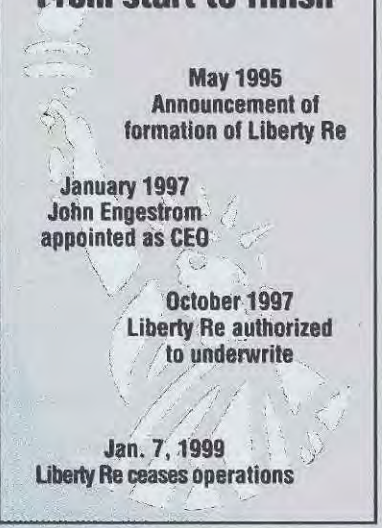
Liberty Mutual Insurance Co.'s decision to close Liberty Re last week was based on lower-than-expected return on capital, said Thomas C. Ramey, president of Boston-based Liberty International Holdings. Setting up Liberty Re in 1997 "was a big bet," he said, which took up a lot of capital.

Overcapacity in the reinsurance market and very soft rates appear to be continuing, and the market itself is "changing in a direction we're not comfortable with," said Mr. Ramey. "People are taking all kinds of risks which haven't been seen before in the reinsurance market," he said.

Liberty Re's return on investment was not justifying the level of commitment, and Boston-based Liberty Mutual decided late last month to cease the operations. "My view is this is the kind of business decision we should be making," Mr. Ramey said.

See **Liberty Re** *on page 38*

From start to finish



May 1995
Announcement of formation of Liberty Re

January 1997
John Engestrom appointed as CEO

October 1997
Liberty Re authorized to underwrite

Jan. 7, 1999
Liberty Re ceases operations

Suit alleges diverted funds, unpaid claims

Union health plan seized

By DOUGLAS McLEOD

UNIONDALE, N.Y.—Federal regulators have taken over an allegedly bogus union health benefit plan that has a backlog of more than $25 million in unpaid claims and that regulators describe as "virtually insolvent."

A federal judge last month granted the U.S. Labor Department's request for an independent manager to take control of Elmont, N.Y.-based International Workers' Guild Health and Welfare Trust, a self-funded health plan that has generated scores of complaints about unpaid claims from employers and workers in 21 states.

Officials of the union and two affiliated companies diverted at least $9.6 million in administrative and other fees in 1997 and 1998, or nearly 40% of the $24.3 million that employers paid into the fund, the Labor Department charged in a complaint filed in U.S. District Court in Uniondale.

The officials, who are named as defendants in the complaint, also wasted the health plan's assets in other ways, including by hosting a conference and golf tournament for several hundred people at an Arizona resort early last year, regulators charge.

Meanwhile, the IWG plan's finances were deteriorating, with unpaid claims skyrocketing to $25 million in December from $8 million last March, while the period taken to review individual claims stretched to almost 153 days, regulators charge.

Two of the health plan's administrators also used the plan funds

See **Union** *on page 37*

High court to review landmark comp case

By MARK A. HOFMANN

WASHINGTON—Do private insurers—and possibly even risk managers—act as state agents subject to constitutional restrictions under certain circumstances?

That's a question the U.S. Supreme Court will decide after the justices hear oral arguments in *American Manufacturers Mutual Insurance Co. et al. vs. Delores Scott Sullivan et al.* next Tuesday.

The 3rd U.S. Circuit Court of Appeals ruled in a Pennsylvania workers compensation case last year that insurers under certain circumstances act as "state actors" (*BI*, March 30, 1998).

The ruling found that by providing government-mandated workers compensation coverage, the insurers are agents of the state and, therefore, bound by the same constitutional limits and requirements that apply to government officials carrying out their duties.

The case alleges that, as state agents, insurers are violating the due process of workers comp beneficiaries when they delay payment to providers while reviewing claims. The appeals court held that delaying

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Updates

Norwood reintroduces PARCA

Continued from previous page
Security Act now generally limits patients' recoveries to actual losses.

The Norwood bill is similar to one that Rep. Norwood introduced during the prior congressional session and that was, at one time, backed by nearly half the members of the House of Representatives. That support dwindled amid an intense business campaign against the measure.

While Rep. Norwood's new proposal lacks any co-sponsors, the Georgia Republican says he expects bipartisan support.

A wide range of insurer and employer groups last week denounced the latest bill, saying it would increase premiums by exposing health plans to more litigation.

Court dismisses e-mail suit

NEW YORK—Comparing an Internet service provider to a telephone company, a New York state appeals court has dismissed a lawsuit seeking $6 million in total damages for an e-mail message.

The suit, brought by 15-year-old Alexander Lunney, argued that Prodigy Communications Corp. committed libel and negligently enrolled members with false names and addresses. Mr. Lunney sued Prodigy in 1997 after the Internet service provider transmitted an obscene e-mail message signed in his name that threatened his Boy Scout leader and the man's family.

Reversing a lower court, the appellate court unanimously dismissed the suit, saying Prodigy provided the transmitting equipment, like a telephone company, but did not publish the message. The e-mail was sent by an unknown "infantile practical joker," not Mr. Lunney, the court ruled in its Dec. 28 opinion.

"There is certainly no evidence in this record that a human being in the employ of the defendant approved of the transmission of the e-mail or bulletin board messages complained of by the plaintiff," wrote Judge Lawrence Bracken. "This being the case, Prodigy cannot be considered a publisher of that material."

Marc Jacobson, Prodigy's senior vp-corporate development and public policy, hailed the decision. "You can't hold a telephone company liable, so you can't hold Prodigy liable," he said. "This is a new medium, but the same rules apply."

But J. Robert Lunney, the plaintiff's attorney and father, said the court ignored the argument that Prodigy was negligent in allowing people to join the service using false names and addresses. In addition, he said he disagreed with the court's analogy comparing Prodigy to a telephone company and is considering appealing the decision.

$10 million implant case award

WASHINGTON—Bristol-Myers Squibb Co. is asking a federal judge to set aside a $10 million compensatory damage award to a Washington lawyer who claimed the silicone breast implants she received 21 years ago caused her to develop a serious connective tissue disease.

The Washington verdict against Bristol-Myers came just a month after a panel of scientists appointed by a federal judge in Alabama issued a well-publicized report finding no definite ties between silicone implants and numerous diseases. However, the jury was not made aware of the science panel's findings, a company spokeswoman said.

Meanwhile, Dow Chemical Co. is asking the Nevada Supreme Court to reconsider its decision upholding a $4.1 million award in a breast implant case. However, the company is "gratified" that the court reversed a $10 million punitive damages award in the case, a Dow spokesman said.

The court found that Dow Chemical Co. was negligent in its role as consultant to Dow Corning Corp., its joint venture with Corning Inc. that made silicone breast implants. The court did not, however, find grounds for fraudulent concealment to support the punitive award.

Dow Chemical had appealed the case, which involved the first jury verdict against the chemical giant in a silicone breast implant case. The jury had awarded plaintiff Charlotte Mahlum $3.9 million in compensatory damages for health problems related to silicone breast implants. Her husband was awarded another $200,000. Two days later, the jury added the punitive award of $10 million (*BI*, Nov. 6, 1995).

RIMS offers online ARM study

NEW YORK—Risk managers and others seeking the Associate in Risk Management designation now can prepare for the exam with three new online test preparation courses offered through the Risk & Insurance Management Society Inc.

Each of the three courses—the preparation essentials of risk management, preparation essentials of risk control, and preparation essentials of risk financing—costs $250 for RIMS members, $295 for associates and $350 for non-members.

The courses, taught by experienced risk managers, review key points of the ARM exam and provide practice examples. Courses also provide one-on-one attention from instructors and allow participants to share ideas with their risk management peers. Participants can access the courses when convenient rather than signing in at particular times. Courses will have beginning and ending dates, however.

For more information on the online test preparation, contact Robin Macri at 800-711-0317, ext. 257.

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Errors & omissions

• A brief article in the Jan. 4 issue provided the incorrect address to download copies of *Business Insurance* directory questionnaires from the World Wide Web. The correct address is: www.businessinsurance.com/magazine/directories.html

IRS hindsight rejected on excess reserves

By DAVE LENCKUS

SALT LAKE CITY—A U.S. Tax Court's landmark ruling gives alternative risk financing entities such as reciprocals and captives the reserving flexibility they need to ensure their financial stability, attorneys say.

Tax Court Judge Victor Colvin ruled Dec. 30 that the U.S. Internal Revenue Service could not recover additional taxes from a medical malpractice reciprocal even though the insurer overreserved for losses, thereby reducing its tax liability, in 1991 and 1992.

Because the reserves fell within a range suggested by the insurer's actuary, Tillinghast-Towers Perrin, the judge ruled that the Utah Medical Insurance Assn.'s reserving levels were reasonable business decisions.

Judge Colvin rejected the tax agency's argument that the Salt Lake City-based reciprocal should not have selected reserving levels from the high end of its actuary's recommended range.

The IRS argued that Utah Medical's reserving decisions were unreasonable, because the association had overstated its reserves since 1986. The IRS argued that if Utah Medical had selected mid-range reserving levels, then the reserves would have more closely matched the losses and loss adjustment expenses that developed for the insurer under the policies it wrote in 1991 and 1992.

Under that scenario, Utah Medical would not have been able to delay paying a portion of its 1991 and 1992 tax liability for years while it retained redundant re

See **Reserves** *on page 36*

Projects aim to improve care

Health data compared

By ROSEANNE WHITE

WASHINGTON—Three employer-led projects demonstrate how data from the Dartmouth Atlas of Health Care in the United States can help focus efforts to improve health care quality.

The atlas, based largely on Medicare claims data, shows variations in health care resources and practice patterns in local hospital market areas and in larger hospital referral regions nationwide. The Dartmouth Atlas is produced by the Center for the Evaluative Clinical Sciences at Dartmouth Medical School and published by the American Hospital Assn.

The data can raise red flags for employers by uncovering where their local markets differ significantly from similar markets on many health care factors, said James D. Mortimer, president of the Midwest Business Group on Health, a Chicago-based employer coalition.

For example, employers can see how their market compares to others in terms of acute care hospital beds per 1,000 residents, types of specialists, mastectomy rates per 1,000 female

See **Data** *on page 36*

Cat options down, not out

By RODD ZOLKOS

CHICAGO—Although volume in the Chicago Board of Trade's fledgling catastrophe options market was down in 1998, market watchers and participants say the trading decline doesn't reflect negatively on the market's viability.

Instead, they say, the market for PCS Catastrophe Insurance Options was curtailed by a number of factors affecting the overall insurance industry in 1998.

In addition, they note that the cat options market remains a young and evolving market, still seeking a form that best serves the needs of the insurance industry.

Trading volume in the CBOT cat options dipped dramatically in 1998 compared with its 1997 level. For the entire year, the volume of 7,753 contracts was a 50.6% drop from 1997 volume. In December, 10 contracts were traded, down from 2,950 in December 1997.

For much of 1998, however, open interest—the number of contracts in force—was up dramatically over the prior year, reaching a record 21,267 contracts in May, and in September through

See **Options** *on page 38*

State Farm, Renaissance Re form cat reinsurer for non-U.S. risks

By GAVIN SOUTER

HAMILTON, Bermuda—Capacity in the property catastrophe reinsurance market has become even more expansive with the creation of a $3 billion reinsurer backed by State Farm Group, the gigantic personal lines insurer.

Top Layer Reinsurance Ltd. will be managed by State Farm's partner in the new venture, Bermuda catastrophe reinsurer Renaissance Reinsurance Ltd.

Top Layer will offer high-level coverage with limits of up to $500 million, but only to non-U.S. insurers.

Top Layer will give State Farm the ability to increase its business without adding to its already sizable catastrophe exposure in the United States, explained James Ament, vp of operations at State Farm Fire & Casualty Co. in Bloomington, Ill.

And the narrow focus of Top Layer should enable it to succeed in the already-crowded catastrophe reinsurance market, he said.

Top Layer will cover risks at a level where they would be penetrated only by one-in-100-years type events, Mr. Ament said.

"Most primary insurers reinsure up to the 100-year

See **Top Layer** *on page 37*

Inside

• With continued lower pricing for most lines of coverage, many insurers may find themselves slipping toward the red unless they make some changes, this week's editorial says. **PAGE 8**

• The federal government may offer its employees and retirees non-subsidized long-term care insurance as early as next year. **PAGE 33**

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Continued savings seen in competitive market

By MICHAEL BRADFORD and MICHAEL PRINCE

Happy New Year, risk managers.

It's shaping up to be a prosperous 1999, at least in terms of the savings that risk managers will pocket from insurance costs, which just get lower year after year.

Risk manager report

Unless there is a string of very expensive natural catastrophes or some unprecedented manmade calamity that siphons away the ocean of capital in which insurers are swimming, competition among underwriters is likely to continue unimpeded.

That, of course, is good news for commercial insurance buyers.

With few exceptions, risk managers have been able to score price reductions for most lines of insurance, and some savings at year-end renewals have been dramatic.

VF Corp., a garment manufacturer in Greensboro, N.C., saw its aviation hull rates for company-owned aircraft fall 30% at renewal, said Richard Broderick, VF's director of risk management and real estate.

Mr. Broderick said he expects rates for excess liability to fall about 5% to 7% when renewed this year. He predicts that primary liability costs will dip by about 8%.

Litton Industries Inc. saw "further price reductions" in its property and liability coverages, said Alan Lieban, risk manager for the Woodland Hills, Calif.-based manufacturer. While some of the decrease is attributable to general soft market conditions, Mr. Lieban noted that much of the price break stems from the company's favorable loss experience.

Franklin Resources Inc. obtained "reasonable reductions" when it renewed its property/casualty coverage late last year with a unit of Chubb Corp., according to Richard W. Ryan, director of risk management at the San Mateo, Calif., financial services holding company.

Franklin Resources renewed its property program, its general liability and its difference-in-conditions coverage on terms that were "pretty much the same" as the year

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1999 January Renewals

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Only change for many is fewer year-end renewals

By MARK A. HOFMANN and AMANDA MILLIGAN

Insurers typically love certainty, but the certainty of continued rate depression evidenced during the just-ended renewal season has given insurers little to love.

Pricing remains soft for both property and casualty lines of coverage. Although a few underwriters see signs that the rate free fall of recent years has finally ended, rates for many commercial accounts have dropped below those of a year ago.

Insurer report

Against this backdrop of soft pricing, the threat of the Year 2000 computer bug looms on the horizon While there are no clear indications about how disruptive the Y2K glitch will be for the marketplace, many underwriters are bracing for a flood of claims.

If market conditions haven't changed, the popularity of the year-end renewal season most certainly has. Many underwriters note that Jan. 1 is continuing to lose ground as the renewal date of choice.

"We are not as heavily weighted to January renewals as we used to be," said John Kelley, chief operating officer of Hartford Steam Boiler Inspection & Insurance Co. in Hartford, Conn. Mr. Kelley said that only about 15% of the company's book of business renews in January.

January does not have the significance that it once had, said Thomas G. Kaiser, president of the international accounts division for Zurich-American Insurance Group in Schaumburg, Ill. Mr. Kaiser said about 30% of the division's book of business renews in January, with the rest distributed throughout the other quarters. He said that multiyear programs and the desire to take the pressure off at year's end have changed this pattern over the years.

Only about 10% to 15% of CIGNA's special risk division book renews in January, while 60% of the book renews in May, June and July, said Dennis Kane, president of CIGNA's special risk facilities in Philadelphia.

But if year-end renewal frequency is in market conditions.

"Everything is soft; we haven't really seen any firming in any of the markets we're involved in," said John F. Kearney, senior vp and chief underwriting officer of Executive Risk in Simsbury, Conn.

See **Insurers** *on next page*

Pricing firms up only for clients with losses

By RODD ZOLKOS and SALLY ROBERTS

While some brokers say this year's Jan. 1 renewals were marked by the same highly competitive market that has characterized renewals for several years, some see the first departures from the trend.

"We've certainly seen, over the past few years, rates spiraling downward," said John Pearson, regional executive officer for the central region for Willis Corroon Americas Inc. in Nashville, Tenn.

Broker report

"We're now in a transition period, where many insurers have expressed a strong interest in stopping that downward spiral" and are attempting to raise rates, Mr. Pearson said.

"We're actually seeing a slight firmness," said Joel Caveness, president of the International Special Risk Services Inc. and Risk Placement Services Inc. units of Arthur J. Gallagher & Co. in Itasca, Ill.

While the market remains very competitive for many accounts, and extremely so for particularly good risks, "more-marginal accounts are starting to tighten up," Mr. Caveness said.

"Tougher exposures are seeing walkaway prices now," he said. "I hear markets talking more and more about having to hold rates, hold the line, markets beginning to talk about walking away from the bottom 10% of their accounts (in terms of losses)."

A transition period brings with it uncertainty, and that can create surprises for customers, Mr. Pearson said. "It's important for risk managers to get an early start on their renewals," he advised.

While risk managers are accustomed to a buyer's market and being able to renew policies easily with insurers, that may or may not be possible this year, Mr. Pearson said.

Overall, "risk managers, in general, can expect rates to stabilize, and, depending on the company's underwriting characteristics, they can expect some (single-digit) rate increases," Mr. Pearson said.

The move toward firmer rates applies not to specific lines of coverage but to particular customers, Mr. Caveness said.

"On individual accounts, insurers are starting to look at the losses," he said. "You're not seeing any particular lines go up or down. It's more on an individual account basis."

If a particular risk has an inexplicable bad loss experience, "there's going to be a much greater tendency for an increase in

See **Brokers** *on page 26*

Overcapitalization keeps prices down for cedents

By GAVIN SOUTER and DOUGLAS McLEOD

The free fall of reinsurance prices may be slowing, but ceding insurers aren't exactly howling in pain as they complete Jan. 1 renewals.

Some insurers may see moderate price increases for certain coverages, including catastrophe reinsurance treaties that have produced losses and specialty coverages for professional liability or aerospace risks.

But the broader reinsurance market still is plenty soft, as overcapitalized reinsurers compete aggressively for property and casualty business, lowering rates anywhere from 5% to 15% and, in some cases, broadening coverage terms.

Reinsurer report

"Prices are still going down. The market is still very soft," said Steven Bolland, senior vp with Gill & Roeser Inc. in New York. "I have full confidence that if somebody raises prices, they will lose the business."

This renewal season may be showing some "early, early signs" of tightening, with rate hikes on some cat covers and specialty lines, said Peter T. Pruitt, chairman and chief executive officer of Willis Faber Re North America Inc. in New York.

"The storm clouds are gathering on the horizon" in these lines, Mr. Pruitt noted. But "the overall big picture is still that there is a big oversupply of capacity out there."

One sign that ceding insurers are not desperate is that some are delaying completion of their renewals, holding out for the best possible terms as they wait to see how the market develops.

Property cat reinsurance, an area of near-universal price competition in recent renewals, is proving to be a mixed bag this Jan. 1, several reinsurance company executives agree.

In the United States, a number of insurers were hit by a succession of relatively small cat events in the Midwest, as well as losses from Hurricane Georges and, to a lesser extent, hurricanes Bonnie and Mitch. In Europe, insurers faced large flood losses in the United Kingdom and Eastern Europe.

Insurers that have passed cat losses on to their reinsurers are being treated differently than those without such losses.

"Loss-free covers are showing a small reduction" in rates, Mr. Bolland observed, while those with losses are paying 10% to 15%

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Insurers

Continued from previous page

The soft market continues without any sign of changing soon, and it remains competitive both on price and terms and conditions, said Stephen W. Lilienthal, executive vp-commercial lines group, St. Paul Cos. in St. Paul, Minn.

There has been "a fair amount of ill-informed risk-taking," Mr. Lilienthal said. He said that St. Paul will walk away from some renewals and "push pricing on accounts that are not profitable."

International business is "under more pressure than the domestic market," said Zurich-American's Mr. Kaiser. International business typically has had low deductibles and low self-retention because of more-favorable loss experience. But the United States is a litigious society, and, "we're exporting that around the world. As loss frequency increases, that (international) area of business is under a lot of pressure," he said.

The commercial property market also is particularly troublesome, said Paul J. Krump, senior vp and managing director of Chubb & Son Inc. of Warren, N.J. Due to fierce competition and bargain-basement pricing, insurers are "bouncing along the bottom of the market."

Mr. Krump describes rate and price adequacy as "job one," and he said Chubb is not necessarily renewing business at last year's rates. After 11 years of price-cutting, he said, rates are too low. A vast majority of standard middle-market accounts are getting a rate increase.

Some insurers, though, see hints that the market could change, although not dramatically.

While markets are "still definitely soft," they are not softening as quickly as in the past couple of years, said Tom Swensen, vp-underwriting/product services at Wausau Insurance Group in Wausau, Wis.

Due to fierce competition and bargain-basement pricing, insurers are 'bouncing along the bottom of the market,' says Paul J. Krump, senior vp of Chubb & Son Inc.

Both the property and casualty segments of the market are in transition, but the transition shouldn't necessarily be viewed as a hardening of the market, said CIGNA's Mr. Kane. Rate levels were too low to turn a profit in past years, and, therefore, some customers may see increases, he said. "We're beginning to see a shifting of the gears. . .a transition from rates declining to a period of time when rates increase."

But such a shifting of the gears is far from complete.

St. Paul's Mr. Lilienthal said that commercial property—including highly protected risk accounts—has plenty of capacity and is "cheap" on terms and conditions as well as pricing. "HPR property has always been aggressively priced, but you're seeing broader terms and decreased deductibles." In fact, since 1992's devastating Hurricane Andrew, aggregates have crept back up, he said.

Some insurers are more willing to gamble on earthquake risks in California. "Basically, it's foolish capacity," Mr. Lilienthal said. He added, "The memories of Northridge have faded," referring to the massive earthquake that tore through Los Angeles in early 1994. Prices have gone down, and losses have gone up—a combination that has lead to a gap of about 30% to 35% since 1993.

For the HPR market in 1998, "the frenzy continued in terms of so many competitors chasing so much business," said Mike Turner, vp-marketing for Allendale Mutual Insurance Co. in Johnston, R.I.

"The market's at a point where there's no room for error in terms of selecting risks and setting the risk transfer parameters. Conditions are so challenging that we have to make the right decision in selecting risk. I do think we'll see some adjustment in certain segments of the HPR market," Mr. Turner said. He added that he could not predict yet in which segments of the market those rate adjustments would occur.

"Commercial property is pretty consistent with prior years. The only change we're seeing is a little more caution in segmentation—companies trying to determine which classes of business are most profitable. Insurance companies are trying to be more opportunistic in risk selection," said HSB's Mr. Kelley.

Boiler and machinery pricing is generally following the commercial property as a whole, he said.

Roger Gillett, senior vp-business development at Hamilton, Bermuda-based ACE Insurance Co. Ltd., said commercial property and HPR rates are down 20% from last year. Because of the soft market and the fierce competition, he said, "the prospect that insurers and reinsurers may well start to lose money" is a viable concern.

Wausau's Mr. Swensen called the HPR market "still highly competitive." He added that last year's increased catastrophe activity had little or no effect on property rates and conditions.

Chubb's Mr. Krump said that HPR rates have bottomed out and are going up; the amount varies depending on the account, but, he said, "I would not say the market is hardening."

Competition also reigns in the general liability market.

Mr. Lilienthal of St. Paul said that standard general liability still is competitive, and rates are generally going down. "If they're getting price increases, they're nominal." Results, he added, "are deteriorating."

Wausau's Mr. Swensen reported that primary general liability rates are continuing to fall, but no longer by double digits and not on every account. He added that lower-layer excess liability rates are following fairly closely those of primary general liability.

But while CIGNA's Mr. Kane

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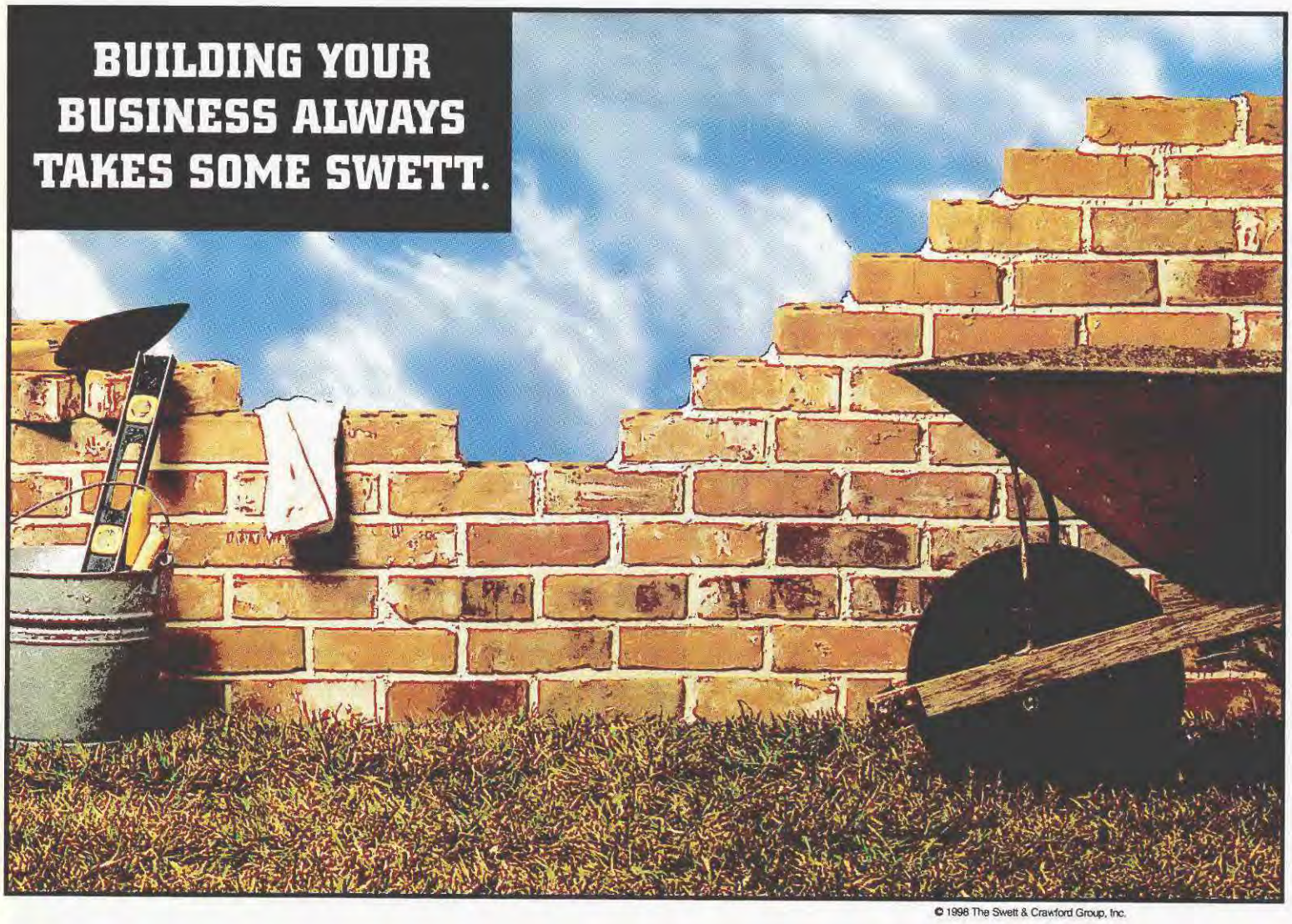

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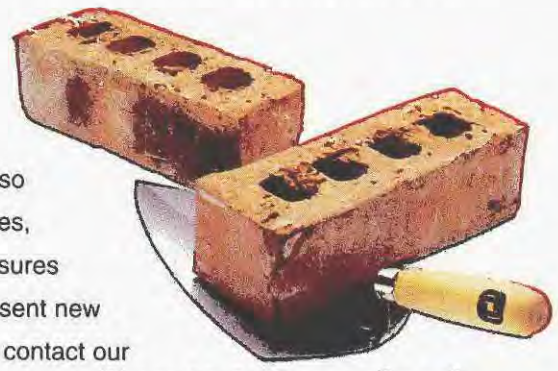

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Insurers

Continued from page 4
agreed that primary general liability rates declined from 1997 to 1998, he predicted that would not be the case this year. Rates, he said, simply can't go any lower.

Rates for specialized liability products also continue to decline.

Richard Quagliaroli, president of commercial lines for The Hartford, said municipal liability coverage, however, is showing signs of firming.

He added that surety and banker's bonds also are competitive, and there is no tightening of the casualty market. "If you're a very good account, people are interested in your business."

Mr. Gillett at ACE said directors and officers liability insurance rates have decreased between 10% and 15% from last year's rates.

Mr. Kearney at Executive Risk also saw D&O rates drop, generally between 5% and 10%, from the levels of a year ago. He said that professional liability pricing, in general, was "all under severe competitive pressures." The same holds true of employment practices liability rates, he said.

"Everyone is very competitive. It's a growing marketplace. There is pressure on rates and pressure on deductibles." While the pressure to lower rates is "probably more evident on larger accounts," it exists across the board, he said.

Still, despite the soft market, Wausau's Mr. Swensen said he has heard "no real horror stories" about this season's renewals.

HSB's Mr. Kelley said, "I guess it's all relative. I think, for several years, the brokerage community and risk managers in general have become more aware of the need to get competitive bids. I see that as the normal way of doing business. Looking for competitive quotes on renewal is commonplace."

'We're living in a time when all of the brokers are changing, all of the insurers are changing and all of the customers are changing,' says Thomas G. Kaiser of Zurich-American.

And shopping around isn't always resulting in lower rates, said Chubb's Mr. Krump. He cited one account on which Chubb has raised rates. The account's broker vowed he could find several quotes that were less expensive than Chubb's. But the marketplace didn't bite, and the account was renewed with the rate increase, said Mr. Krump.

Looking ahead, Gary Tully, managing director of executive protection practice of Chubb & Son Inc. in Warren, N.J., said that several factors could converge to cause a "holding" on rate reductions, followed by increases. This convergence will bring "a dose of reality to the underwriting community," he said.

One such factor is merger and acquisition activity, he said. "Periods of heavy merger and acquisition activity generally result in higher claims of directors and officers (liability), " he said. In addition, the litigation culture has pushed "frivolous" cases through the court system. Cases take longer to decide and result in higher settlements, he added.

One of the chief forces likely to turn rates higher is the Year 2000 question, Mr. Tully said.

"Management is responsible for disclosing the level of readiness for the Year 2000," he said. But if shareholders later learn that their company was not as prepared as they thought, directors and officers of publicly held companies could find themselves held liable for providing misinformation or for not providing enough information to shareholders.

"The Y2K issue is clearly an issue we are watching very closely," Mr. Tully said.

Underwriters expect the impact of the Y2K problem to grow in coming months, although, like everyone else, they are not certain how and where that impact will be most severe.

"Y2K remains a wild card. We can't estimate frequency or severity of claims with any confidence," said St. Paul's Mr. Lilienthal.

Some industries, such as the petrochemical sector, could suffer greatly from Y2K problems. Emergency shutdowns and control problems could lead to service interruption, predicted CIGNA's Mr. Kane.

HSB's Mr. Kelley said, "I think the Y2K issue will probably be more of an issue in '99. In '98, the issue has been more of an industry discussion with reinsurance in trying to develop appropriate language to find the coverage. Most companies, including HSB, have taken the position that you've got to have physical damage to trigger the coverage in most cases."

The continued consolidation among insurers, reinsurers and brokers is another issue with an as-yet-undetermined impact on the market. St. Paul's Mr. Lilienthal, himself a former executive of United States Fidelity and Guaranty Corp., which was acquired by St. Paul last year, said he expects that consolidation will continue at the same pace among insurers, reinsurers and distributors.

ACE's Mr. Gillett said the excess liability and directors and officers liability insurance divisions in the company are seeing "a shift in the bargaining power from the insureds to the brokers. And because of the pressure the brokers are under, they are more compensation-driven than in the past."

"We're living in a time when all of the brokers are changing, all of the insurers are changing and all of the customers are changing," said Zurich-American's Mr. Kaiser. Fewer choices are effecting a "renaissance of regional brokers," he said, adding that as choice shrinks, risk managers are becoming more involved in the process of designing, implementing and buying insurance.

Wausau's Mr. Swensen, whose employer recently entered into a formal affiliation with Liberty Mutual Insurance Co. after having spent more than a decade as part of Nationwide Insurance Group, said he sees more impact from consolidation among brokers than among insurers because big brokers are exercising their leverage in the marketplace. He added, however, that "I don't think the broker consolidation will continue because I don't know who they can go after." BI

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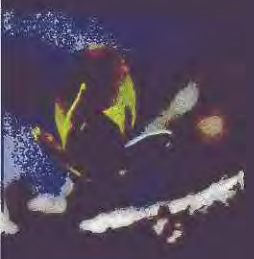

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Opinions

New response to old problem

RISK MANAGERS continued to enjoy lower pricing for most lines of coverage at year-end renewals, but there are rumblings in the market that change could be in the wind.

The question, though, is whether the commercial insurance market is really poised to turn a corner, or if we are only hearing more complaints about the soft state of property/casualty pricing this year. Has the market really reached the end of its rope and become serious about raising rates and walking away from underpriced business? Even if that's the prudent step for many insurers, can they afford to take it without risking an even greater plunge in profits than if they had continued to write business at lower prices?

For years, many insurance companies have been able to offset low rates and declining underwriting profitability with other sources of income. Even though insurers have long complained about the downward trend in rates, they had the resources to compete as a result of acquisitions, drawing down reserves, strong interest income and low reinsurance costs.

But those cushions are starting to look threadbare for many companies. Property/casualty insurers' net income for the first nine months of 1998 was down 15%.

As their cushion erodes, insurers face larger catastrophe losses, a volatile stock market, brokers wielding more clout, and the enormous cost and uncertainty surrounding the Year 2000 computer glitch.

As a result, many insurance companies may find themselves slipping toward the red unless they take steps to change course.

Already some companies are deciding to stop pursuing underpriced business, or lines with little prospect of profitability. CNA is undertaking a strategic review of its operations, already shedding some health care lines. CIGNA is in talks to sell its property/casualty operations to ACE. Liberty Mutual is ending its two-year international reinsurance venture in London. The Factory Mutual companies are consolidating into one entity.

Cutbacks and consolidation are likely to accelerate in 1999 as more companies decide the stakes to stay at the table are too rich for them.

Even as that occurs, however, it is still uncertain whether the market can afford to raise rates to the levels it would like to see. That is because those companies that remain will still face enormous competition. This will come not only from insurers that have bulked up by acquiring smaller insurers but also from strong specialty companies, including surplus lines markets; financial services companies and banks; as well as new capital markets risk financing alternatives. Even the Internet may yield some new form of competition for the remaining companies.

"HOLD OFF ON THAT REQUISITION, MISS PHIPPS... I MAY DECIDE TO JUST GET USED TO THIS CHAIR!!"

Above all, the commercial insurance buyer still wields enormous clout over the pricing decision. If the traditional market raises rates precipitously, it will be a case of cutting off its nose to spite its face. Risk managers still have many alternative risk financing options at their disposal. In fact, it's ironic to see ACE, which was originally formed as a policyholder-owned excess liability facility, now in a position to acquire the property/casualty business of a large insurer such as CIGNA.

Does this mean insurers are doomed to write business at unprofitable rates until they go out of business or are acquired?

For some companies, that well may be their fate if they cannot bring more value to the transaction than an ability to undercut the other guy. Some buyers need more than the commodity of cheap insurance.

For the company that can deliver flexible and innovative coverage solutions, fair and responsive claims services, and long-term partnership—among other hallmarks of quality service—the buyer may even be willing to pay a little more. BI

Letters

Retrospective comp plans need a second look

To the editor: While it is a known fact that a good portion of workers compensation policies may extend beyond a company's personal relationship with its insurance company and even its injured employee, it is dollarwise to keep tabs on these often-forgotten policies.

All too frequently, when companies change from one insurer to another, pricing is the main issue. Companies may forget the financial impact that previous years have on present-day profit and loss. This, of course, varies with the type of policy in force at the time. A classic example is the incurred retrospective rating plan.

Insurance companies may offer a package that a company cannot pass up. These types of programs usually provide substantial cash-flow benefits. For some companies, seeking cash-flow savings represents an integral part of doing business and, of course, prudent financial management.

The incurred retro plan simply states that a company will pay a certain sum of monies at the inception of the policy and there will be a fixed, stated amount (a percentage of the standard premium) that is the maximum the company will have to pay. However, the other driving forces are the payroll, the total amount of incurred reserves for the policy year and the resulting modification factor. This information is predicated on whether the company in question has had good claims experience prior to this policy.

It has been this writer's experience that retrospective-type plans may come back to haunt a policyholder long after switching insurers. Therefore, it makes good insurance sense to actively manage older claims once or twice a year. In fact, managing these claims is a key element of risk management. The simple method is to determine when the retro adjustments are made and to be sure to begin your management process at least three to six months before the final audit. Sound easy? Sure, it does. Time is always a factor, as well as expertise, methodology and practical application.

Ron Akbar
Supervisor
Risk Management Services Department
Kaye Insurance Associates Inc.
New York

Applause for disclosure effort

To the editor: I applaud the work done by Anne Allen of the Risk & Insurance Management Society Inc. to achieve disclosure of corporate compensation by brokers.

Disclosure should include amounts and percentages of retail commissions, contingent commissions, wholesale commissions and brokers' various commission arrangements. This analysis should be done for each transaction stage.

As a value-added expert witness, I hope that these comments will lead toward a more rational program regarding coverage disputes.

Edgar S. "Sandy" Clark
President, Chief Executive Officer
RSC Risk Solutions Corp.
Mill Valley, Calif.

See **Letters** *on page 32*

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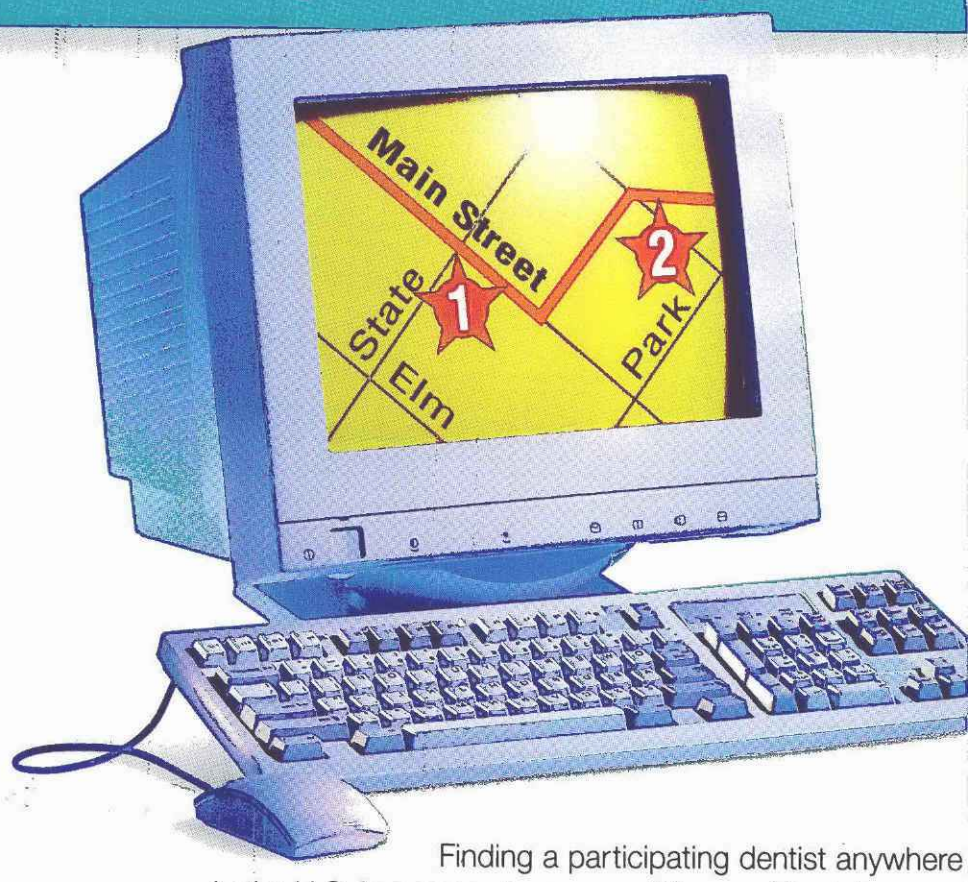

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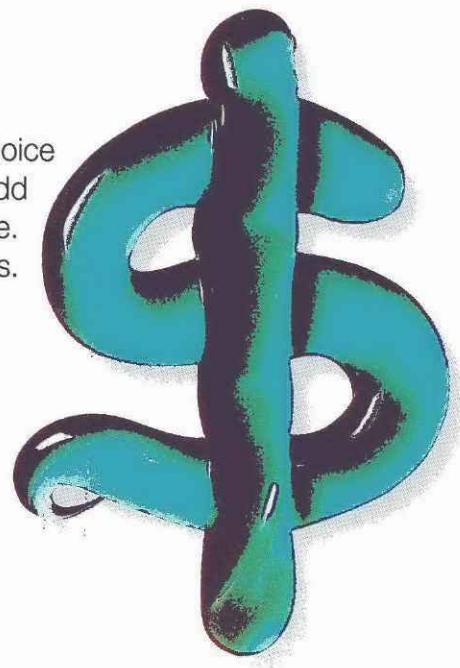

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London underwriters hope rate cuts end soon

By EDWIN UNSWORTH and SARAH GODDARD

January renewals in the London market have shown that it is still a buyers' market for insurance, but underwriters increasingly believe this may be the last time buyers can expect bargain-basement terms.

For now, however, competition and overcapacity are keeping rates down, and underwriters are making further concessions on prices and conditions.

"All in all, 1999 is going to be a very difficult year" for insurers, as losses begin to hit and investment earnings fall, said Dominic Simpson, senior insurance analyst at Moody's Investors Service Ltd. in London. "It has been so competitive for such a long time, rating levels have plunged to the depths," Mr. Simpson said.

Such a competitive environment has led customers once again to expect better terms.

David Gamble, executive director of the Assn. of Insurance & Risk Managers, stated: "As professionals, AIRMIC members will be seeking to gain the best possible terms for their organizations. . .and many underwriters are now more receptive to requests for adjustments in terms and conditions of cover."

In the facultative property sector, Paul Dempsey, assistant vp of Transatlantic Reinsurance Co. in London, predicts rate cuts this renewal season would average around 10% to 20%, led by competition for clients with better loss records.

Jonathan Gray, global property underwriter at Lloyd's underwriting agency Beazley Furlonge Ltd., agreed. Most policyholders are trying to save 20% if they have reasonable claims records, he said.

Rates have not been the only cause for concern during London renewals. Other worries have arisen out of the Year 2000 date change and the increasing power of megabrokers. Additionally, there are concerns about emerging issues likely to affect next year's and later renewals, such as legal changes in the United Kingdom that could impose higher costs on insurers.

Peter Hill, senior casualty underwriter with AXA Global Risks in London, is one of a growing number in the market who cited the Year 2000 computer problem as a major issue of this renewal round. Y2K already had emerged as a major issue during reinsurance renewals discussions in Baden-Baden, Germany, in October.

Mr. Hill lamented that, due to a lack of technical expertise about Y2K implications, there has not been a common approach among liability insurers. While most insurers believe that fortuitous Y2K losses could be covered, there is less agreement as to how those losses should be defined.

Y2K probably will remain a significant challenge to liability insurers for the next three or four years, as many computer chips are embedded systems with a date element that will not be triggered until sometime after Dec. 31, 1999, Mr. Hill warned.

For Simon Bird, managing director of underwriting at HIH Casualty & General Insurance Ltd. in London, one major Y2K-related problem will be determining what time applies to a policy expiring on Dec. 31, 1999, where a cedent has a claim resulting from a portfolio of risks in more than one time zone.

He also noted, as was seen at Baden-Baden, how Y2K concerns, combined with a common belief that rates are at or near bottom, are prompting to more policyholders to seek multiyear policies.

'In the future, we're going to see organizations which deal with risk on a very, very broad level,' says Paul Dempsey.

Mr. Gray also is seeing client interest in long-term arrangements, such as three-year, non-cancelable policies. "We are desperately trying to resist it," he said, because an upturn during the policy's term could cause the syndicate to lose out on the benefits of a hardening market.

Other current market concerns stem from legal changes in the United Kingdom.

Mr. Hill noted an emergence here of more U.S.-style class actions. Also, law reform due in April in England and Wales will speed up personal injury lawsuits, encourage settlements and cap attorneys' fees (*BI*, Dec. 14, 1998). Not only will this likely raise the number of claims, but a proposed fast-track payment system means they will be paying claims within five months, rather than the current period of about three years, he said.

Mr. Hill also expressed a fear that the planned switch in the United Kingdom from legal aid to conditional fees—the British equivalent of contingency fees—will reduce lawyers' earnings, prompting them to look for more work by bringing injury claims. These changes will put a lot more pressure on claims handling and, inevitably, on expenses, he said.

He also noted a trend in Australia and New Zealand toward punitive damages awards. Those awards have been relatively small so far, up to around $250,000. But Mr. Hill warned, "If they decide to apply that principle more widely, that will be a significant problem," especially if it spreads to other British Commonwealth jurisdictions.

Another of Mr. Hill's concerns is the emergence of broker convenience clauses, which allow changes to a policy risk agreed to only by the lead underwriter. He warned that this could commit the other underwriters to changes they have not seen, which could breach either treaty conditions or their underwriting philosophy.

The competitive state of the market is also forcing underwriters to be more innovative to win or retain business.

Mr. Dempsey said alternative risk transfer and securitization are continuing to develop. "I'm sure that, in the future, we're going to see organizations which deal with a risk on a very, very broad level. This will be risk in all its aspects, not just the limited risk transfer of traditional insurance and reinsurance," he said.

The change also is driven by cus-

Continued on next page

Continued from previous page

tomers demanding solutions more suited to their particular needs.

AIRMIC's Mr. Gamble said: "Risk managers involved in renewals will be aiming to achieve better 'tailored' cover for their needs—possibly looking at areas such as longer-term cover and the increasing of limit levels, rather than simply reductions in premiums."

He also said risk managers are likely to look carefully at coverage relating to the millennium bug threat, and perhaps expect the insurance market to be more proactive in providing better terms for terrorism coverage.

Given such changes, Michael Carpenter, chief executive of LIMIT P.L.C., said that "times are pretty tough" for Lloyd's syndicates that follow traditional lines. LIMIT is one of the largest corporate capital vehicles at Lloyd's. While the overall business flow into Lloyd's is holding up reasonably well, the large syndicates are retaining business at the expense of some of the smaller ones.

Another trend that emerged at Baden-Baden and has remained is that renewals are taking longer and being completed nearer to deadline, as policyholders hold out for the best possible deals.

"I'm still waiting for the renewal season to start. . . .I suspect it's probably much the same for the facultative underwriters in the market generally," Mr. Dempsey said early in December.

Michael Jordan, director of underwriting in London for AXA Reinsurance UK P.L.C., also noted the trend but warned that "bringing in your programs for renewal in the last few days of the year is not a very professional thing to do" if it leaves the underwriter with insufficient opportunity to check the terms carefully first.

One of the factors delaying the hardening of rates in the subscription market is that so much business is placed with relatively few reinsurers, Mr. Jordan said. While there have been several losses in 1998 and some underwriters have been hurt badly, others have hardly been affected and are able to keep quoting lower rates.

However, as the poor results of 1998 start to come home, particularly to shareholders, the downward trend in pricing in the market should level off. As a result, rates at the Jan. 1, 2000, renewals will be higher, or at least unchanged, from those just negotiated, some underwriters and analysts claim.

Rob Jones, director of Standard & Poor's Insurance Ratings in London, has noted more resolve by underwriters in the catastrophe areas and the retrocessional market to stand their ground.

Raising rates on marine excess-of-loss premiums is "at least a turning point," he noted. In primary commercial lines, there is no significant change, though "rate decreases are tapering off," he said.

Moody's Mr. Simpson said he agrees. "Generally, the reductions which are being seen are slowing down, but it is still quite competitive, particularly cargo and energy." Hull rate reductions are slowing, but the sector is still very competitive, he said.

Also in the marine market, Nigel Jenkins, managing director of Maritime Insurance Co. Ltd. in London, said: "I certainly agree with the sentiment that rates do need to go up," although on a selective basis that takes into account individual shipowner's safety and claims records, he said.

There also are some signs of capacity withdrawals in the London market.

The major event was Liberty Re Ltd.'s decision to cease underwriting.

Over the past few weeks, Guardian Royal Exchange P.L.C. said it is pulling out of the U.K. energy sector due to intense competition. In December, Terra Nova Insurance Co. Ltd. cited the same reason for a restructuring that will reduce its interest in hull and energy business.

On the casualty side, several London market companies have stopped writing U.K. professional indemnity business because of competition, falling rates and increasing claims.

Mr. Carpenter of LIMIT said market conditions have prompted it to reduce capacity for the 1999 year of account. However, LIMIT has upped its involvement in its two owned agencies, Bankside Syndicates Ltd. and Janson Green Ltd., so that they can take advantage of the market when it turns, he said.

Insurers also say the rising incidence of catastrophe losses in 1998 and its contribution to falling profitability should help the market to turn in 1999.

Alan Grant, underwriter for Lloyd's syndicate 235, said the combination of the property/casualty insurance industry having "hit the floor" this year and the current low return on equity hardly warrant being in the business any longer. However, a hardening in the retrocessional market will force more disciplined underwriting. Additionally, in certain cases, management will decide to close down or sell off the business rather than to try to continue under current conditions, he maintained.

Michael Catt, managing director of NAC Reinsurance International Ltd. in London, said the point has been reached where underwriters are going to have to be adamant with brokers and clients and start seeking more money for their exposures. "I can personally say I've seen one or two occasions where people have walked away and said, 'Enough is enough.' We need to see more of that," he concluded. BI

Surplus market soft, but industry foresees sector stabilizing

By JOANNE WOJCIK and DAVE LENCKUS

Even risk managers with some very tough risks still negotiated significant rate cuts for their surplus lines property and liability coverage during winter renewals.

Continued rate cutting—at least through early 1999—also is likely, market executives said.

But recent remarks by insurer executives have shifted from merely complaining about the soft market's impact on underwriting profitability. Insurer executives, now facing both investment income uncertainty and rates that have reached 10- to 15-year lows, lately have been expounding on

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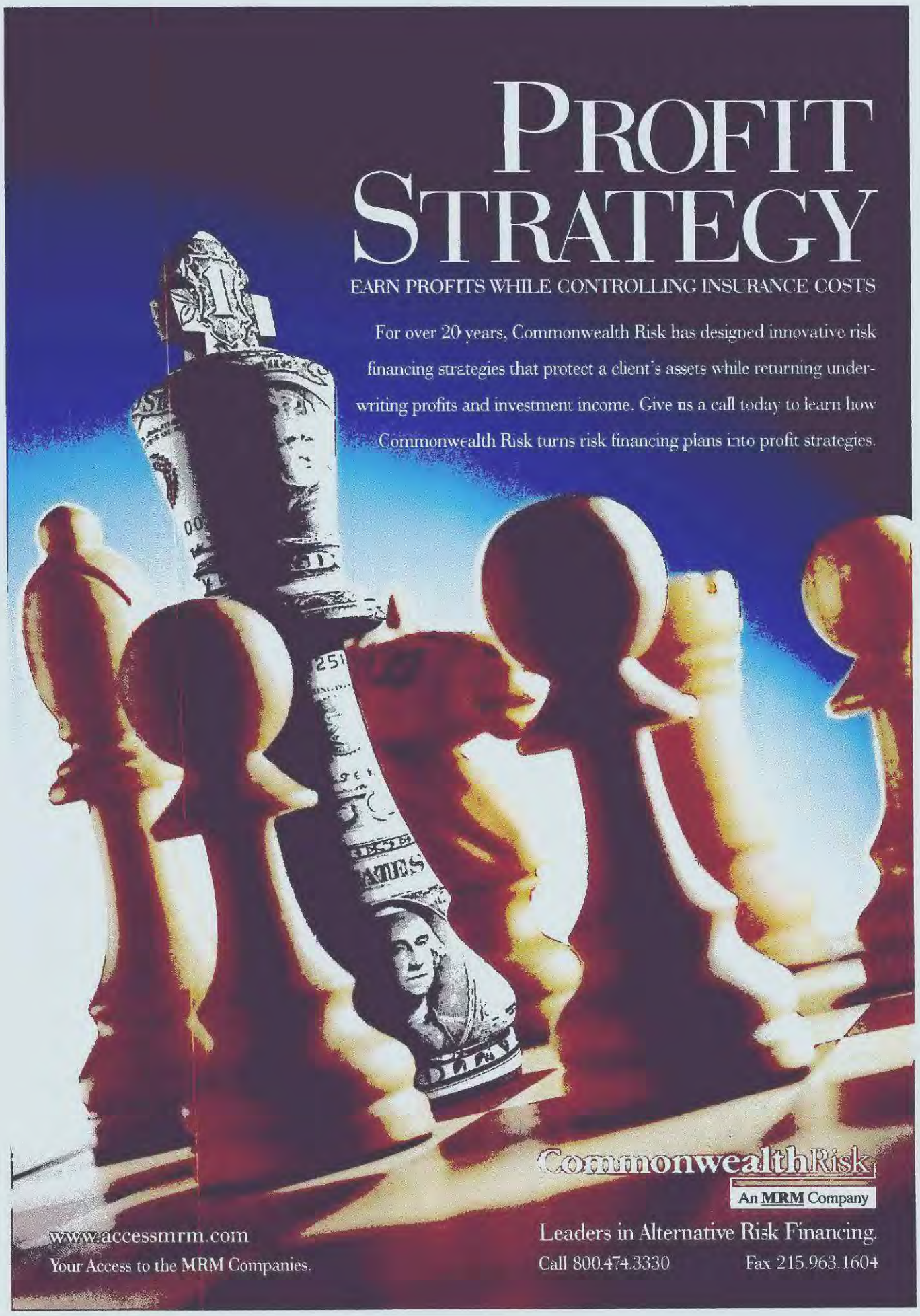

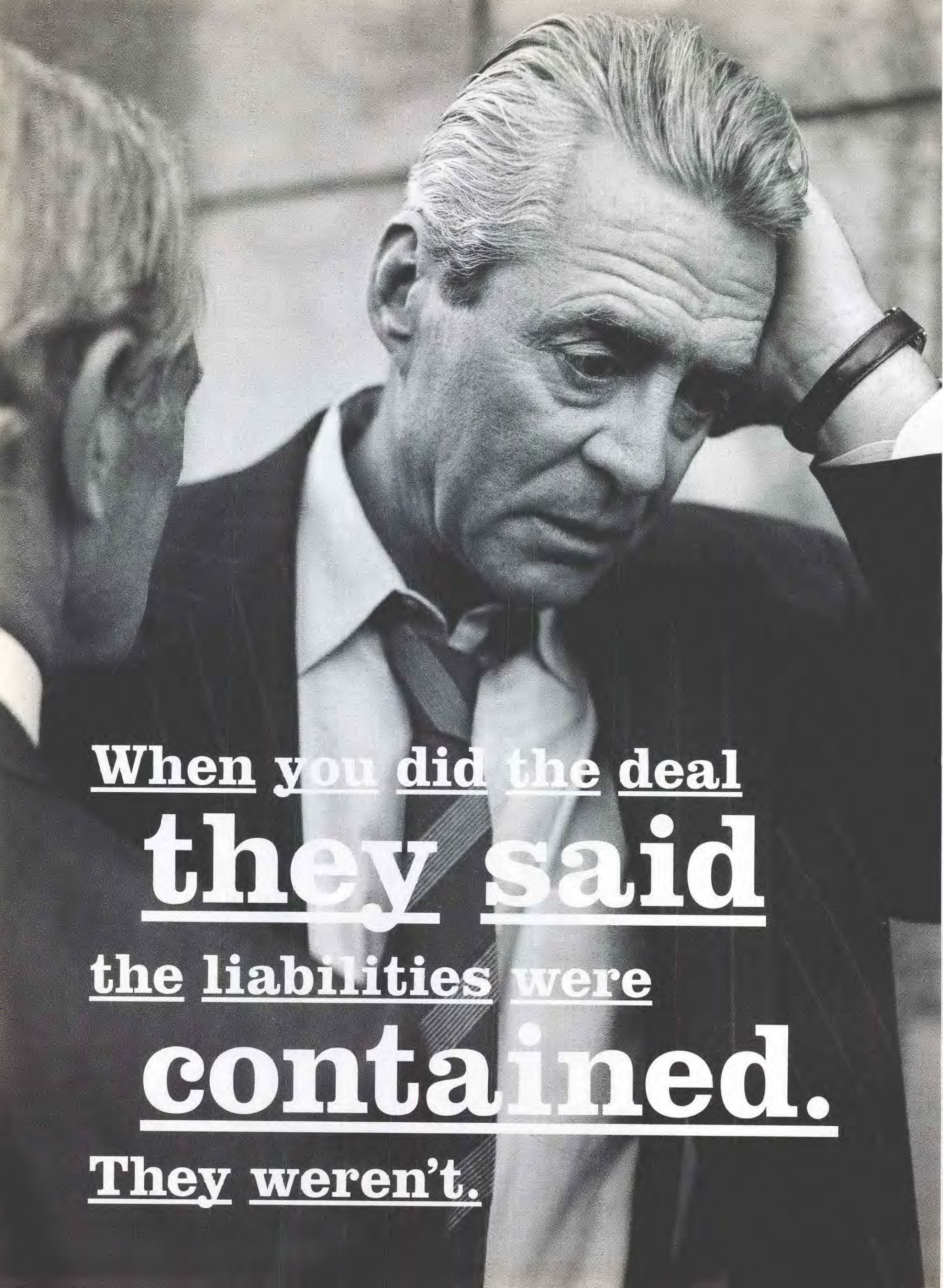
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Surplus

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how they will return to underwriting profitability by rating risks more carefully or walking away from business that likely would generate the profit margins insurers want.

Dan Colacurcio, an executive vp with Swett & Crawford Group, the Woodland Hills, Calif.-based surplus lines brokerage unit of Aon Corp., said several factors could force the admitted market to abandon its decade-old market share strategy and depend more heavily on its underwriting acumen next year to earn a profit:

- Some reinsurers could tighten their underwriting because of poor results in 1998.
- Insurers have little, if any, redundant reserves to help boost results.
- Lower interest rates will mean reduced investment income.

However, for the most part, rates are not yet rising, said Marcus Payne, president and chief operating officer of Crump Insurance Services Inc. Crump is a Dallas-based wholesale broker subsidiary of Marsh & McLennan Cos. Inc.

'If anything hardens the market, it will be Y2K,' says Lexington's Kevin Kelley, referring to the millennium problem.

That's probably because "70% of risk-bearing decision-makers have never seen a hard market," observed Bob Cohen, senior vp of United National Insurance Co.

One exposure that especially concerns surplus lines insurers is the millennium bug, which in most cases is being strictly underwritten or excluded from both property and casualty policies that extend coverage into the year 2000.

"If anything hardens the market, it will be Y2K," observed Kevin Kelley, chairman and chief executive officer of Lexington Insurance Co., the Boston-based surplus lines unit of American International Group Inc.

Lexington is underwriting the Y2K liability exposure where possible, but also is excluding coverage for some classes of business, Mr. Kelley said.

"On the property side, we're attempting to underwrite consequential damages," such as business interruption claims related to computer malfunctions, he added.

CNA E&S in Chicago is "underwriting Y2K exposures on a risk-by-risk basis," said Dick Quehl, president. The insurer also has introduced a claims-made Year 2000 product that Mr. Quehl described as "very pricey." Premiums range from 12% to 28% of limits, and up to $1 million of limits are available.

Evanston Insurance Co. in Evanston, Ill., has pulled back from the directors and officers liability market because of its concerns over Y2K exposures, said Paul Springman, president.

"We've insisted on Y2K exclusions or 25% to 30% increases in premium," he said. Those rate hikes cost Evanston nearly all of its D&O business, which represented between $10 million and $15 million, he said.

Meanwhile, the surplus lines market is seeing some business flow from the admitted market as admitted insurers begin to walk away from risks with problematic loss histories, surplus lines executives said.

Some admitted insurers also have walked away from new business, particularly some product liability and contractors classes of business, said Ralph J. Palmieri, president and chief operating officer of Boston-based First State Management Group Inc. First State is the underwriting management subsidiary of The Hartford Financial Services Group Inc.

Seeing admitted insurers exercising even a kernel of discipline after watching them scratch for nearly any business they could write for a decade "is noteworthy," Mr. Palmieri said.

By July 1, the admitted market may be passing on entire books of business, predicted Mr. Colacurcio. Those business classes, he said, likely would be truckers, oil and gas concerns, heavy construction companies, manufacturers with tough product liability risks and companies with pollution exposures.

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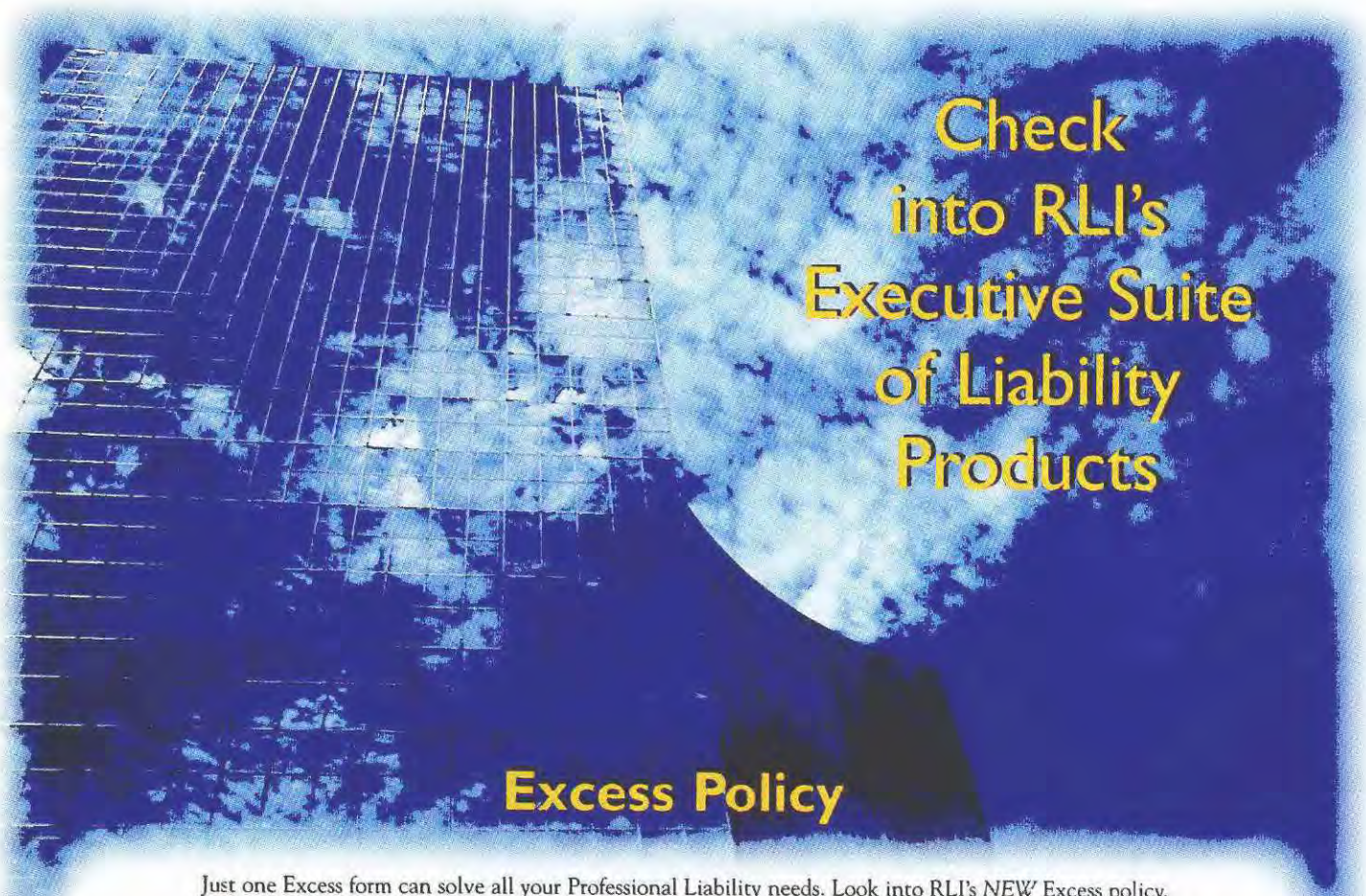

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Surplus

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For at least early 1999, Mr. Payne said he expects to see "the same—if not lower—prices."

Lexington's Mr. Kelley agreed. "There's continued pressure on most aspects of casualty business, and there continues to be pressure on property rates, but clearly not as dramatic as the pressure we're seeing on the casualty side."

But rate cuts have been smaller during this January renewal season compared with the past few years, and "more prices are bottoming out," Mr. Palmieri said.

For example, "we're not giving away EPL cover," said Mr. Kelley. Instead of competing on price, the insurer is offering risk management services to its employer policyholders.

Evanston, too, is selling its employment practices liability product "at a little bit of a premium price because we offer loss control services," said Mr. Springman.

Tom Ciardello, executive vp with independent wholesaler Tri-City Brokerage Inc. of San Francisco, said he expects insurers to continue cutting rates for umbrella, excess and primary liability, while offering greater limits and looser terms during 1999.

Mr. Payne said rates for what little liability business remained in the surplus lines market continued to plummet during January renewals. General liability rates fell 20% to 35%, low-layer excess coverage rates fell 30% to 45% and high-layer excess liability insurance rates dropped 20% to 25%, he said.

Mr. Colacurcio estimated umbrella and excess liability rate cuts at 5% to 10% for the "very tough business" that remained in the surplus lines market. Those risks include residential contractors in California and trucking business with significant loss experience.

The market for excess liability coverage above professional liability insurance also continues to soften, and capacity is huge, says Schinnerer's Homer M. Sandridge.

But CNA's experience was less dramatic this year, according to Mr. Quehl. He said primary general liability rates were flat with some minor single-digit decreases, while high-layer excess actually increased between 2% and 5%.

The casualty market's softness will speed up electronic commerce in that market segment, Mr. Ciardello predicted. With rates changing so often, wide-scale market shopping for the best rates is not cost-effective for brokers, he said. Instead, some non-admitted and admitted insurers have given some brokers authority to quote and write business over the Internet in an effort to speed up the policy binding process.

The market for excess liability coverage above professional liability insurance also continues to soften, and capacity is huge, said Homer M. Sandridge, an executive vp with The Schinnerer Group Inc. The Chevy Chase, Md.-based underwriting manager is a subsidiary of Marsh & McLennan Cos. Inc.

He noted, for example, that one policyholder was able to boost its excess liability limits to $400 million from $250 million and still cut its premiums slightly. Rates for D&O coverage continue to fall in the non-admitted and admitted markets, but not as much as rates for other property/casualty risks have plunged, Mr. Payne said.

Still, for the risk to remain in the surplus lines market, Swett & Crawford's Mr. Colacurcio said, "the surplus lines underwriter is going to have to work very hard to keep that account by offering broader coverage."

Mr. Ciardello said D&O coverage for technology accounts is one market segment that could "turn" this year.

"The loss picture is horrendous," and underwriters "are really starting to draw the line in the sand," he said. Losses typically have stemmed from class-action suits alleging securities violations, he said.

Some D&O insurers during January renewals held the line on pricing, particularly for software makers, Mr. Ciardello noted.

Meanwhile, prices for miscellaneous errors and omissions liability coverage renewing in January were "fairly stable or a little down," Mr. Payne said.

Surplus lines insurers continued to compete for E&O risks, but not as aggressively as they competed for other casualty or property business, according to Mr. Palmieri. Rate cuts typically ranged from 5% to 10%, he said.

While pricing softened, the surplus lines market has unveiled many new E&O products, Mr. Colacurcio said. Indeed, the market has introduced more new products in the E&O area than in any other, he said.

New E&O products cover business operations that insurers previously did not cover, he said. One new product is contractor design liability insurance, which is written in the admitted market, Mr. Sandridge said. The coverage was developed for the growing number of contractors that are beginning to subcontract work to architects. The insurance protects contractors from vicarious liability for their design professionals' flawed work.

And Internet-related businesses can obtain E&O coverage to protect them from claims by clients that suffer losses resulting from software viruses and hacking, noted Garrett Koehn, a vp with Tri-City.

EPL coverage continues to be the hottest surplus lines insurance market coverage aside from catastrophe coverage, according to industry executives.

On the property side, some surplus lines executives said they expect catastrophe insurance rates to stabilize soon.

For now, though, the admitted market is still writing a lot of catastrophe business under all-risk programs. Many risk managers seeking additional capacity or trying to cover substandard risks have to turn to the surplus lines market for coverage.

Fortunately for buyers, there has been a continued deterioration of

See **Surplus** *on page 22*

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Surplus

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earthquake and windstorm property insurance rates, said Paul McCain, a vp with Crump.

Surplus lines insurance buyers negotiated 20% rate cuts for catastrophe coverage during the January renewal season, he said.

Tom Ciardello, executive vp with independent wholesaler Tri-City Brokerage Inc. of San Francisco, and Swett & Crawford's Mr. Colacurcio estimated that earthquake insurance rates fell 10% to 15%. While many insurers late in 1998 had reached their maximum earthquake capacity for risks in the Los Angeles and San Francisco areas, new capacity had become available from new markets, Mr. Ciardello said.

Mr Palmieri said rate cuts were much less generous, ranging from 1% to 5%. He said the pace at which catastrophe rates had been falling has slowed because of much heavier losses in 1998 and in direct response to reinsurance pricing. He said he expects rates to bottom out either during the January renewal season or the first half of 1999.

Mr Colacurcio agreed that risk managers can expect to see firmer property catastrophe rates during the next year or two. Admitted insurers that wrote a lot of catastrophe business as part of all-risk contracts in recent years are re-evaluating how a catastrophic loss would affect them, he said. They are more mindful of such potential losses because they likely will have to depend more heavily on their underwriting expertise to earn a profit, he said.

Insurers that cannot impose firmer rates for catastrophe business will walk away from it, Mr. Colacurcio predicted.

By contrast, non-coastal property coverage "is a continuing soft market product," he said.

Crump's executives said the non-coastal property risks that the surplus lines market writes include habitational property, industrial risks and technical risks. Mr. McCain estimated that rate cuts for those risks ranged from 10% to 20%. However, some of the largest risks snagged up to 50% rate cuts, he said.

But surplus lines insurers were less competitive for non-coastal property risks of woodworkers, plastics workers and owners of vacant buildings, Mr. Palmieri said. Rate cuts for those risks typically were less than 10%, he said. BI

Buyers

Continued from page 3
before, Mr. Ryan said. "There were no major coverage changes."

Loomis Fargo & Co. is expecting lower costs when its renewals are completed in late January, said Michael Tawney, executive vp-risk management at the Houston-based company.

"Cash-in-transit is important for us," he said of the coverage that protects the valuable loads Loomis Fargo transports in armored vehicles. And it looks as if such coverage will cost a little less this year. "We're getting quotes from what I see as a soft market."

Mr. Tawney said he also expects no major changes in terms or conditions when Loomis Armored renews its liability coverages at "roughly the same limits." A CIGNA Corp. unit currently writes primary limits for Loomis Fargo's cash-in-transit coverage.

Justin Industries Inc. is looking at a Feb. 1 renewal date in the second year of a three-year program for workers compensation, auto liability, general liability and excess liability coverages.

Jim Green, risk manager at the Fort Worth, Texas-based manufacturer of Western footwear, said he doesn't expect insurers to adjust rates. "I'd be surprised if there would be a noticeable change one way or the other."

A year ago, Mr. Green said, he expected risk managers would see price increases at this year's renewals, as a faltering stock market dampened insurers' investment income. But the expected slump hasn't materialized, and good returns have given insurers less reason to raise rates, he said.

Mr. Green pointed out that plentiful capacity has helped keep rates in check and allowed buyers to increase limits. And, he added, catastrophe losses in 1998 were within underwriters' expectations.

Mr. Green said there also have been some improvements in markets for several traditionally tough coverages. Employment practices liability and environmental liability coverages have become more comprehensive and more realistically priced in the past few years, he said.

EPL risks remain a problem for risk managers, said Arnold Davenport, senior vp-risk management at Marriott International in Bethesda, Md. That liability is "continuing to grow as an exposure," he remarked.

However, while claim frequency is increasing, severity appears to be stabilizing, Mr. Davenport noted. Marriott is renewing its EPL coverage with a unit of Chubb Corp., but, he said, it's too early to tell which direction rates are headed.

Texas employers have benefited from tort reform passed in recent years, Mr. Green noted. Reforms have helped hold down losses in excess layers, which has contributed to stable pricing.

Other legislation passed in Texas, however, creates concern for Texas business, he said.

Health plans in the state can now be sued for malpractice under a law being challenged in the courts. If upheld, the law could create liability for self-funded employers and might push up health plan rates as plans seek to recover losses. "It's a concern," Mr. Green said.

Property premiums should remain where they are now, risk managers predict, though some are waiting to see how the merger of the Factory Mutual companies will affect rates and terms.

Mr. Broderick said he expects property rates to remain flat, terms and conditions to improve and additional capacity to become available as a result of the merger of its underwriter, Arkwright Mutual, with the other Factory Mutual insurers.

Even in hurricane-prone locales such as the southeast United States and the Caribbean, property rates have not increased, Mr. Broderick said.

Litton Industries also was affected by the Factory Mutual merger. Much of its property coverage is written by Protection Mutual Insurance Co., Mr. Lieban pointed out. "We're wondering how the merger with the other

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Unseen exposures imperil businesses

By Robert P. Brannigan

Too often, businesses have a false sense of security about their insurance programs because they fail to realize some of the insurance "trap doors." While it is true that insurance coverages can and will—if properly written—cover the major expected and foreseeable risks, there are unforeseen or peripheral exposure areas that can hold just as much or greater potential for loss. Unless properly reviewed, evaluated and insured, these areas can—and do—go unattended until there is a loss. Then it's too late.

Depending upon individual risk exposures and operations, these "trap doors" will vary in number and potential severity. Listed are some—but not all—of the less-than-obvious coverage areas and concerns that often are not specifically addressed. Such areas often do not receive the scrutiny they should in the development and ongoing management of corporate insurance programs.

General Liability:

• Contractually Assumed Defense Costs: With the advent of the new generation form in 1986, whether or not commercial general liability coverage was provided for contractually assumed defense costs became a controversial issue. This issue was not directly addressed by the Insurance Services Office Inc. until 1996. Even with the 1996 amendments, there are still coverage concerns in this area. These concerns primarily center on the criteria that must be met in order for coverage to apply to a policyholder's contractually assumed duty to defend its indemnitee(s).

• Fellow Employee Exclusions: The "who is an insured" section of the ISO CGL form contains two separate "co-employee" exclusions. Decisions concerning the provision of fellow employee suits coverage must take both of these exclusions into consideration.

• Contractual Fire Damage Exposures: While providing fire damage legal liability coverage for rented and temporarily occupied premises, the ISO CGL policy does not cover contractually assumed fire damage legal liability exposures.

• Railroad Contractual Exclusion: This exclusion, contained in ISO's general liability policy as an exception to the definition of an insured contract, is of importance to both contractors and railroads. The exclusion eliminates coverage for liability assumed by contractors doing work within 50 feet of "defined" railroad property. If this exclusion is not deleted, contractors run the risk of exposure to uninsured contractual losses when performing operations on or near railroad property.

In addition, this exclusion adversely affects—and may completely preclude—a railroad's potential for the recovery of losses assumed by a contractor. The need for contractors to have full contractual coverage regardless of where they perform work is central to the concern surrounding this exclusion.

Umbrella:

• Punitive Damages: Punitive damages are a serious exposure to a corporation's balance sheet and should be insured at least to the extent permitted by law. While not included in the standard ISO CGL form, punitive damage exclusions often are attached to umbrella and excess policies. State laws must be reviewed in relation to this issue. As an example, Alabama treats all awards paid in wrongful death cases as punitive damages.

Workers compensation:

• Ohio Stop-Gap Coverage: In Ohio, employers must have their employer liability or stop-gap coverage modified in order to provide appropriate coverage with respect to "intentional tort" claims. Without the amendment, most stop-gap endorsements provide inadequate forms of coverage.

• Monopolistic State Reimbursement Endorsement: An often overlooked exposure is that of unknown or "if any" monopolistic state workers compensation exposures. The Monopolistic State Reimbursement Endorsement provides coverage for the reimbursement of workers compensation claims paid by employers associated with unanticipated exposures in monopolistic states. This coverage does not, however, take the place of state-fund coverage, which must be purchased for known exposures.

Automobile:

• Uninsured Motorists Coverage: Different from the other areas addressed in this article, uninsured motorists—or UM—insurance represents an area where broadened coverage may not be prudent for all businesses. For companies that carry high deductibles on their automobile programs, the limit of purchased UM/underinsured motorists insurance coverage should be carefully reviewed to ensure compliance with state laws and corporate philosophy on risk assumption.

• Employees As Insured: An examination of ISO's business auto policy reveals that: (1) Employees are insured for the permissive use of their employer's automobiles, but (2) unless their employer's automobile policy is amended by endorsement, employees are not insured if they use their own vehicles on company business. Decisions concerning the scope of coverage afforded employees under a corporate automobile program should take into account the corporation's employee indemnification provisions, as well as rules and regulations concerning vehicle use as outlined in employee handbooks and safety/drug programs.

Property:

• Ingress/Egress. There are some instances in which the insured property does not sustain physical damage, but the insured may be denied or prevented ingress or egress from the property. An ingress/egress extension provides time-element coverage for actual losses sustained by the insured because access to the property is prevented.

Marine Exposures:

• Employee and Third-Party Liability Concerns. Businesses engaged in operations on or near water enter into a whole new realm of coverage issues. Once again, in addition to the standard coverage remedies, there are specific coverage concerns stemming, in part, from jurisdictional issues involving employee injuries (especially "crossover" claims) and contractual liability exposures.

Financial Services:

• Run-Off Coverage. When a subsidiary is divested, a pre-acquisition wrongdoing may implicate both the run-off policy issued for the ex-subsidiary and the policy issued to the selling parent. To minimize the potential for complications, coordination between policies should be addressed up front.

In this day and age of increased litigation, changing laws and product innovation, it is more important than ever for businesses and their brokers to fully understand and examine the ramifications of these and other related coverage issues. Concerns involving employment practices and Year 2000 liabilities serve to add new wrinkles to the list of traditional items requiring specific attention.

The review and possible modification of insuring agreements, exclusions and deductible/retention approaches as they pertain to peripheral coverage areas are critical first steps in ensuring that business insurance programs properly support corporate risk management approaches. These areas must be identified and addressed so that informed risk management decisions can be made. To do otherwise is potentially taking a big risk. BI

Robert P. Brannigan is vp and regional managing director of Sedgwick Energy & Marine in Pittsburgh.

Property/casualty market is fooling investors

By Douglas W. Leatherdale

SCANNING THE "Industry Stock Report" in recent editions of *Business Insurance*, it's been hard to miss the preponderance of minus signs showing stock price declines for company after company in 1998.

Although many of those prices have begun to rebound, it's clear that investors are taking a close look at the fundamentals of the property/casualty insurance business and comparing each company's valuation with its true earnings.

For many insurers, earnings have seemed strong in recent years. But for several, that supposed strength has been misleading. In a time of slow or no organic growth, coupled with inadequate rates, some companies have masked underlying weaknesses by using capital gains and reserve releases to prop up earnings.

One stock analyst has called this "cheating." In other words, as losses mount and inadequate pricing continues, insurers put off such necessary steps as correct pricing and proper reserving, while they wait for a catastrophe to extract the market's excess capital and bring the long-awaited hardening of the market.

They're likely to be waiting a long time. With the tremendous amount of capital in the market and continued competition for dwindling premiums, we're entering an entirely new marketplace, in which events that once "turned the cycle" and bailed out underperformers will no longer have that effect.

The new marketplace will see continued consolidation, globalization and the blurring of lines that once divided insurers, reinsurers and other financial services. This market will require financial strength through conservative reserving and adequate pricing, as well as the application of skills and expertise to take advantage of new financial service trends.

The recent stock valuations indicate that investors, too, are recognizing that fact.

To understand the current situation, it's important to assess recent trends in the property/casualty industry. Since 1987, growth in premium volume has been about 4% per year. Yet, when adjusted for inflation, premiums have not been growing for the past 10 years.

Stagnant growth, in itself, wouldn't be a problem if the business being written were priced sufficiently. But pricing, too, has declined: U.S. commercial lines rates have decreased every year for six years, dropping 17% since 1994.

See **Market** *on next page*

Market

Continued from page 23

The annual decreases were relatively small, from 2% to 6%. So were the increases in losses and loss adjustment expenses, at the modest rate of 2% to 4% per year. Combine the two, however, and prices actually fall behind loss costs by 5% to 8% per year—a risky game.

The property/casualty insurance industry's underwriting results for the first half of 1998 were significantly worse than for the same period in 1997, almost tripling last year's figure.

Another indicator of weak fundamentals in our business is the fact that, since 1991, the cash flow from underwriting—from the basic revenue producer of our business—has been negative. Yet total cash flows are very strong. That's because the bull market in investments has enabled insurers to increase their surplus despite poor operating returns.

To put this in context, realized gains typically are a minor component of net income for U.S. property/casualty insurers, about 10%. But over the past three years, realized capital gains have averaged 25% of income. Consequently, the level of cash coming into our business has steadily increased.

That cash flow has helped produce consistent growth in industry surplus over the past decade. Surplus now exceeds total premiums. At the midpoint of 1998, industry surplus was more than $334 billion—up almost 17% over a year ago—and it continues to climb. With the industry premium-to-surplus ratio at an all-time low, our industry could write twice as much premium as it does today without adding any additional capital to current surplus levels.

In this environment, there seemingly has been little need to strengthen the pricing of our product. In fact, as we know all too well, it has led to dramatic price competition.

Along with these trends, there are also indications that insurers are reducing loss reserves to dangerous levels in order to conceal underlying marketplace problems. Consider these trends:

- Industry capital and surplus grew at a 10% annual rate in the 1980s and in the earlier years of this decade. Growth, however, accelerated, to a 13% rate in the mid-1990s, and at a 16% clip since 1995.

Growth in written premiums, as noted, has slowed, from about 9% annually in the 1980s to barely over 3% since 1995.

The growth in assets also has slowed, from a rate of 11% in the 1980s to between 6% and 7% in recent years.

But loss reserve trends have been dramatic, even as insurers have increased their exposure to risk. From 1980 to 1990, insurers increased reserves 12% per year from 1980 to 1990. Today, however, reserves aren't growing; they are basically flat.

- The industry's operating return on equity has been a mediocre 4% to 6% over the past decade. In 1997, it reached 9%. For many companies, that was due to reserve releases. We believe that, on a true economic basis, operating returns are actually negative.

Of course, releasing reserves is not, in itself, wrong or deceptive. Several companies, including our own, have reduced reserves in the current soft market. We could do so, however, because we were conservative in setting the reserves in the first place—in anticipation of a marketplace such as today's—and only after ensuring that we would still meet our liabilities.

How much longer can this go on? I believe time already is running short. We saw, for example, that the property/casualty insurance industry's underwriting results for the first half of 1998 were significantly worse than for the same period in 1997, almost tripling last year's figure.

The industry's operating income for the first six months of 1998 was down significantly, by more than 20%. To be sure, realized gains more than doubled, but that didn't prevent a bottom-line loss in net income of 7.5%.

Clearly, as the analyst also noted, we're moving from a "cheating" phase to a "pain" phase, where insurers have little room to buffer further deterioration in market conditions, and where all loss "shocks" go to the bottom line.

We're moving from a 'cheating' phase to a 'pain' phase, where insurers have little room to buffer further deterioration in market conditions, the stock analyst noted.

What course must be taken for the future? Companies would do well to stick to time-tested basics. At The St. Paul Cos. Inc., for example, we will exercise rigorous cost control and take other steps to improve productivity. And we will continue to adhere to a strict underwriting discipline, walking away from business—shrinking the company, if necessary—if the business is not adequately priced.

The marketplace the survivors face will have economic and financial challenges that require innovative new products and approaches—new complexities demanding new skills and expertise.

But the underlying economic fundamentals of the business will not change. As the 1990s come to a close, that may prove to be a painful lesson for some U.S. property/casualty insurers. BI

Douglas W. Leatherdale is chairman of The St. Paul Cos. Inc. This article is adapted from remarks he delivered in Baden-Baden, Germany, on Oct. 24, 1998.

"BLUR" catches economy's pace of change

"BLUR: The Speed of Change in the Connected Economy"
By Stan Davis and Christopher Meyer
Published by Addison-Wesley
Jacob Way
Reading, Mass. 01867
781-944-3700
$25

By Kevin M. Quinley

LET'S SEE HERE. The fax has been elbowed aside by e-mail. The Internet edges out the telephone. Brokers and insurers are merging and acquiring right and left. New risks seem to keep popping up all the time.

The line in our economy between product and service, supplier and manufacturer, buyer and seller is fast disappearing. All the while, risk managers are exhorted to become "holistic" and to look beyond just those risks that are insurable.

Risk managers trying to keep up with new perils and expanding job descriptions notice that change happens so fast that no snapshot can capture the world as we know it. Instead, it is a blur, an ever-changing image that represents the world, not as it is but as it unfolds more quickly than we ever would have imagined. "BLUR" is not about that late night at the RIMS conference hospitality suite. Rather, it is about the faster pace of business and information that constantly assaults us.

A new book, "BLUR: The Speed of Change in the Connected Economy," strives to make sense of it all, at least from a broader business perspective. Authors Stan Davis and Christopher Meyer, through their work with Ernst & Young L.L.P., have a front-row seat to these tectonic changes. As consultants for companies trying to stay competitive in today's rapidly changing landscape, they are witness to a dramatic shift in the way business is being conducted and lives are being led. The book is aimed at a broad business audience, but risk managers will find much within these 260 pages that resonates with them.

Here are some examples of BLUR:

- Levi Strauss goes online to sell custom-made women's blue jeans. You visit a store to get measured for the first pair. Your stats enter a computer, which sends them to a factory, which makes them to specifications, storing the sizing information on a bar code label on the tag. Reorder by phone, reading the code off the tag. You get perfect-fitting jeans, and Levi Strauss gets to eliminate excess inventory and mark-downs.
- Nike becomes an industry leader by keeping traditional assets—factories, materials and delivery trucks—off the balance sheet. Instead, it outsources those functions and focuses on what it does well—designing, marketing, positioning and developing distribution channels. Its most valuable assets may be its slogans and spokespeople.
- DreamWorks SKG, formed with a mere $250 million initial investment, was mobbed by eager investors. They drove the market capitalization to $2 billion when the company, which had no studio and nothing in the production pipeline, went public.

The attraction was the intangible value of its founders, Steven Spielberg, David Geffen and Jeffrey Katzenberg.

These companies are moving fast, connecting to others through the electronic Web and recognizing—as risk managers increasingly appreciate—the power of intangible assets, all chief components of the concept of BLUR.

"We're talking about a new mind-set," say Messrs. Davis and Meyer. "It replaces clear and definitive boundaries, rules of procedure and established limits on how and where operations are conducted. The BLUR mind-set is about the pliable, flexible and changing relationships between the nodes—factories, facilities, offices, warehouses—and the connections. It's the difference between mainframe and network."

BLUR is here for risk managers, or at least hurtling fast toward our doorsteps. The book, once you get past some breathless New Age prose, is a provocative read for any risk manager who plans to move along with the accelerating pace of modern business life, embracing the phenomena that will affect the way we live, work and play. BI

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

Buyers

Continued from page 3

Factory Mutuals will impact our coverage and service," he said.

Litton suffered a loss of about $10 million last year when Hurricane Georges swept through the Gulf Coast and pounded a shipyard operated by the company in Pascagoula, Miss. Mr. Lieban said the loss resulted from damage to structures and contents, cleanup costs and business that was lost while the yard was shut down.

"Georges was a huge event for us," Mr. Lieban said. "The shipyard was significantly affected."

In some cases, risk managers have seen rates stabilize at current levels.

Marriott saw costs hold steady when the hotel company renewed workers compensation and liability insurance in October. For the first time since the early 1990s, rates are "no longer decreasing," said Mr. Davenport.

He said prices in those two lines have "pretty much bottomed out."

Risk managers say their only real coverage concern is related to the uncertainty over potential Year 2000 problems.

Mr. Davenport attributed the stabilization of rates in liability lines to "a refocus on underwriting" by insurers after the deep stock market dips in 1998. Although the market bounced back from those lows, he said the swings served as a "wake-up call," suggesting that investment returns might not be strong in 1999 and that insurers might need to concentrate on underwriting to provide profits.

But even as some see workers comp rates holding firm, others expect reductions.

Los Angeles-based CalMat Co. renews its workers comp coverage this month, and Gary Swinhart, director of risk management and benefits, expects the coverage to cost less this year. Coverage for CalMat, which produces construction aggregates, is up for bid this year, Mr. Swinhart pointed out.

"Our broker is Aon, and they tell us things are still very competitive," he said. "We're looking forward to reducing our costs on workers comp."

Risk managers point out that their only real coverage concern is related to the uncertainty over potential Year 2000 computer problems. If losses do occur because of the millennium bug, they want to be sure there is coverage that will respond.

Finding some consistency among insurers offering Y2K coverage is a challenge for risk managers. Few offer coverage that specifically addresses claims emerging from the computer bug.

"There are two or three programs that provide only Year 2000 coverage," said Mr. Ryan of Franklin Resources. "With those exceptions, everybody is all over the map."

Many risk managers are choosing not to buy Y2K coverage, instead trying to make sure that their systems don't crash and that coverages in place don't have Y2K exclusions.

Mr. Ryan said his company is comfortable without the additional coverage, having closely examined the risk related to potential problems.

Mr. Tawney of Loomis Fargo said: "A big issue is Y2K exclusions. So far, we haven't run into a problem."

Loomis Fargo won't be buying additional coverage for potential problems related to the millennium bug, Mr. Tawney said. "I think we will be ready and in good shape for all our exposures."

Mr. Davenport said Marriott's liability coverage is free of Y2K exclusions. Marriott's insurer reviewed and approved the company's remediation plan to uncover and correct any bugs, he noted.

Coverage for Y2K problems "is a focus of attention in today's market" by both buyers and insurers, Mr. Davenport stressed.

Litton Industries made sure there were no holes in its coverages that could leave the company exposed to losses triggered by a Y2K incident, said Mr. Lieban.

Litton's umbrella and excess liability coverages are led by American International Group Inc. While the insurers did not write coverage to specifically address the Y2K problem, Litton's policies do not include exclusions that would prevent coverage for a loss that originated with a computer problem, Mr. Lieban explained.

He said Litton is "making good progress" in its efforts to eradicate any potential Y2K problems and should have its systems ready to handle the date change by the end of the year.

Loomis Fargo's insurers have asked about one effect the coming year change is having on the company's operations. As a result of an expected run on automated teller machines by anxious bank customers who aren't sure whether money will be available when the date changes, the Federal Reserve Bank is printing millions in new currency to stock ATMs. Loomis Fargo trucks will be carrying much of that cash.

It's not an "extraordinary challenge," Mr. Tawney said, but one insurers have inquired about. "They are aware of it," he said, but coverage costs aren't rising because of the added exposure. "Our points of distribution won't increase, just the amount of currency. . . .That's our business, of course—handling currency."

Mr. Tawney said he's more concerned there may be some type of "social disruption" that could emerge from a Y2K-related problem. A widespread power outage, for example, "could affect all of us."

He said the Y2K controversy is probably overblown, "but I have to confess, no one knows what is going to happen. I guess we'll all have to hold our breath and hope civilization doesn't end as we know it."

Meanwhile, risk managers are left to wait and see how the market winds blow. One factor sure to have some kind of impact is consolidation among insurers and brokers.

Mr. Broderick of VF Corp. said broker consolidation is one reason the market has stayed soft. The largest brokers now control so much business with individual insurers that they have the clout to drive down prices, he said. But this could be only a short-term effect, and "the jury is still out" on the long-term impact of consolidation.

And a counterweight to the market could come from insurer consolidations.

Mr. Green of Justin Industries said consolidation among insurers could lead to higher rates as the number of competitors shrinks. "If the trend continues, you could end up with fewer markets and a few megamarkets—no question, it would impact cost." BI

Reinsurers

Continued from page 3

more on renewal, an increase he termed "reasonable."

On average, cat covers are renewing with rates unchanged or with a decrease of up to 5%, a far cry from a year ago, when reductions of 10% to 20% were the norm, said Donald Watson, director of global reinsurance rating for Standard & Poor's Corp. in New York.

"The loss activity picked up enough so that reinsurance companies could justify holding the line," Mr. Watson said.

In general, this year's renewals are as tough for reinsurers as last year's, said Jean-Pierre Fillebeen, executive vp at Partner Re US, a New York unit of Partner Reinsurance Co. Ltd. in Bermuda.

"Companies are trying to get new concessions where the business is already insufficiently rated," he said.

While insurers with significant cat losses are absorbing price increases, other cedents are seeing decreases of 10% or more, Mr. Fillebeen said.

"I think now we may have reached the bottom, and we are hoping for some stability next year, but who knows?" he said.

The market for non-catastrophe property covers and casualty reinsurance, meanwhile, generally continues to be intensely competitive, though rates may not be falling as fast as they have in recent renewals, observers report.

Property business generally is being renewed at an average 5% reduction, while casualty business is seeing declines in the 10% to 15% range, said S&P's Mr. Watson.

Particularly on property business, though, "the pricing declines are not at the level they have been in previous years," he said.

Mr. Bolland agrees that property pricing is still heading south but said the reductions are not "desperate."

"It's not as bad as it was, but it's still going down," he said. "There's still a ton of capacity out there."

On casualty treaty business, he added: "I've noticed a cautious softening. (But) we are not seeing crazy reductions this year."

Treaties covering umbrella business have been particularly vulnerable to rate cuts, said Gregory T. Doyle, executive vp at American Reinsurance Co. in Princeton, N.J.

"It's had good experience in recent years, and there is an over-

See **Reinsurers** *on next page*

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Reinsurers

Continued from previous page
abundance of capacity," Mr. Doyle noted.

On average, reinsurance programs probably are seeing reductions similar to the more than 10% cuts last year, he added.

Reinsurers are not jumping at every piece of business that comes their way, though: "We've also seen some programs go out with significant decreases in pricing, and they have not been filled out," Mr. Doyle said. "Maybe people are saying enough is enough in some cases."

Willis Faber's Mr. Pruitt agreed. "We are seeing some reinsurers saying, 'At that price, I'll pass,' " he said. "Two years ago, there was never a word uttered like that."

William J. Adamson, CEO of CNA Re, a unit of Chicago-based CNA Financial Corp., sees this renewal season signaling some equilibrium in the market.

Reinsurers have been pushing for rate increases and in some cases have secured them—in certain professional liability contracts, for example, he said.

"There have been some increases, but they have been very client-specific," Mr. Adamson said.

On average, U.S. domestic reinsurance rates have fallen about 3% this year compared with decreases of more than 10% last year, he said.

And, while a number of cedents have negotiated expansions of coverage—such as increases in no-claims bonuses and profit commissions—there have generally been fewer such expansions than in the past several years, Mr. Adamson said.

Widespread reinsurance industry mergers have raised concerns about a competition waning , but that hasn't come to pass, market observers agree.

In some cases, the mergers are leading to increased competition. For example, after the purchase of General Reinsurance Corp. by Berkshire Hathaway Inc., PXRE Corp. in Edison, N.J., took on a team of underwriters from National Reinsurance Corp., a unit of General Re.

The 10-person team has established a direct property and casualty reinsurance unit for PXRE in Norwalk, Conn. Previously, PXRE had largely concentrated on property catastrophe reinsurance and it was a broker market reinsurer.

"PXRE decided to diversify because catastrophe business is going down, down, down, and we have to maintain good returns," said Michael J. Toman, executive vp at the new unit.

Doing so in the current market is proving tough, though one sign of a possible change is an increase in demand for multiyear contracts, which could indicate cedents' belief that prices will not fall any further next year, Mr. Toman said.

The demand for multiyear contracts also could be due to cedents' concerns over the Year 2000 problem, he added.

More insurers are seeking two-year contracts to limit the possibility of Year 2000 coverage disputes centering on the timing of a claim, said Mr. Adamson of CNA Re.

For example, if an insurer in Chicago has an exposure in New York, any loss occurring in the first few minutes of Jan. 1, 2000, Eastern Standard Time, would take place on Dec. 31, Central Standard Time. Such discrepancies could cause coverage disputes if annual reinsurance contracts are still in place, he said.

Catastrophe reinsurers, meanwhile, are concerned that cedents not try to accumulate a number of individual Year 2000-related property losses—such as fire losses from the failure of computerized alarm systems—and call them a single "event" triggering catastrophe reinsurance coverage, Mr. Bolland said.

Reinsurers and their clients are dealing with the concern in a wide variety of ways, ranging from reinsurers adding Year 2000 contract exclusions to reinsurers accepting a written statement from cedents saying they do not intend to treat the claims as a catastrophic "event," he said.

Generally, reinsurers are content with cedents' efforts to deal with the problem.

The property and casualty exclusions of the Insurance Services Offices Inc. are being used extensively by primary insurers, Mr. Adamson said. And most professional lines insurers have made rigorous efforts to reduce their exposure by monitoring the remediation efforts of their clients, he said. BI

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Brokers

Continued from page 3
premium, and there's not going to be a lot of viable markets that will come in and take a bite," said J. Hyatt Brown, president and chief executive officer of Poe & Brown Inc. in Daytona Beach, Fla.

"Everything else seems to be a little cooler, meaning that there is not at all the kind of interest in cutting prices in most lines" as in the past few years, Mr. Brown said.

That doesn't mean, however, that some directors and officers renewals won't see rate reductions of 12% to 15%, Mr. Brown suggested. "Generally speaking, though, the tendency is for rates to be flat."

"The risk bearers are starting to bleed out the nose, but they'll not bleed forever," he said.

While Messrs. Pearson, Caveness and Brown have seen some evidence of tighter markets, others saw this January's renewals offering only further signs of an ongoing soft market.

"In general, there's a lot of discussion, a lot of insurance companies talking about markets getting tougher, but in reality, first-of-the-year renewals went very smoothly, and we didn't see any tightening at all," said Gary Gatewood, managing director and head of global brokering at J&H Marsh & McLennan Inc. in New York. "The market remains very competitive."

"I don't see any particular change in the market at all," said Richard A. Riley, chairman of Aon Risk Services of the Americas, part of the retail brokerage arm of Aon Group Inc. in Chicago.

"I think that if you looked at an overall program in 1999, it is a relatively flat program. There are no significant decreases in pricing, but I do not see any increases," he said.

Mr. Riley added that, while "there's a lot of talk in the insurance market of holding the line in pricing. . .there's so much capacity waiting for the opportunity to get that business" that most insurers are not willing to raise rates.

Mr. Gatewood offered a similar view of the market's capacity.

"I think there's plenty of capacity just about everywhere in the property-casualty business," he said. What's more, there's considerable new capacity sitting on the sidelines, waiting to enter the market if it should begin to turn, and that itself is a factor in keeping rates down, Mr. Gatewood said.

"I think when there's competition in any marketplace that wants to get in, I think the incumbents know that," Mr. Gatewood said.

Continued on next page

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And Willis' Mr. Pearson suggested that, while "many insurers have expressed concern over their results and feel something has to give," those that are raising rates frequently see other insurers eager to take advantage of the situation and seize those renewals.

"People are still prepared to do just about whatever it takes to get what they don't have," said Kevin McGill, senior vp at Willis Corroon in New York.

The large-account market remains competitive across all casualty lines, Mr. McGill said, adding: "Coverage is still broad. Limit is plentiful."

"You might not be seeing the percentage reduction you have the past couple years, only because there might not be that much (premium) left," he said.

"If it's new business, all bets are off," added Pete deVito, also a senior vp at Willis Corroon in New York.

He described competition among insurers for large-account property business as "very, very aggressive," and he said, "If there are lots of losses on accounts, we're still not seeing increases on that."

Brokers see little effect of catastrophe losses on pricing, even though the first nine months of 1998 already qualified it as the fifth-worst year since 1950 for cat losses, according to the Insurance Services Office Inc.'s Property Claim Services unit. Catastrophe losses for the first nine months of 1998 were $8.3 billion, up from $2.4 billion during the same period in 1997.

"The only place where you'll find some difficulty in placement at any price is some property along the Gulf Coast, from Panama City west to New Orleans," Mr. Brown said.

Aon's Mr. Riley said he's seen no impact of 1998's catastrophes on property rates, while Mr. Pearson suggested that perhaps the effect of last year's catastrophes will be an increased awareness of catastrophe exposures among underwriters who are likely to experience worsening results.

"I can't say that it's created any sudden change in rates" this renewal period, he said, though he suggested that property rates in catastrophe-prone areas could firm up during the first quarter of 1999.

But a growing eagerness by European insurers and reinsurers to write U.S. coverages is adding to the competitiveness in the property market and for now is decreasing the impact that 1998's catastrophes have had on rates, some brokers say.

"You've got a big global market, a lot of companies other than domestic companies that are willing to play in the U.S. market," said J&H/Marsh & McLennan's Mr. Gatewood.

As for such professional risk lines as directors and officers, errors and omissions, crime and fiduciary liability, the market is "selectively competitive," said Fred T. Podalsky, senior vp and director of the management liability and professional risk operation at Willis Corroon in New York.

On D&O, for example, "where in the past we found that underwriters were automatically offering us contracts with reductions, now we find we have to press a little bit more for those reductions," Mr. Podalsky said.

"There are still many insureds that are enjoying a soft marketplace," Mr. Podalsky said, noting that D&O rate decreases are averaging 5%. Some policyholders might see 10% to 15% decreases, "but we think that will be the exception going forward," he said.

Looking ahead, "we don't expect to see those dramatic rate decreases in 1999 for a number of reasons," Mr. Podalsky said. One reason is fear of their possible Year 2000 exposures. "We think many underwriters are still waking up to the fact that they don't have a good handle on their Y2K exposures," he said.

Y2K is behind another factor, as many policyholders request multiyear commitments on D&O coverage and related lines, such as E&O, crime, fiduciary and employment practices liability.

"Part of the driver for multiyear programs was to avoid having a

See **Brokers** *on next page*

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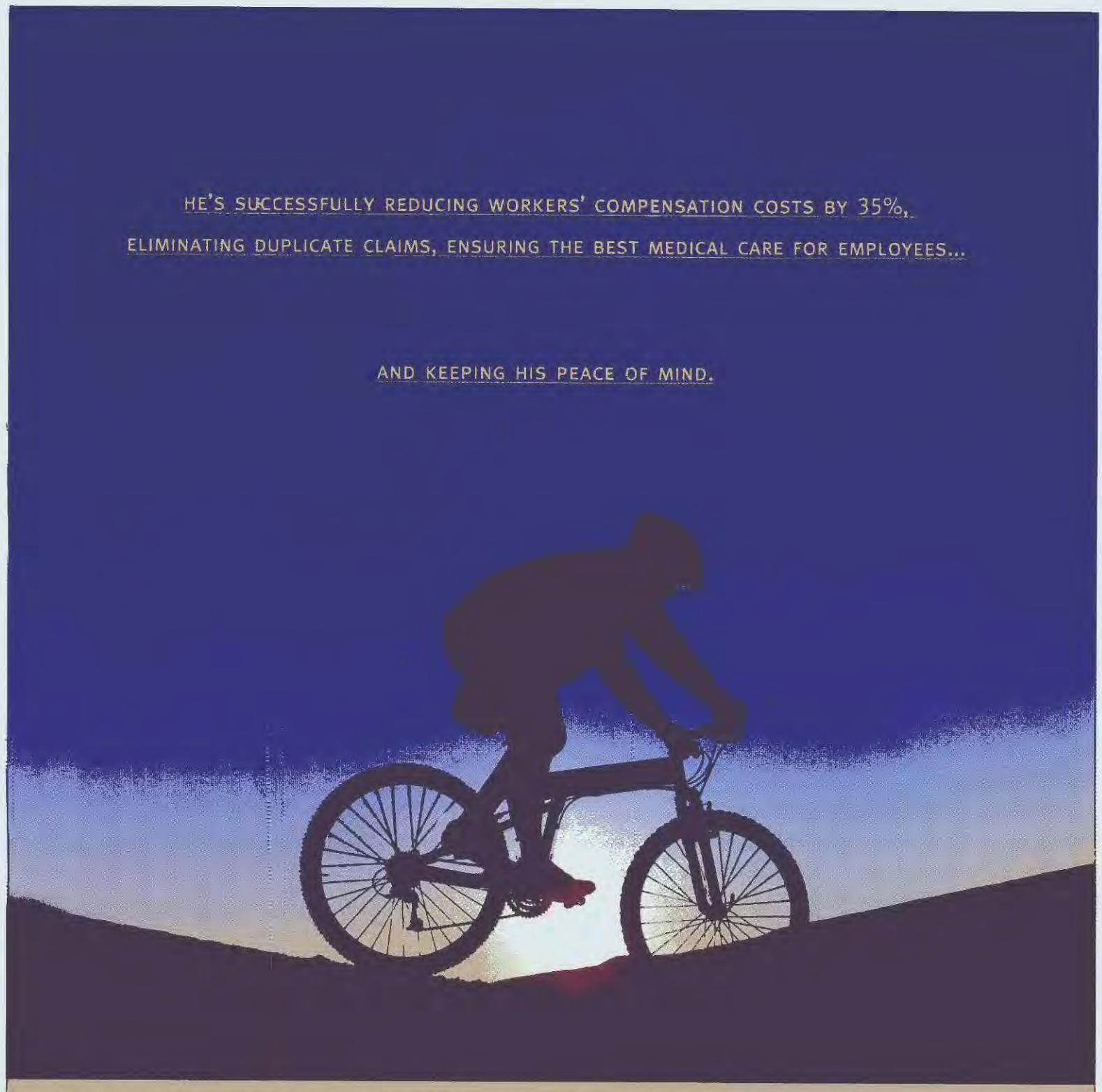

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Brokers

Continued from page 27

renewal in 1999 and avoid having to address the Y2K problem," Mr. Podalsky said.

In general, current market conditions do seem to be fueling an interest in multiyear policies.

"We do see an increasing trend among risk managers and others responsible for the purchase of insurance products toward a recognition that things are pretty good right now and the desire to lock in some deals while they can," Willis' Mr. Pearson said. "Just last week, I heard of several three-year programs put in place" by Willis Corroon.

In December, British Aerospace P.L.C. and J&H Marsh & McLennan put together an innovative multiyear financial risk insurance program to keep British Aerospace's balance sheet losses grounded. The 15-year program protects the aircraft manufacturer from losses arising from actual and contingent liabilities up to £2.4 billion ($4 billion) (*BI*, Dec. 14, 1998).

The drive to develop new risk transfer methods continues, though soft rates in the traditional market are preventing the widespread application of financial risk transfer techniques or finite risk insurance, brokers say.

"Everybody's looking for new ideas, new ways to do business," Mr. Gatewood said. But the situations in which those techniques are used are typically applications in which they offer an insured specific advantages other than price.

"In general, (such transactions) are few and far between, because the market is so competitive," Mr. Gatewood said.

But captives and the alternative market remain a significant factor, Mr. Pearson said, despite the competitive traditional market.

"The alternative market has been pretty active and continues to be a viable solution to many risk management needs," he said. "The standard market has addressed core business needs, but in many cases it can't get the job done, and the alternative market has stepped in."

Clients 'wonder if their carrier will be around next year, and if it is, will it be owned by someone else,' says John Pearson.

One concern among clients is the stability of their insurers and ongoing industry consolidation, Mr. Pearson said. "They wonder if their carrier will be around next year, and if it is, will it be owned by someone else."

But Mr. Gatewood said he's seen no impact of consolidation so far, "other than that some insurers are bigger, at least on the risks that we've looked at so far."

Gallagher's Mr. Caveness offered a similar view.

"There's not a lot of impact other than you see a lot of personnel changes and a lot of culture clashes," he said. "Generally, I think the industry has handled it pretty well, given the amount of consolidation that has taken place."

Workers compensation is another area of concern for some employers.

"Some people think there's a little bit of hardening in the workers compensation area, and there might be in certain states," Mr. Gatewood said. But, he added, there is no general hardening of workers comp rates, and what rate increases there are seem to be "a short-term blip."

And, of course, the Y2K issue remains on the minds of many policyholders.

"They're all asking the questions, and everybody's looking at what each market's doing," Mr. Caveness said. "Obviously, the higher-tech companies are all scrambling with the issue."

"Lots of people are talking a lot about it," Mr. Pearson said of the millennium bug. "I'd like to think there's an insurance product out there to make it go away, but we all know that is not the case."

"I don't think any of us know what the millennium's going to do with all this," Mr. Gatewood said of the Y2K problem.

"Everybody's concerned," he said. "It's kind of like an unknown area. Are there going to be big exposures there?"

But those concerns and some suggestions of market tightening aside, good times seem to be continuing for insurance buyers, according to most brokers.

"Risk managers are pretty dog-gone happy with the market," Mr. Brown said. BI

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INTERNATIONAL

Global Briefs

The United Kingdom's Health & Safety Executive says it will check whether employers have formally assessed **potential risks to health and safety** in the workplace arising from the millennium bug computer problem. Clive Norris, HSE director of safety policy, said employers should ensure that workplace health and safety assessments, which they already should have carried out, include a study of both the risks arising from the year 2000 date change and the precautions they should take to control such risks. He said where inspectors find insufficient assessment, they will consider requiring remedial measures. . . .Aon Corp. remains on the acquisition trail. It has bought for an undisclosed sum Paris-based broker **Societe Generale d'Assurance et de Prevoyance**. Societe Generale employs 180 people and last year had revenue of approximately 130 million francs ($23 million). The French broker places coverage for all types of risks but specializes in group programs and credit insurance. Last year, Aon completed its acquisition of French broker Groupe Le Blanc de Nicolay. . . .Norway's largest insurer, **Storebrand Skadeforsikring A/S**, is acquiring Oslo, Norway-based bank Finansbanken ASA. Storebrand said it will not merge Finansbanken into its own Storebrand Bank but will develop Finansbanken into the country's leading private bank by using the insurer's own position in asset management and long-term savings. The bid values Finansbanken at 1.6 billion Norwegian kroner ($231.6 million). . . .**Wren P.L.C.** will acquire fellow Lloyd's of London corporate capital provider Masthead Insurance Underwriting P.L.C. (*BI*, Dec. 14, 1998). Wren has received acceptances for its bid representing more than 88% of Masthead shares. The deal will add about £40 million ($66.2 million) of funding to support the five syndicates managed by Wren. . . .The U.K. Financial Services Authority has launched a £10 million ($16.5 million) advertising campaign targeted to people affected by **improper sales of personal pensions**. The nationwide television, radio and press campaign will last four months and will coincide with a mailing from pension providers inviting their clients to have their cases reviewed at no charge. The scandal has been an ongoing problem for several years; it began when people were wrongly advised to leave their company pensions and take out less-beneficial personal pensions. . . .**AIG Europe (UK) Ltd.**, the U.K. unit of American International Group Inc., has appointed Nicola Maclennan vp of marketing for the United Kingdom. Ms. Maclennan joined AIG Europe in 1994 as commercial lines marketing manager. . . .**Sir Colin Chandler**, a non-executive director of Guardian Royal Exchange P.L.C., will take over as group chairman after the retirement of Lord Hambro, which is effective April 28. The changeover in the insurer's chairmanship comes at a crucial time for GRE, because it is in the process of finding a buyer for the group or arranging a possible break-up of the business if a suitable buyer cannot be found. Sir Colin, who has been on the GRE board since 1995, also is chairman of Vickers P.L.C. and a director of the TI Group P.L.C., both engineering firms.

Allianz taps capital markets

Bond option designed to cover German risks, demonstrate capabilities

By DON LEWIS KIRK

MUNICH, Germany—Allianz A.G. Holding has secured $150 million of future reinsurance protection and demonstrated its interest in alternative risk financing by purchasing cat bond options.

Munich-based Allianz said the deal, which is designed to cover its German windstorm and hail exposures, is the first of its kind to cover European catastrophe risks. Goldman Sachs & Co. placed the notes.

Allianz said it expects to use more risk securitization programs in the future, as well as arrange such programs for clients.

Thomas Bruendler, general counsel of Allianz Risk Transfer GmbH, a Zurich, Switzerland-based alternative risk transfer consulting subsidiary, said that Allianz decided its initial use of the capital markets should finance non-life risks in Germany.

"We want to send a signal to the market that we are not afraid of using innovative tools," he added.

"It is the first large-scale catastrophe risk issue of its kind in Europe and represents a new option structure," Mr. Bruendler said.

The "bond option," which is similar to an option issue by Reliance National Insurance Co. in 1998, gives Allianz the right, but not the obligation, to issue notes at a fixed rate any time over a three-year period to fund $150 million of reinsurance coverage through Gemini Re, a Cayman Islands based special-purpose reinsurer.

The option approach in effect allows Allianz to hedge its future cost of reinsurance. If its traditional reinsurance costs were to rise after incurring windstorm and hail losses, it might find it more cost effective to exercise the option to issue notes.

Investors in the option issue will be paid a "commitment fee" of 49 basis points over the London Interbank Offered Rate every three months over the three-year duration of the deal. Some fees will be higher depending on the volume of an investor's commitment. A $10 million investment, for example, would earn 50 basis points.

If Allianz does exercise the option, Gemini Re will issue the notes and investors will receive a semi-annual floating rate of 822 basis points over LIBOR for the remainder of the term.

Investors' capital is fully exposed in the

See **Allianz** *on page 30*

India market reform stalls again

By KAUMUDI MARATHE

NEW DELHI, India—Efforts to liberalize India's insurance sector have stalled again.

The Insurance Regulatory Authority Bill (1998), which would have permitted limited foreign participation and investment in India's currently nationalized sector, was not approved during the winter session of Parliament.

Widespread dissatisfaction with the bill within the opposition Congress-I Party and elements of the Bharatiya Janata Party-led coalition government resulted in its being sent to a parliamentary standing committee for review. The reassessed document likely will be reintroduced to Parliament and submitted for a vote in both houses during the budget session in February, government officials said.

The delay is the latest in a more than four-year process prompted by recommendations that the insurance industry be opened up to the private sector in an effort to reduce costs and promote improvements. These recommendations were made in 1993 by the government-appointed insurance reform committee, the Malhotra Committee, headed by R.N. Malhotra (*BI*, March 28, 1994).

According to Mr. B.K. Chaturvedi, special secretary of insurance, "We do expect over $40 billion over the next five years for India's infrastructural growth. However, this is not in terms of foreign exchange inflow. With the liberalization of the sector, we hope that the market will expand and the rate of growth be faster, yielding those returns." Mr. Chaturvedi said he hoped the bill would be passed in the next session, and he estimates that "from that date, it will be only eight or nine months before the first company could start operations in India."

Observers remain optimistic. Gordon Cloney, president of the International Insurance Council in Washington, D.C., said reforms would take place in due course.

"The country needs them. India remains one of the most interesting potential markets—even more so than China—if the regulatory environment can be changed," he said.

See **India** *on next page*

U.K. storm losses near £100 million

By SARAH GODDARD

LONDON—U.K. insurers are expecting to pay up to £100 million ($165.5 million) for claims stemming from stormy weather over the holiday period.

Powerful winds of up to 115 mph swept over the United Kingdom during the Christmas weekend, tearing off roofs and knocking down trees. Rains related to the gales caused localized flooding. Scotland, Northern Ireland and northern England were hit particularly hard by the gales, which claimed several lives.

Last week, the major U.K. multiline insurers all said it would be several weeks before total loss figures will be known but that claims over the Christmas weekend did rise significantly compared to the same period last year.

Help lines at CGU P.L.C. registered at least 30% more calls than usual for that time, said a spokesman for the insurer. Most of the claims were for damage to roofs, with household claims averaging about £500 ($827) and commercial property claims averaging about £5,000 ($8,274).

However, most business interruption claims as a result of the storm damage had not yet been reported last week, said the spokesman, and they could easily raise the payouts from the insurer. "We reckon that overall, the industry will pay out about £100 million," said the spokesman.

A spokeswoman for Guardian Royal Exchange P.L.C. said it was too early to give an accurate final figure, though so far the insurer was looking at claims reaching

See **Winds** *on page 31*

1998 aviation claims led by Swissair loss

LONDON—Last September's crash of a Swissair MD-11 made 1998 insured losses from Western-built aircraft accidents the second-highest yearly total ever, at about $1.8 billion, according to figures released Dec. 31.

The Swissair loss, valued at more than $600 million in hull and liability claims by London-based aviation insurance consultant Airclaims Ltd., accounted for more than a third of last year's estimated insured payments on accidents involving Western-built passenger aircraft, Airclaims said. The loss total for 1998 aviation payouts was topped only by 1994's claims of $2.2 billion. Claims for 1997 totaled $1.4 billion.

However, Airclaims said even taking into account the Swissair contribution, the 1998 figure "should not be considered remarkable, as it is more or less what the trend predicts for the year." According to Airclaims, aviation hull and liability claims in the past few years have risen on average by some $60 million to $70 million per year.

The number of total losses of Western-built jet aircraft in 1998—22—was one fewer than in 1997. Twenty-three losses per year was the average during the 1990s.

The estimated cost of major hull losses in 1998, made up of figures from both full and partial aircraft losses, was $812 million, compared with $601 million in 1997. Airclaims said total aircraft losses came to $388 million, lower than the annual average for the rest of the 1990s of $423 million. However, the $424 million cost of major partial aircraft losses was twice the average for the rest of the 1990s.

Passenger and crew fatalities worldwide on Western-built jets in 1998 rose to 806 killed in nine fatal accidents, up from 630 in seven fatal accidents in 1997.

—By Edwin Unsworth

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Allianz

Continued from previous page
notes, with Allianz's trigger for exercising the option tied to a predetermined level of German windstorm and hail losses. Allianz would not disclose what the trigger is.

Although the option was placed to cover Allianz's own risks, Mr. Bruendler says it could structure similar programs for clients.

"We see one application in the area of residual value cover," he said. An option issue, for example, could be used by an airline that seeks to guarantee the residual value of its fleet, he said.

Mr. Bruendler said alternative risk financing options can be a way for large companies to hedge risks they cannot tame with traditional insurance and reinsurance.

"This option structure is clearly an improvement over traditional catastrophe bonds," said Detlev Bremkamp, member of the board of management of Allianz A.G. Holding.

"If reinsurance costs rise after a catastrophic loss year, Allianz will be able to transfer its second-year loss exposure to the capital market," he said. However, the option allows Allianz to use more cost-effective reinsurance, if available, he added. As a result, Allianz can continue to purchase protection through traditional reinsurance, rather than exercise the option, if that is more cost-effective.

Joachim Faber, a board member of Allianz, said the move is a "capital market approach that secures an alternate distribution channel for insurance-linked risks at a competitive price."

In years to come, Mr. Faber sees momentum for insurance-linked products in capital markets as they move to a variety of new or hard-to-place risks.

"The completion of the $150 million catastrophe bond option is a signal to industry," said Mr. Bruendler. "We place strategic importance on innovative, tailor-made financial solutions."

The transaction was structured and executed by Allianz Risk Transfer, the alternative risk transfer arm of the Allianz Group with headquarters in Zurich. Goldman Sachs served as sole placement agent. Risk analysis was provided by Menlo Park, Calif.-based Risk Management Solutions, which evaluated Allianz's exposure to windstorms and hail using catastrophe modeling technology. BI

India

Continued from previous page
He agrees that delays in passing legislation might hurt Indo-foreign business relationships in the "medium term." Nevertheless, "a number of very important U.S. companies are waiting to do business there. India is capable of having a world-class insurance industry. The opportunity is a prize worth waiting for, and I am sure many (insurance companies and risk managers) will do just that."

Whereas former governments and the 1997 IRA Bill favored gradual deregulation, passage of the IRA Bill (1998) would mean the immediate liberalization of the insurance sector.

While both Indian and foreign companies would be allowed to operate in the sector, foreign equity would be limited to 26% for foreign partners and 14% for non-resident Indians, foreign institutional investors and overseas corporate bodies.

The bill attempts to safeguard, to some extent, the flow of premiums out of India, with a clause that resident Indian partners can phase out their holdings to no less than a 26% share of capital after six years. Foreign companies would not be eligible to purchase the phased-out capital.

The bill gives the Insurance Regulatory Authority, an executive body formed by the Indian government, sole licensing power in the sector, though the government will retain the right to veto IRA decisions.

While the bill seeks to remove the monopolies held by the state-run Life Insurance Corp. and General Insurance Corp., it recommends that the government-owned GIC become the exclusive national reinsurer. All insurance companies would be required to cede to the GIC an as-yet-unspecified amount of the premiums written within the country.

Though government officials refuse to comment on the bill until it is passed, an insider said resistance was only in part politicking. "Though the Congress-I Party pioneered the IRA bill, they hoped to topple the current government by now opposing it," he said. "Aside from this, Indian partners are certainly apprehensive about privatization and foreign partnership. But this will not prevent the bill from being passed soon."

Some opponents of the legislation contend it should limit foreign equity more. Hard-line opponents say the market should be limited to private Indian companies. Unions are demanding that the definition of what constitutes an Indian company be re-examined. The unions also want to reassess the immense financial contribution of nationalized companies—the GIC and LIC jointly contribute about $5 billion annually to India's coffers—before the doors to privatization are finally opened. BI

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LIMIT, Munich Re deal

Stop-loss contract for Lloyd's capital provider

By EDWIN UNSWORTH

LONDON—LIMIT P.L.C., the largest corporate capital provider to Lloyd's of London, has entered into a novel stop-loss reinsurance contract with Munich Reinsurance Co.

The innovative five-year contract aims to smooth out earnings fluctuations over underwriting years from 1998 to 2002 by capping LIMIT's losses at a certain level. The deal will also give Munich Re a share in LIMIT's profits up to a certain aggregate limit.

Further details of the contract, including the amount at which LIMIT's losses would be capped and the level at which Munich Re would share in profits, were not disclosed. However, Michael Carpenter, LIMIT's managing director of finance, said LIMIT is paying a "pretty moderate" premium.

The contract was developed and negotiated by Instrat, a London-based unit of Sedgwick Group P.L.C.

Jonathan Agnew, LIMIT's chairman, said in a statement: "This reinsurance contract will give considerable protection to LIMIT's shareholders at an acceptable cost."

Mr. Carpenter said he was not aware of any other Lloyd's corporate capital provider arranging such a reinsurance contract. He added that the Munich Re contract will protect LIMIT as the market enters the down part of the underwriting cycle after profitable years in 1994, 1995 and 1996.

LIMIT has looked at stop-loss products since it was set up in 1994, but felt it would be unlikely to call upon stop-loss reinsurance unless there were a significant catastrophe, explained Mr. Carpenter.

Now, with 1998, 1999 and 2000 appearing to be the bottom of the underwriting cycle "it looks like a sensible time to take out this type of reinsurance product," he said.

Munich Re already is a reinsurer for LIMIT's Bankside Syndicates Ltd. and Janson Green Ltd. managing agencies.

Although LIMIT has reduced its capacity in the Lloyd's market for the 1999 underwriting year because of competitive market conditions, it has increased its involvement in Bankside and Janson Green. Not only are competition and capacity keeping rates low in the London market, but underwriters are making further concessions on prices and conditions (see story, page 12).

The reinsurance arrangement most similar to the LIMIT/Munich Re deal was one from last July between CLM Underwriting Ltd., a unit of CLM Insurance Fund P.L.C., and Swiss Reinsurance Co., though it did not include a provision for the reinsurer to share in any profits of the underwriter.

CLM Underwriting arranged with Swiss Re a three-year aggregate stop-loss coverage for 1998, 1999 and 2000, providing catastrophe reinsurance as well as financial protection in case of major movements in equity markets. The terms and conditions are confidential, though the participants said the combination of hazard risk and financial risk coverage underlines the trend toward integrated risk financing solutions. BI

Trader's actions cause significant loss

By EDWIN UNSWORTH

LONDON—A loss of nearly $10 million due to unauthorized trades by a London-based derivatives dealer is unlikely to be insured, though coverage for such risks now exists.

London-based independent trader John Park incurred an approximately £6 million ($9.9 million) loss in late December on trades done on Eurex, the successor to Germany's Deutsche Terminbourse.

Mr. Park bought German government bonds requiring a margin of about £10 million ($16.5 million)—10 times the £1 million ($1.7 million) he had lodged with GLH (Derivatives) Ltd., a company with about 60 independent traders trading predominantly on their own account on the London Financial Futures and Options Exchange. As the market in German bonds moved against Mr. Park, his losses mounted. Once they exceeded his authorized limit they became the responsibility not only of GLH, but also of the company that provided it with clearing facilities.

The loss is raising questions in Europe about the financial exposures that such events create and what companies and individuals can do to protect against them.

In late 1997, an underwriter at Lloyd's of London began offering a special insurance policy to cover the risk of losses from so-called rogue traders (*BI*, Oct. 13, 1997).

On Dec. 30, the U.K. regulatory body for the sector, the Securities and Futures Authority, shut down GLH and Griffin Trading Co., a London unit of a Chicago-incorporated company of the same name that provided a clearing facility for GLH and other traders on derivatives transactions.

Not only did Mr. Park's actions lead to the closure of these two companies as their responsibility for meeting his losses left them with insufficient funds to meet trading rules—and to Griffin Trading Co. of Chicago filing for Chapter 7 U.S. bankruptcy protection—but they also caused losses for the other independent traders using GLH and Griffin who had to cover the shortfall.

In total, about 140 independent traders, made up of the 60 at GLH and others who cleared their trades through Griffin in London, had their accounts frozen by the SFA and stand to lose considerable sums that could be drawn upon to meet Mr. Park's losses.

The SFA was unable to put any figure on the total sum involved, saying the margins that traders had deposited with Griffin would likely have varied considerably from one trader to another.

Griffin in London did not return calls, and Griffin in Chicago referred calls to its lawyers, from the firm Mayer Brown & Platt. Calls to the firm were not returned.

A spokesman for the SFA said he was unaware whether any of the parties involved in the Griffin case would have had any insurance to cover their losses, as it is not an SFA requirement.

Given Griffin's Chapter 7 filing, though, it appears unlikely that it had insurance that would respond to the losses incurred by Mr. Park.

Such coverage became available in recent years, following a string of high-profile losses caused by rogue traders, including the 1995 collapse of Barings P.L.C. as a result of more than $1 billion losses from unauthorized derivatives trading.

In October 1997, underwriting agency SVB Syndicates Ltd. became a leader in underwriting rogue trading cover when it launched its Lloyd's Unauthorised Trading Policy for financial institutions. SVB director Stephen Burnhope said that while no clearing houses have applied for coverage under SVB's policy, the coverage could have been readily adapted to respond to the Griffin affair.

The SVB policy covers a loss sustained as a result of trading that was concealed by a trader, exceeded permitted limits, was in unauthorized instruments or was conducted with unapproved counterparties.

Mr. Burnhope said there has been steady interest in the policy since its launch, and that "recent events are more likely to increase rather than diminish interest" in such cover. BI

Winds

Continued from page 29

about £7 million ($11.6 million) for the Christmas weekend and less than £5 million ($8.3 million) for the New Year period. However, because the storm occurred over the holiday period, the claims are taking longer than usual to come in, the spokeswoman added.

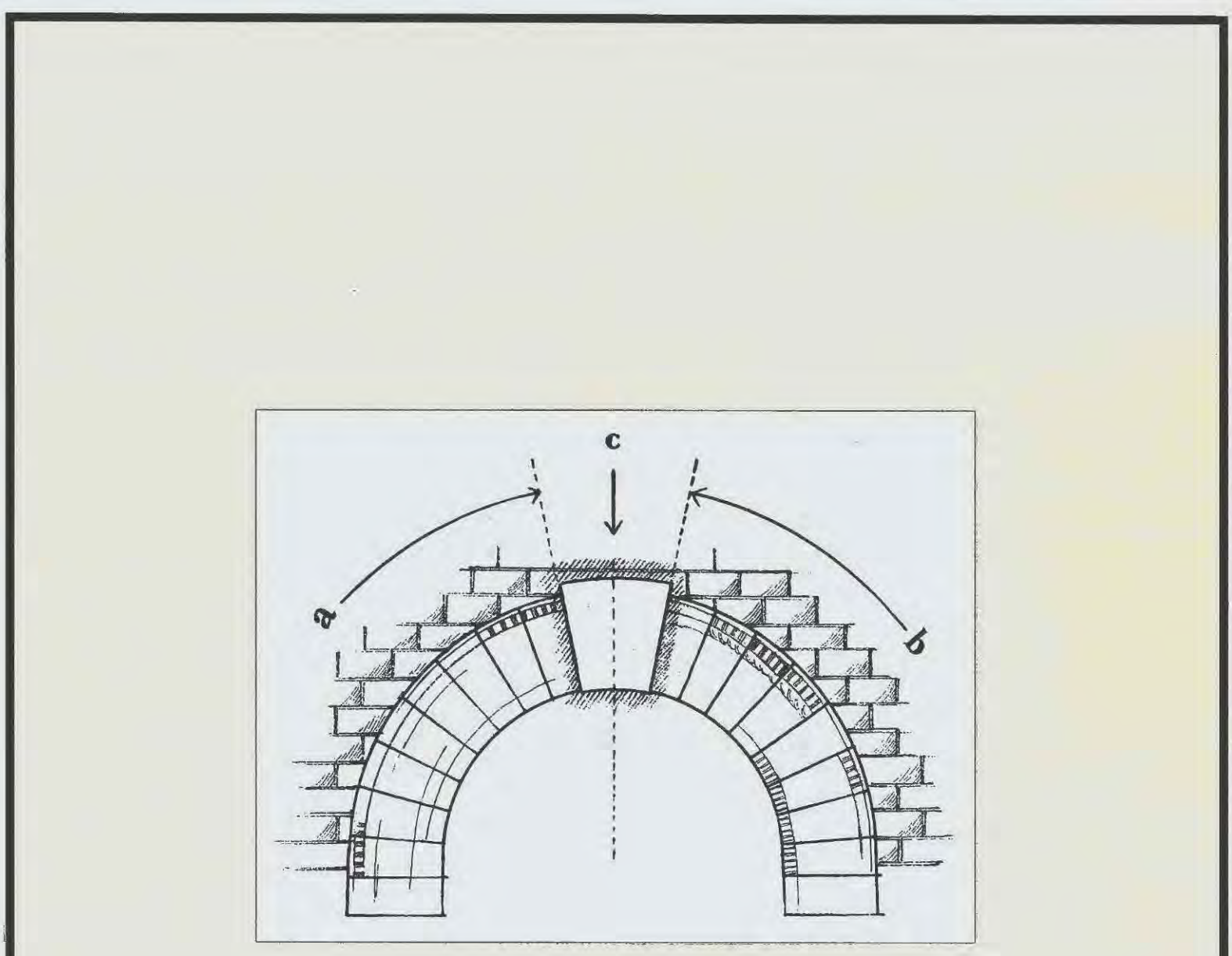
The Assn. of British Insurers calculated loss levels "in the tens of millions rather than hundreds of millions," said a spokesman. Nevertheless, commercial property damage will take longer to identify and report because of the number of businesses closed over the Christmas and New Year period, he added, so that estimate could rise.

Loss adjuster McLarens Toplis estimates losses in Scotland—one of the worst-hit areas—could reach £50 million ($82.7 million). Scotland saw the strongest winds in the region in more than 20 years. Structural damage to buildings in central Glasgow sealed off one city street, and road bridges were closed because of the danger of high-sided vehicles being blown over. Thousands of homes were without power for up to four days and ferry services to the Scottish islands were cancelled.

Among the losses in Scotland that McLarens Toplis has been dealing with are a printed circuit board manufacturer claiming £500,000 ($827,000) and a paper manufacturer claiming £250,000 ($414,000), both for roof replacement. The final loss total might go even higher, said a McLarens Toplis spokesman, because the adjuster's figure doesn't take into account claims settled immediately by insurers.

The adjuster's call center and claims notification system were 10 times busier than usual after the storms.

The Irish Insurance Federation still is gathering figures from its members, though a spokeswoman said the losses in Ireland will most likely be less than last year's level of £63 million ($94.1 million) during the holiday period. BI



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Insurance Σ Finance

Terra Nova to exit marine hull, energy

By EDWIN UNSWORTH

LONDON—Terra Nova Insurance Co. Ltd., a wholly owned London subsidiary of Terra Nova (Bermuda) Holdings Ltd., is withdrawing from marine hull and marine energy underwriting.

The decision comes only a couple of weeks after Guardian Royal Exchange P.L.C. announced it would pull out of the U.K. energy sector because of intense competition in the market.

Nigel Rogers, Terra Nova group president and chief executive, said the withdrawal from these lines of insurance will enable Terra Nova to redeploy its capital and human resources to business with greater profit potential, specifically cargo, marine liability and fixed-premium protection and indemnity insurance.

"This move is designed to restructure our resources to bring better focus and talent to bear as we seek to enhance our service to our brokers and clients," Mr. Rogers said. He also said that soft pricing in the marine and energy market will not turn until there is significant withdrawal of capacity.

Mr. Rogers emphasized that the change at Terra Nova will not extend to marine hull and energy business underwritten by two Lloyd's of London syndicates that are managed by Octavian Syndicate Management, a wholly owned Terra Nova subsidiary.

The marine and energy business that Terra Nova is exiting accounted for around $20 million of the more than $1 billion in annual premiums for the Terra Nova group, he said.

Lloyd's agent to buy U.S. managing agency

By SARAH GODDARD

LONDON—In what is believed to be the first deal of its kind, a Lloyd's of London agent is negotiating to buy a U.S. managing agency.

Wellington Underwriting P.L.C. has agreed in principle to buy J. Linneman & Co., an agency registered in Delaware and headquartered in San Francisco. It also has offices in Hartford, Conn.; Chicago; and Atlanta. Wellington said it will pay $4.2 million for Linneman, and is in the process of carrying out due diligence on the organization. The deal is expected to close by the end of next month.

Linneman has been placing business into Lloyd's syndicates through a binding authority for years, said Wellington Managing Director Julian Avery. For the 1998 year of account, the binding agent signed about $18 million in premiums into the Lloyd's market.

The acquisition means that the from the binding agent, which is managed by London broker Benfield Greig Ltd., now will go into Wellington's new syndicate, 2020. The new syndicate was formed by merging Wellington's three syndicates, 51, 672 and 1028. It is writing against £400 million ($673.2 million) capacity for the 1999 year of account.

The deal will allow Wellington to write business that is too costly to place through traditional techniques.

"We see it as a natural source of growth and development," said Mr. Avery. By channeling premiums to the syndicate under the binding authority, Wellington can write business that would be too costly to place using traditional London market techniques, he added.

In addition, Wellington can get closer to its clients through its ownership of Linneman, said Mr. Avery. "We intend to work extremely closely with Linneman," he said, and he expects the agency will become an integral part of the Wellington group.

In the future, the binding authority may be extended beyond the property/casualty facultative reinsurance business it currently writes.

"We are looking at ways to develop new business lines" within the company, said Mr. Avery. Nevertheless, he said Wellington will remain committed to brokers as the main source of its business.

Wellington is not the only Lloyd's business aiming to extend its distribution channels through such moves. LIMIT P.L.C. recently said it is actively looking to acquire managing agencies both in North America and Europe to widen its international reach. BI

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Letters

Names not allowed sufficient grasp

To the editor: The headline on a Nov. 30 letter to the editor, "Lloyd's Rejects Requisitionist Views" seems premature. The names have not spoken and it is the names who constitute the society of Lloyd's of London.

The bylaws in dispute hand over control of the Council of Lloyd's to the new corporate investors there. Principally these are Bermudian and American insurance companies buying books of business. They have no long-term interest in the mutual structure of the society of Lloyd's. The inadequate Central Fund underpinning the protection of all policyholders is threatened by the way in which these companies are allowed to conduct their business.

The fact of the matter is that the reforms proposed are not in the interests of names and not in the interests of the maintenance of the mutual Society. They are, therefore, against the interests of policyholders.

The transfer of business at Lloyd's from a society of unlimited liability names locked in a mutual structure to a society of limited liability subsidiaries of offshore companies seeking to break up the mutual structure, is a transfer wholly against the interests of policyholders. It is also totally against the interests of all the ceased and continuing names who accepted the Lloyd's Reconstruction and Renewal package in 1996.

The proposals were objected to by all names associations and members agents. They were not significantly modified as a consequence of the objections.

The requisitionists believe that the proposals of the Council of Lloyd's are wrong and contrary to the interests of maintaining a mutual society and are contrary to the interests of deceased and continuing names. Many continuing names, including members of the High Premium Group and of the Assn. of Lloyd's Members, have backed the requisitionists' call for revoking these bylaws. More than 5,000 names have sent proxies to achieve that result.

A high proportion of the members of the society of Lloyd's have been prevented from understanding what the issues at stake are. Lloyd's refused to circulate the requisitionist point-of-view to members, or to allow the requisitionists access to members' addresses for "self-help."

In an unprecedented move, the extraordinary general meeting was called with only 20 days notice, thus effectively preventing many American and Canadian names from understanding the issues and voting to protect their interests.

It is completely incorrect to suggest that there have been 12 months of "discussion, debate and consultation with the Membership." The ALM is the only names organization with which consultations were conducted. Seven out of its nine Board members are in receipt of salaries from Lloyd's or Equitas or Lloyd's Members Agents.

The Council of Lloyd's instructed members agents to advise their principals to vote against the resolutions and gave them a misleading briefing about the requisitionists not being representative of the society as a whole.

Those who called the Lloyd's EGM will now seek the support of the English courts to have the meeting conducted fairly and with all names understanding the issues. It is to be hoped that insurance regulators in America also wake up speedily to the changes taking place at Lloyd's, and move to protect policyholders from the increasing riskiness that is represented by a Lloyd's policy as a result of the transfer from names to corporate capital.

Sir Richard Cooper
EGM Initiative
Kingham, Oxfordshire
England

Equitas receptive to compromise

To the editor: I read Eugene R. Anderson's Nov. 30 letter to the editor regarding Equitas. While I am not an Equitas defender—our clients are all policyholders—it is fair to say that our experience has been significantly different from that of Mr. Anderson.

The London market will undoubtedly litigate aggressively, but we have also found Equitas to be receptive to a reasoned settlement process. The Equitas representatives have been polite, knowledgeable and fair in efforts to work toward solutions to the claim dispute. We have observed no "seething rage."

It is important to remember that many of the claims represent real disputes, with real differences of opinion and vague or shifting legal standards. Resolution requires compromise, and when one approaches Equitas with a principal-to-principal dialogue focused on a business solution—rather than a legal demand painted in extreme terms—Equitas has been willing to listen and work toward such a solution.

It would be unfair to leave your readers with the impression that they have no choice but to litigate to solve their disputes with Equitas.

William J. Russell
President
Dispute Resolution Management
Denver

Clinton proposes long-term care initiative

By ROSEANNE WHITE

WASHINGTON—The federal government may offer its employees and retirees non-subsidized long-term care insurance as early as next year.

The coverage is part of a proposal President Clinton announced last week.

The government said it hopes "to serve as a model employer by offering quality private long-term care insurance to federal employees at group rates."

This move could boost private-sector employer and employee participation in long-term care insurance programs, experts say.

If the federal government offers non-subsidized long-term care insurance to its employees, the coverage will become a more expected or standard benefit in the private sector, predicted Janice Stanger, a San Francisco-based principal and head of the national long-term care task force for benefit consultant William M. Mercer Inc.

Private-sector employers will see a need to offer the benefit to remain competitive in hiring, Ms. Stanger added.

Employee participation rates also will increase because of the government's initiative, she said. "As people become more aware of the issue and the existence of this insurance, more people will buy it," Ms. Stanger said.

Susan Coronel, long-term care director for the Health Insurance Assn. of America in Washington, said a federal long-term care benefit program would serve as a "seal of approval" of the product. "It will definitely serve as an example" for employers that have been indecisive about whether to offer the benefit, she said.

The government's step also "may answer doubts employees have about the product," she said.

The federal government's long-term care insurance proposal is one piece of a four-part White House initiative to address the nation's long-term care needs. The other elements in the proposal are:

- A $1,000 annual tax credit for those with long-term care needs, or for relatives who house or care for ill or disabled persons. Married couples earning no more than $110,000 annually and unmarried persons earning up to $75,000 annually would be eligible.
- A National Family Caregiver Support Program, which would be available only for persons 60 or older and the relatives who care for them. The program would provide money to states on a population-based basis to work with community agencies to provide respite care and other services; to distribute information about community-based long-term care services; and to offer counseling, training and peer support for caregivers. Services would be offered on a sliding fee scale basis.
- A campaign to educate Medicare beneficiaries about the program's long-term care coverage limitations and how to evaluate long-term care options.

The entire four-pronged proposal would cost $6.2 billion over five years, the White House estimated.

The proposal to provide non-subsidized long-term care insurance to federal employees requires legislative action by Congress.

If the legislation passes, the Office of Personnel Management would begin educating federal employees about the coverage and soliciting bids from insurers, an OPM official said.

The government would strive to offer a "progressive benefit design consistent with guidelines issued by the National Assn. of Insurance Commissioners and the Health Insurance Portability and Accountability Act," the OPM official said. Inflation protection and a pool of money appropriated for long-term care needs—rather than specific monetary benefits for specific services—are examples of progressive design features that would be considered, the official said.

New employees and those signing up for coverage in the initial open enrollment period would be subject to no or minimal underwriting requirements, according to an OPM release. Coverage would be guaranteed renewable.

Those eligible to purchase the coverage would include: federal employees and retirees, their spouses, former spouses entitled to annuities under a federal retirement system, and parents and parents-in-law of federal employees and retirees. Coverage would be offered at group rates that the OPM estimates would be 15% to 20% below individual policy costs. Of the 8.7 million eligible for coverage under the federal government program, the agency projects 300,000 would participate. Projected program administration costs would be $15 million over five years.

Nancy Bern, senior vp of business insurance for John Hancock Mutual Life Insurance Co. in Boston, applauded the education efforts in the proposal, but said more must be done. Meeting the nation's long-term care needs requires participation from both the public and private sectors, and the proposal "doesn't go far enough in pulling in the private sector," she said.

Making long-term care insurance premiums tax-deductible would encourage more people to buy the coverage, she said.

The HIAA also advocates tax-deductible long-term care premiums. Currently, under the Health Insurance Portability and Accountability Act, premiums can be deducted only if the taxpayer's itemized medical expenses amount to 7.5% of gross income, and then only the portion that exceeds that percentage can be deducted.

An HIAA study released last fall indicated that, as of the end of 1996, 1,532 employers offered long-term care coverage. Most provided no premium subsidy. In employer programs with no premium subsidy, an average of 6% of employees participated, the study found.

Among the measures the HIAA favors to strengthen participation rates are offering long-term care coverage in flexible benefit plans and allowing deductions from individual retirement accounts to cover long-term care expenses, said Ms. Coronel.

While the government proposal may spur more employers to offer the coverage, Mercer's Ms. Stanger said she doesn't see employers subsidizing the coverage in the near future. But employers will strive to offer innovative long-term care coverage packages, she said. For example, they might package long-term care with another benefit, such as universal life. BI

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Hardship

Continued from page 1

with William M. Mercer Inc. in New York.

"The IRS realized that some employers needed more time to make the necessary adjustments. At the same time, employers who have already made the changes will not have to undo something that already has been done," he added.

Giving companies the option of complying with the new law in 1999 or giving them an additional year to comply is an excellent compromise, said Rita Metras, director of total compensation at Eastman Kodak Co. in Rochester, N.Y.

"Some companies needed more time, while others did not," she added.

Others, though, note that the one-year relief notice would have been a lot more helpful if it had come out earlier.

"There was a lot of scrambling," pointed out Larry Heller, a director at PricewaterhouseCoopers in Fort Lee, N.J.

The issue involving hardship withdrawal rollovers originated in a 1997 law that exempted certain distributions from individual retirement accounts from a 10% penalty tax that normally applies to fund withdrawals made before retirement.

Exempted from the 10% tax are funds withdrawn from IRAs used for a first-time home purchase and higher-education expenses.

Under the new law, employers will have to inform employees which savings plan funds can and cannot be rolled over to an IRA without penalty.

The 1997 law kept the 10% tax in place, however, for these and other types of withdrawals from 401(k) plans.

It didn't take long, though, for employees and their advisers to figure out that the 10% tax on 401(k) hardship withdrawals could be avoided with only a little extra work.

First, an employee requests from his or her employer a hardship withdrawal from a 401(k) plan but asks that the funds be directly rolled over to an IRA. After that, the employee withdraws the funds from the IRA and uses the money for a first-time home purchase or higher education expenses.

This two-step procedure allowed employees to escape the 10% penalty tax that would have applied if they had taken the money straight out of the 401(k) plan without rolling it into an IRA.

Congress got wind of this tax loophole technique and last year partially closed it. The IRS Restructuring and Reform Act of 1998 includes a provision that says pretax 401(k) salary deferrals no longer can be rolled over to an IRA.

The new law, though, allows employees to continue to withdraw other funds from their savings plans, such as employers' matching contributions, and roll over those funds to an IRA. These other withdrawals will continue to be exempt from the 10% early withdrawal penalty tax.

As a result of this distinction, the 10% penalty tax loophole was only partially closed by Congress' action.

This presents significant administrative hassles for employers: Other IRS regulations often require employees taking hardship withdrawals from 401(k) plans to withdraw a combination of employee pretax contributions and other funds.

Under the 1998 law, employees withdrawing a combination of funds will face different withdrawal rules and taxes, which is a big change from today's simple withdrawal structure.

For example, under the old law, an employee who wanted to take a hardship withdrawal of $5,000, consisting of $3,000 in pretax contributions and a $2,000 employer match, could simply roll over the $5,000 to an IRA.

Under the new law, though, employers will have to tell employees that pretax contributions can't be rolled over under a hardship distribution to an IRA. At the same time, employers will have to explain that other savings plan funds can be rolled over to an IRA without penalty.

That requirement under the law will require employers to step up their communications efforts.

More importantly, the automated 401(k) payment systems that many plan administrators now have in place will have to be overhauled to accommodate the new environment, which will involve differences between the hardship withdrawal rules for employees' pretax contributions and those for other savings plan funds. BI

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Sub-total	**32,926**
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Government, Unions and Educational Institutions	931
Commercial Consumers Sub-total	**34,116**
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Insurance Companies	6,668
Accountants, Actuaries, Attorneys & Consultants	2,520
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Total Qualified	**53,235**
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TOTAL CIRCULATION	**53,255**

★ *Source Business/Occupational breakdown of qualified circulation,3 May 25, 1998 Issue, as submitted to BPA for June 1998 BPA Publisher's Statement*

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Employers expect health rate hikes

Employers are bracing for steep increases in health insurance rates and claims costs this year, according to a new survey.

Employers surveyed by Towers Perrin project that health plan costs for active employees will rise an average of 7% in 1999. That's nearly double the 4% estimate for 1998 rate hikes given by respondents in last year's survey.

The 213 employers surveyed project that their HMO rates will rise an average of 8%, while traditional indemnity plan costs will climb an average of 5%. Point-of-service plan rates will increase an average of 5%, and preferred provider organization plan costs will rise an average of 4%.

Reasons for the escalation in rates and costs include managed care plans trying to recoup past losses, higher prescription drug costs and an aging population that uses more health care services, said Bill Falk, a principal in Towers Perrin's Chicago office.

Forklift training regs effective March 1

WASHINGTON—New training standards for operators of forklifts and other powered industrial trucks will take effect March 1.

OSHA

The guidelines, which the Occupational Safety and Health Administration issued late last year, are expected to save employers $135 million a year in direct and indirect costs, according to OSHA. The agency also estimates that complying with the guidelines will cost employers $16.9 million a year.

The OSHA standards require that employers take several steps. For example, they must institute training programs, including both formal instruction such as lectures and written safety materials as well as "practical" training including demonstrations of how to operate machinery safely. Employers also will have to conduct periodic evaluation of employees at least once every three years.

The new standards cover maritime, construction and general industry.

Ruling may deter frivolous suits

SAN FRANCISCO—A recent California Supreme Court ruling will make it easier for state government agencies to obtain reimbursement of legal fees from plaintiffs who file meritless lawsuits.

The ruling in *Mary Kobzoff et al. vs. Los Angeles County Harbor/UCLA Medical Center* stems from a case in which a man escaped from a county hospital and was killed after he jumped in front of a truck.

His family sued Los Angeles County, alleging medical malpractice and negligence. The high court found in favor of the county and ruled that plaintiffs can be forced to pay defendants' legal costs if the suit either was not brought with reasonable cause or was not brought in good faith.

Comings & Goings: Industry

Gustafson

James E. Gustafson has been elected president and chief operating officer of The St. Paul Cos. Inc. of St. Paul, Minn. He previously was president and COO of General Re Corp. of Stamford, Conn. Douglas W. Leatherdale remains St. Paul's chairman and chief executive officer. Mr. Gustafson joined Gen Re in 1969 and was heavily involved in the reinsurer's integration of Cologne Reinsurance and National Reinsurance.

Joseph W. Brown Jr., former chairman of Talegen Holdings Inc. and former chief executive officer of Fireman's Fund Insurance Cos., has been named CEO of financial guarantee insurer MBIA Inc., based in Armonk, N.Y. He succeeds **David H. Elliott**, who said he plans to remain as MBIA board chairman until May, when he expects Mr. Brown will be appointed to that position as well.

NAC Re Corp. of Stamford, Conn., has named **Nicholas M. Brown**, president, to the additional post of CEO. He assumes the duties of CEO from **Ronald L. Bornhuetter**, who will continue as chairman.

Mark Boozell becomes senior vp of the alternative market operations of Aon Corp. of Chicago effective Jan. 25. Mr. Boozell had served as chief of staff for former Illinois Gov. Jim Edgar and also had been director of the Illinois Department of Insurance.

AIG offers liability cover for IPOs

NEW YORK—American International Cos., a unit of American International Group Inc., has introduced IPO Gold, a directors, officers and corporate liability insurance program for initial public offerings.

IPO Gold, which offers up to $50 million in limits, covers corporations, their directors, officers and employees for IPO and post-IPO exposures, including allegations of fraud and mismanagement, inaccurate financial/operational projections, changes in company strategy, inadequate or inaccurate disclosure of information, and improper accounting practices.

Additionally, coverage is provided for criminal, civil, administrative, regulatory and arbitration investigations and proceedings against directors and officers; Securities and Exchange Commission investigations; and protection in the event of the company's bankruptcy.

Policyholders also may cover others commonly named as codefendants in IPO securities claims, including selling and controlling shareholders, attorneys, accountants and experts.

For information, contact Robin Kestenbaum, assistant manager-marketing for American International Cos., 212-458-1716.

Information in brief

Reliance Group Holdings Inc. and **Tian An Insurance Co.** have signed a letter of intent partnering their programs. New York-based Reliance will provide reinsurance for insurance products developed jointly and will train and provide technical support to Tian An's Shanghi, China-based operations. The partnership is part of Reliance's efforts to expand into the Asia/Pacific region. . . . New York-based **American International Group Inc.** said its merger with retirement savings and asset accumulation provider **SunAmerica Inc.** was to have taken effect Jan. 1. Eli Broad, chairman and chief executive officer of SunAmerica, and Jay S. Wintrob, vice chairman and chief operating officer of SunAmerica, were elected to AIG's board of directors. . . .Companies that failed to meet the EPA's Dec. 22 deadline for corrosion protection, spill prevention and detection requirements for **underground storage tanks** could be subject to criminal penalties of up to five years in prison, according to the Office of Underground Storage Tanks. . . .**Access Health Group** last month completed the purchase of Woodland Hills, Calif.-based Foundation Health Systems Inc.'s Healthline call center for $38 million in cash. The companies also entered into a 10-year agreement in which the Access Health Group, a division of HBO & Co., will provide call center services to FHS health plan enrollees. HBO & Co. is a medical software firm based in Atlanta. . . .**Towers Perrin** announced it will open a National Employee Benefit Center in Chesapeake, Va., in the summer of 1999. The facility will help clients manage retirement, health and welfare plans and human resource functions. Headquartered in New York, Towers Perrin has similar facilities in Philadelphia, Australia, Europe, and Canada. . . .The **Louisiana Department of Insurance** was reaccredited earlier this month by the National Assn. of Insurance Commissioners. The department was originally accredited in 1993. . . .Rhode Island Gov. Lincoln Almond has officially declared **Rhode Island** a "showcase state" for disaster resistance, the first such designation in the nation. The showcase state program is a public-private partnership aimed at mitigating the impact of natural catastrophes (*BI*, Nov. 16, 1998). Gov. Almond also announced the formation of a statewide disaster recovery business alliance to help employers cope with catastrophes. . . .**Robert L. Sill,** CEO of Cleveland-based Alex N. Sill Adjustment Co., was named the National Assn. of Public Insurance Adjusters 1998 Person of the Year in December. BI

Agents

Continued from page 1

payments to providers during review was equal to denying claimants benefits.

Insurers and risk managers fear that if the high court rules that workers comp insurers are agents of the state, it will mean unjustified restrictions in how companies administer workers comp and other government-regulated insurance programs.

The result, they warn, could be higher costs and less flexibility.

The case stems from Pennsylvania's 1993 workers comp reforms. Those reforms created a utilization review process "under which the reasonableness and/or necessity of an employee's (current, prospective or past) medical treatment could be reviewed."

The 1993 law allows an injured worker to go to the physician of his or her choice for the first 90 days of treatment for a work-related injury. The provider submits bills directly to the insurer, which then has 30 days to either pay the bill or file for utilization review of the claim. The reviewing organization then has another 30 days after the request for UR to issue a report. If the treatment is found to be reasonable and necessary, the insurer has to pay the billed amount, plus interest.

If the UR organization finds the treatment unnecessary or unreasonable, the insurer doesn't have to pay the bill unless the finding is overturned on appeal to a workers comp judge, the state's Bureau of Workers Compensation or a court.

The 1993 law permits—though it does not require—insurers to withhold payment for disputed medical bills during the entire review process.

Ten plaintiffs, led by Ms. Sullivan—a secretary for a state workers comp judge—asked the U.S. District Court for the Eastern District of Pennsylvania in Philadelphia to certify as a class of defendants all insurers and self-insured employers that had invoked the UR provision and withheld reimbursement. Government officials and agencies also were named as defendants.

The plaintiffs claimed that the UR provisions violated their due process protection because they did not receive "advance notice and prior opportunity" to be heard regarding the suspension of payments—even if temporary—to their providers.

The insurers moved to dismiss the case, arguing that they were private companies not bound by constitutional restraints, rather than state actors. The district court granted the insurers' motion in January 1996 and late in that year dismissed the part of the case brought against the state, ruling that the 1993 reforms did not violate procedural due process.

In March 1998, however, a panel of the 3rd U.S. Circuit Court of Appeals in Philadelphia reversed the lower court regarding the status of insurers. The decision read, in part, that "although the insurance companies are private entities, when they act under the construct of the workers' compensation system, they are providing public benefits which honor state entitlements. In effect, they become an arm of the state, fulfilling a uniquely governmental obligation under an entirely state-created, self-contained public benefit system."

The appeals court also declared unconstitutional the part of the statute that allowed insurers to withhold payment while disputing the reasonableness of the treatment.

The insurers appealed to the Supreme Court, which will hear the case next week.

Risk managers and insurers are watching the case closely.

The appeals court decision sets a "dangerous precedent," said Anne Allen, director-government affairs for the Risk & Insurance Management Society Inc. in New York.

"I don't think a private employer or a private company should be construed as acting as an arm of the government," she said.

If the high court rules against the insurers, risk managers of self-insured companies also will face several hitherto unasked questions, said Lance J. Ewing, chairman of RIMS' External Affairs Team and director-insurance and loss prevention for GES Exposition Services Inc. in Las Vegas.

For example, if a state considers private companies to be state actors, "do you have the same immunity rights as the state's political subdivisions?" asked Mr. Ewing. Mr. Ewing, who was previously loss control administrator for the School District of Philadelphia—itself a defendant in the Sullivan suit—noted that public entities often are limited in their liability by law, whereas private concerns are not.

"Once this gets settled, we, as risk managers, must go through the process of determining where our liability begins and where the state picks back up again," he said.

"The concern is that it could possibly go beyond" workers comp questions, said Joyce E. Kraeger, a staff attorney with the Alliance of American Insurers in Downers Grove, Ill. Automobile insurers might also be deemed state actors because of state financial responsibility laws requiring that motorists buy auto insurance, she said.

At a minimum, a Supreme Court decision upholding the 3rd Circuit "absolutely" could drive up workers compensation costs, because of additional restrictions placed on insurance companies ability to control costs through UR, Ms. Kraeger said.

Pennsylvania's UR process was an effort to curb abuses and bring down costs, but "with the court throwing a wrench into that system," costs associated with workers comp will rise, she said.

The appeals court's "expansionist definition of state action would transform not only insurers but other regulated businesses into arms of the state, as the 3rd Circuit characterized insurers," said Bruce Wood, assistant general counsel of the American Insurance Assn. in Washington.

"The 3rd Circuit's test really has no logical limits—virtually all of us become state actors," he said. In addition, "self-insureds are not distinguished here. A self-insured would be subject to the same state action analysis as insurers," which could mean that risk managers could be viewed essentially as state actors, he said.

Both the Alliance and AIA joined in a brief to the high court urging that the appeals court decision be overturned.

The attorney representing Ms. Sullivan and the other initial plaintiffs disagreed as to the scope of any decision.

"The argument in the case is limited to the context of the particular statute," said Lorrie McKinley, a partner in the Philadelphia law firm of McKinley & Zonier.

"We think the public character of the benefits and the interconnections between the state and the insurance companies in the stoppage of benefits that's at issue here makes them state actors in that context. We have never argued that they are state actors for any other purpose. That would have to be decided on a case-by-case basis," she said. "The extent to which that would even have an impact beyond this particular provision isn't clear," she added.

But a staff attorney with the AARP Foundation Litigation, the legal arm of the Washington-based American Assn. of Retired Persons, said he did see the impact of the case as possibly extending beyond workers comp. The AARP Foundation Litigation filed a brief with five other groups in support of the 3rd Circuit decision with the Supreme Court.

The AARP brief read, in part: "In sum, the insurance companies' actions are intertwined with those of the state, and they can only suspend payments pursuant to that relationship and in reliance on state authority. Furthermore, taking that action is the typical function of a state agency, as the insurers have been thrust into a role historically played by agencies. Finally, the state has aggravated the harm by locking injured workers into a system that was supposedly a fair replacement for the expense and vagaries of tort law but which instead authorizes unilateral and indefinite suspension of that most cherished of modern rights, health coverage."

The case is "important to AARP and our members, not just because of the workers comp issue but because private entities, especially insurance companies, act in governmental roles in carrying out the Medicare program. So this case could have a large impact on the operation of the Medicare program," said Gill Deford, the AARP staff attorney. BI

Data

Continued from page 2

Medicare recipients and rates for coronary artery bypass grafting per 1,000 Medicare recipients.

Major differences can be clues to opportunities to improve the quality of health care delivery in an area.

"At a time when there are lots of changes in the health care field, variations are the essence of what people care about," Dr. Jonathan T. Lord, chief executive officer of the AHA, said at a news conference last week.

While there may be multiple reasons for variations in practice patterns, Dr. John E. Wennberg, who leads the atlas research team at Dartmouth Medical School in Hanover, N.H., said evidence indicates that "variation now exists because patients are not fully informed about options and not empowered to enter the decision-making process."

For that reason, all of the employer projects using the Dartmouth Atlas emphasized the concept of shared decision-making, in which the patient is informed of all possible treatment options so he or she can take a more active role in treatment selection.

The projects are part of a study initiated by the MBGH and the AHA's Health Research and Educational Trust. It was funded by a grant from the Robert Wood Johnson Foundation. MBGH solicited proposals from its members in 1997 and chose three demonstration projects for the study: one in Muncie, Ind.; one in Milwaukee; and one in Wichita, Kan.

"Employers have been working on quality improvement for a long time," said Mr. Mortimer of the MBGH. "We used to believe quality can be improved everywhere."

Now, using the variations uncovered through atlas data, employers can answer the question, "Where is it worth the time and money to go in and improve the system?" he said.

The study's aim was to show how employers, in collaboration with physicians and hospitals in their communities, can find their greatest opportunities to effect positive change in their health care systems and position their quality efforts accordingly.

The study resulted in a 34-page booklet, A Health Care Purchaser's Guide to Using the Dartmouth Atlas. The booklet instructs employers on the steps of a quality initiative from getting started, to using the atlas data in both the print and CD-ROM viewer versions, planning a course of action, finding assistance and handling potential problems and pitfalls. It also includes profiles of the Muncie, Milwaukee and Wichita projects and lessons learned from them.

Although the three demonstration projects had different goals and objectives, all involved groups of employers, cardiologists and hospital officials examining how their area's rates for various coronary artery disease treatments and procedures compared with similar markets. In each of the three cities, rates for balloon angioplasties, a procedure intended to clear clogged arteries, were higher than average.

According to the study organizers, the Muncie project, led by General Motors Corp., has attained the most success to date in using data to make changes in patient care.

"We want our people to be well-informed on quality issues so they become better consumers," said Russ Towner, director of health care initiatives for GM in Anderson, Ind.

The automaker chose Muncie because it wanted to establish a better relationship with providers and other employers in the region. General Motors teamed with Cardinal Health System and Ball Memorial Hospital, Ball State University, the Indiana Hospital & Health Assn. and a group of cardiologists.

The data pointed to the patient selection criteria for angioplasty as offering the greatest potential for medical staff involvement and practice pattern improvement, the project profile states. Additionally, that issue was chosen for study because of the incidence of heart disease in the region.

"One of the keys to success was to keep the project narrowly defined," Mr. Towner said.

According to the Atlas database, Muncie physicians performed 8.08 balloon angioplasties per 1,000 Medicare enrollees in 1995, 26% higher than the U.S. average of 6 procedures per 1,000 Medicare patients and 43% higher than the 4.58 procedures per 1,000 patients in nearby South Bend, Ind.

A working group reviewed the data and tried to explore reasons that the city's angioplasty rate varied from other markets, said Dr. Christopher Hollon, a Muncie cardiologist who is part of the project team.

The Muncie action plan also included visiting demographically similar cities in Indiana that have lower rates of angioplasty and bypass surgery and identifying patient selection criteria for angioplasty. Also, over the past six months, patients undergoing elective surgery have been shown a video that discusses all of the treatment options for coronary artery disease to help them participate as partners in their treatment selection. The long-term goals include measuring outcomes and determining the impact of the video on patients' treatment choices.

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Copies of "A Health Care Purchaser's Guide to Using the Dartmouth Atlas" are available by calling the MBGH at 773-380-9090 or by accessing the coalition's World Wide Web site at www.mbgh.org.

Reserves

Continued from page 2

serves.

The IRS said the 20-year-old reciprocal of about 2,000 doctors, mainly in Utah, overstated undiscounted unpaid losses by $13 million in 1991 and by $19.4 million in 1992.

Judge Colvin did not dispute that mid-range reserving levels would have been more accurate. But, he ruled that the IRS could not impose such a "hindsight" standard on insurers.

Judge Colvin noted that Tillinghast's wide reserving range reflected Utah Medical's modest capitalization, the fact the insurer provided a single line of coverage in a limited geographic area and the high and rising cost of an increasing number of medical malpractice claims the insurer's policyholders were filing.

Utah Medical's reserving decisions also "reasonably" took into account the insurer's mid-1980s solvency problems, which stemmed primarily from underreserving earlier in that decade, Judge Colvin ruled.

In addition, in their triennial review of Utah Medical's annual statements, Utah insurance regulators did not object to the reciprocal's 1991 and 1992 reserving levels, the judge noted.

All of those factors make "reasonable (the insurer's) estimates of reserves for 1991 and 1992," Judge Colvin ruled. "The fact that (Utah Medical's) loss estimate for 1986-92 proved, with hindsight, to be higher than actual payments does not make (its) choice of values unreasonable. (Utah Medical's) reserves for unpaid losses must be fair and reasonable, but are not required to be accurate based on hindsight."

While Utah Medical's 1992 reserves were 26.6% higher than the losses that eventually developed, the medical malpractice insurance industry that same year established reserves that were 23.6% too high, the judge noted. "This suggests that (Utah Medical's) estimates were fair and reasonable."

Insurer attorneys said they expected other alternative risk financing insurers to cite the Tax Court's decision in battles with the IRS.

Before this decision, insurers settled such disputes with the IRS, said Utah Medical attorney Richard Bromley, a partner with Hopkins & Sutter in Chicago. But the formulas developed to resolve such disputes "have worked less and less well" in recent years as the financial complexity of reserving issues have magnified, he said.

"This will be very helpful to companies in this posture," he said.

Insurer attorney James Cameron, a partner with Baker & McKenzie in New York, agreed that the decision will be "extremely useful" for captive insurers and risk retention groups.

"Small insurance companies cannot afford to make the mistakes large insurance companies can make" in reserving, he said. "If they make a mistake, they can be out of business."

Allowing insurers to select reserving levels from a reasonable range of recommended levels "gives them more stability," he said.

The ruling also "gives policyholders the comfort that the reserving decision will continue to be a business decision and not a tax-driven decision," observed attorney Tracy D. Williams of Hopkins & Sutter.

"But this is not a panacea to put any number on the books for reserving," Mr. Bromley said. "It has to be certified as reasonable."

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Utah Medical Insurance Assn. vs. Commissioner of Internal Revenue, U.S. Tax Court; T.C. Memo. 1998-458.

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Commentary

Caution: Read this at your own peril

Product warning labels are often so insulting to consumers' intelligence that I would venture to guess most people don't even bother to read them anymore, except perhaps for a laugh.

I understand that a product manufacturer has a duty to warn its consumers about the hazards involved in using its product, or else it can be held strictly liable for any resulting injury. Still, I think the legal eagles have been working overtime anticipating the ways consumers might use or misuse a product.

For example, a new video camera recorder comes with a bold-faced "CAUTION" in capital letters: "TO PREVENT ELECTRIC SHOCK, MATCH WIDE BLADE OF PLUG TO WIDE SLOT, FULLY INSERT." If an individual doesn't know how to plug an electric cord into a wall socket, I suspect that he or she can't read, either.

A pair of spikeless golf shoes I purchased required me to peel from one shoe this warning: "Spikeless golf shoes do not have the same traction as golf shoes with spikes." Right.

And a manual on a television set that runs on both alternating and direct current warns: "Do not watch television while driving." Given that I have seen plenty of people reading the morning paper in traffic jams, should newspapers carry a similar warning?

Kathryn J. McIntyre

I am not the only one who has noticed the absurdity of warning labels. The Michigan Lawsuit Abuse Watch, a watchdog group advocating policies to restore common sense to our legal system, awards prizes in its annual "Wacky Warning Label Contest." The winner was a warning on a baby stroller: "Remove child before folding."

Other submissions of note, as reported at www.mlaw.org/whacky.htm, include:

- On prescription sleeping pills: "Warning: May cause drowsiness."
- On a fireplace lighter: "Do not use near fire, flame or sparks."
- On a hand-held massager: "Do not use while sleeping or unconscious."
- On a cartridge for a laser printer: "Do not eat toner."

Some might argue that outrageous warnings are needed because of outrageous lawsuits.

For example, in 1977, an insurance company advocating tort reform published an advertisement in *Business Insurance* and elsewhere that referred to a case in which a plaintiff won damages for injuries suffered while using a lawn mower as a hedge clipper. The plaintiff allegedly won the suit because the manufacturer failed to warn that a lawn mower shouldn't be used as a hedge clipper, despite the plaintiff's misuse of the product.

Our editor-at-large, Jerry Geisel, who was then an associate editor of our publication, decided to look into the details of the case. However, neither he nor anyone else could find the suit or judgment anywhere.

I suspect the kind of egregious misuse of products that is anticipated by idiotic warning labels is really an overreaction to the danger of frivolous lawsuits—be they real or imagined.

Manufacturers are missing the mark, though, by sticking labels on their products that warn of every potential dangerous misuse. They should instead warn of the real dangers inherent in a product. "Keep out of the reach of children," for example, is indeed an important caution on poisonous cleaning products.

My laptop and keyboard both have warnings that may be intended to protect the manufacturer but also serve as reminders to me to watch my posture while writing: "Warning: To reduce risk of serious injury to hands, wrists or other joints, read Safety & Comfort Guide."

Warning of potential danger from every possible misuse of a product, however, invites consumers to stop reading all warning labels, because they too often state the obvious.

If a manufacturer does feel compelled to warn consumers about the obvious, I'd appreciate some acknowledgement of my intelligence, as exhibited by a shampoo maker whose product warning about the dangers of anything but external use begins: "Common Sense Caution."

Indeed, serious warning labels on products would be much more effective if they were labeled "Important Warnings," so consumers could skip the legalese and move on to the really important stuff, such as instructions like: "Before using your camcorder, you first need to install and charge the battery pack."

Publisher and Editorial Director Kathryn J. McIntyre's commentary appears biweekly.

Top Layer

Continued from page 2

event and don't go much beyond that," he said.

However, the increasing size of many primary insurers and the availability of large limits from one source should enable Top Layer to win business, Mr. Ament said.

"They'll have the ability to do half a billion in one shot rather than syndicate to 20 or 30 reinsurers, and we think that will be of value to large insurers," he said.

Top Layer will be capitalized with $50 million letters of credit from State Farm and Renaissance Re. On top of that will be a $2.9 billion stop-loss reinsurance contract provided by State Farm Mutual Automobile Insurance Co.

State Farm has $38 billion in capital.

The maximum line will be $500 million per program and $500 million per zone.

The typical rate on line will be between 2% and 3%, said David Eklund, executive vp of Top Layer and Renaissance Re. The minimum rate on line will be 1%, and the minimum annual premium will be $1 million.

Top Layer also will be able to offer single-event high-level coverages that securitized reinsurance deals often are structured to cover, he said.

"You'll be able to do a capital markets structure, but with one player," Mr. Eklund said. BI

Union

Continued from page 1

in an effort to set up offshore trusts for their families and to obtain a bank license in the Republic of Nauru in the Western Pacific, court filings say.

The civil complaint charges the defendants with self-dealing and numerous other breaches of duties under the Employee Retirement Income Security Act of 1974. Among other things, it seeks an order forcing them to repay money allegedly diverted from the fund, along with a permanent injunction barring them from managing ERISA plans in the future.

U.S. District Judge Jacob Mishler entered a preliminary injunction Dec. 24 freezing the defendants' assets and appointing an independent fiduciary to oversee the plan's administration.

The independent fiduciary will determine whether the fund can survive as a viable entity or whether it should be liquidated. He is scheduled to file a status report to the court by Jan. 24.

The IWG plan is the latest in a series of allegedly phony union benefit trusts that federal regulators charge are designed to avoid being identified as multiple employer welfare arrangements subject to state insurance regulation. Under federal law, collectively bargained Taft-Hartley union plans are excluded from MEWA status and exempt from state regulation.

One of the most widespread of these schemes was the National Council of Allied Employees, which operated nationwide through several independent "locals" and triggered a barrage of federal and state civil and criminal actions in the early 1990s.

Several state insurance departments, including North Carolina's and West Virginia's, already have sued those involved in operating the IWG plan.

The Labor Department's IWG complaint, filed Dec. 15, names the International Workers' Guild and its health and welfare trust, along with:

- Fidelity Group Inc. of Great Neck, N.Y., administrator of the IWG benefit fund. The company is unrelated to mutual fund manager Fidelity Investments.
- National Assn. of Business Owners & Professionals Inc., a purported employer organization claiming to have a collective bargaining agreement with IWG.
- Eugene Duncan and Dwayne Samuels, Fidelity's owners and its president and vp, respectively. Mr. Duncan and Mr. Samuels at one point also were owners and officers of NABOP, which acted as administrator of the IWG fund before Fidelity took over.
- David Spooner, Fidelity's director of finance.
- Lee Jarmolowsky, Fidelity's general manager.
- Carol Samuels and Yvonne Duncan, president and vp of NABOP, respectively, and the wives of Messrs. Samuels and Duncan.
- Paul Askew, Charles Bradley, Terence Rhue and Noel Shaw Jr., trustees of the IWG benefit fund. Mr. Askew is IWG's business agent; Mr. Rhue is also the owner of NABOP.

Several of the IWG plan's operators are related, federal investigators found. In addition to Messrs. Duncan and Samuels and their wives, investigators discovered that Mr. Bradley is Mr. Duncan's half-brother and that Mr. Askew is Mr. Samuels' brother-in-law. Jerrilyn Askew, Mr. Askew's wife, is Fidelity's human resources manager, court filings say.

A receptionist at IWG's headquarters said last week that no one was in the office but that she had been instructed to say the union had no comment on the Labor Department lawsuit. NABOP's phone has been disconnected.

The IWG benefit plan was marketed in at least 21 mostly Northeast, Mid-Atlantic and Southern states through a network of more than 100 commissioned salespeople. As of October, a NABOP list showed 3,720 people covered by the plan, court filings say.

Under the plan, to qualify for one of four benefit packages available through the union, employers became NABOP members and their employees became associate members of IWG.

Employers sent monthly contribution checks to Fidelity, which would deduct its administration fees and forward "association fees" to NABOP and "union fees" to IWG.

A glossy Fidelity brochure described the company as "a leader in corporate benefits" serving a large number of corporations and administering benefit plans for "2,000 groups nationally in more than 38 states through key regional locations," according to court filings.

In fact, a review by a Pension and Welfare Benefits Administration investigator found Fidelity's sole source of revenue was the IWG health plan.

IWG and NABOP themselves are "sham entities," the Labor Department charges. "IWG and NABOP are vehicles for siphoning off money from the fund via contrived IWG union dues and NABOP association fees. Their collective-bargaining relationship is similarly a sham designed to mask such diversions and to defeat the operation of state insurance laws."

Unlike a typical union, IWG, which began operating in 1995, took "members" from any industry, and its membership rolls include employees from retail businesses, law firms, real estate companies, medical offices, restaurants and other workplaces, PWBA investigators say in court filings.

In addition, no real union organizing or collective bargaining occurred in any of these workplaces: "Employers, with the single goal of obtaining health benefits for their employees, agree for themselves and for their employees to become members of IWG and NABOP—simultaneously—by executing standardized agreements handed to them by sales agents," the Labor Department argues.

NABOP used most of the fees it received to pay sales agents to market the plan, regulators say.

Overall, the fees taken by those operating the health plan were "abnormally large," the Labor Department asserts. Fidelity, for example, took $6.9 million in fees, or 29% of employer contributions of $24.3 million, from January 1997 through August 1998. Those fees fluctuated wildly from month to month, ranging from about 13% of contributions to a high of 50%, regulators found.

PWBA investigators say they had trouble determining how the fees were calculated. IWG documents appeared to limit administrative fees to 15% of contributions, though other IWG and Fidelity documents allowed Fidelity to take up to 38%.

Mr. Spooner, Fidelity's finance director, told investigators that the administrator simply "took what they needed," one investigator said in a court filing.

Fidelity's expenses included the salaries of Mr. Duncan and Mr. Samuels, which together totaled $614,258 in 1997. The two men also received compensation from NABOP, as did their wives, investigators say.

Along with Fidelity's fees, another $1.5 million to $2 million in association fees went to NABOP in 1997 alone, and $650,000 to $700,000 in union dues went to IWG.

Meanwhile, the fund was building up a huge backlog of claims. Fidelity received about 500 claims a day, and its four claims processors could handle about 400, creating a 100-claim-per-day pileup, investigators found.

In March 1998, this backlog amounted to $8.6 million in claims; by last October, it had ballooned to 78,127 claims for a total of $25.1 million and did not include "six horizontal shelves" of claim files that had not even been recorded, a PWBA investigator said.

One small employer in South Carolina complained to the Labor Department that he had offered to pay his employees' medical expenses with his personal credit card because of the IWG plan's non-payment, court records show.

Mr. Duncan told investigators that the backlog figure includes many double- and triple-counted claims that could cut the total by 75% to 80%. Even if that were true, this would still leave a backlog of at least $5 million, a PWBA investigator said.

The benefit plan's operators also failed to manage its underwriting and reserving properly, federal regulators charge.

Fidelity and IWG officials never went to an actuary to help set contribution rates. Instead, the fund adopted the rates used by another New York-based purported union benefit trust that is also being sued by the Labor Department and that the Labor Department alleges is insolvent.

The IWG fund also maintained no cash reserve for claims, an investigator said. Mr. Spooner told investigators that a reserve is obtained by "subtracting expenses from profits" and that if the fund "operates in the black," it has a reserve; Mr. Duncan said the fund's reserve was depleted by $2 million in claim overpayments, court filings say.

As they sorted through the union fund's records, federal regulators say they also became concerned that plan assets might be "expatriated" offshore. Court papers say financial records showed that in 1997 Fidelity paid $40,875 to a New York company called Trust Corp. for consulting on setting up offshore family trusts for Messrs. Duncan and Samuels; applying for a banking license in the Republic of Nauru; forming a St. Vincent, British West Indies, bank management company; and forming three corporations in Nevada and London, court papers say. BI

Liberty Re

Continued from page 1

Staff at Liberty Re's London office were told Wednesday that operations were closing immediately. Liberty Re had been writing business that morning, confirmed Richard Hazell, chairman of Liberty Mutual Insurance Co. (U.K.) Ltd. In addition, Liberty Re Chief Executive Officer John Engestrom left the company last week, and Mr. Hazell has taken over.

Mr. Engestrom could not be contacted late last week, and details on Liberty Re's operating results were unavailable.

Liberty Mutual Group's other London market operations will continue, however, and capital left after Liberty Re's runoff will be used to expand business in Latin America and Europe, Mr. Ramey said.

"We have identified several countries where we may expand," either by acquisition or by starting up new operations, he said. "Our commitment to growth remains firm."

London operations include Liberty Mutual (U.K.) and Liberty Syndicate Management Ltd., which manages syndicate 190—Mr. Hazell's former Lloyd's syndicate—and syndicate 282.

Liberty Mutual (U.K.)'s book includes marine and aviation business and non-life reinsurance. In 1997, its last reported results, the insurer had revenues of £106.3 million ($175.5 million) and profits of £71.2 million ($117.5 million).

Liberty Re will run off its business, though Mr. Hazell did not know how long the winding down will take.

Liberty Mutual is "absolutely committed" to paying every claim to the "letter and the spirit of the law," said Mr. Ramey. He planned to notify policyholders by the end of last week, he said. All risks that had been agreed but not bound also will be honored, added Mr. Hazell.

The sudden closing surprised some rating agency analysts.

Rafael Villarreal, vp and senior credit officer at Moody's Investors Service Ltd. in London, said the reinsurer was "a good opportunity, and they gave it a try for a little while." With market conditions so poor, runoff was "a very sensible decision." He expects other London insurers and reinsurers to follow as low returns on equity reduce shareholder dividends.

But, he does not foresee an exodus from London, even though Zurich Reinsurance Co.'s London operation moved its book of business to Switzerland last year, and several London market companies have withdrawn from underpriced risks.

The Liberty Re decision was "clearly an indication on what is happening in the market generally," said Greg Carter, managing director of A.M. Best Europe in London. "The prices are tight, and the company was so strongly capitalized that it would have been difficult to generate the returns," particularly when there are no signs of the market turning, he said. A turn would require several players quitting or "significant" losses, he said.

As a recent start-up operation, Liberty Re had scant time to establish itself within the highly competitive London market. Although the reinsurer had announced an intention to write multiline business, it primarily wrote life business, as well as tailored alternative risk transfer solutions. Liberty Re stated in 1997 that it planned to write $100 million in premium in its first year and to make a 15% aftertax return on capital in three to five years.

In fact, it took longer to set up the reinsurer than it took for the company to begin and stop underwriting.

Liberty Mutual announced Liberty Re's formation in May 1995, but regulatory authorization was delayed as the company scrambled to find executives.

Graham Potter, former managing director of Copenhagen Reinsurance Co. (U.K.) Ltd., joined the Liberty Re start-up team but left in late 1995. He is now an underwriter for CLM Managing Agency Ltd. at Lloyd's of London. Liberty Re's first CEO, James Payne, retired at the end of 1995.

Mr. Engestrom was appointed to head Liberty Re early in 1997, after he had turned around Mercantile & General Reinsurance Co. P.L.C. as CEO. Swiss Reinsurance Co. bought M&G Re in 1996. The U.K. Department of Trade and Industry finally granted a license to Liberty Re in October 1997, in time for the January 1998 renewals.

"The big problem was that when Liberty had the idea of Liberty Re, it didn't find the people in a timely fashion," said Mr. Hazell. "We were still trying to find the way of setting this company up and not recognizing how the rest of the market was moving. . . .We were not quite as conscious of what else was going on in the market."

By the time the reinsurer had taken on the people it needed, the market had changed dramatically, said Mr. Ramey, who has headed Liberty International for about a year. Despite a "good group of people with energy and commitment," it was soon obvious that the return on capital would be insufficient, and that the market circumstances were going to get worse rather than better, he said.

Meanwhile, Standard & Poor's Corp. downgraded the financial strength and counterparty credit rating of Liberty Re last week to BBB from A- and placed the reinsurer on CreditWatch with negative implications. BI

Options

Continued from page 2

November it stayed roughly equal to 1997's levels.

In December, though, open interest fell to 10,997 contracts, a 32.2% drop from November 1998, and 36.8% below the number of open contracts in December 1997.

Carlton Prouty, an independent broker who trades the CBOT's catastrophe options contracts, attributed December's drop to the expiration of annual contracts. "I think we're sitting right around 11,000 right now."

"Personally, I think we're alive and well," he added. "We've got orders in the National annual contract for '99. We've got some in the Southeast; we've got some in California. We've got fairly good representation in June Midwest."

"The interest is still there. . .but the volume is down," said J. Michael Crouch, vp and treasurer at clearing firm Kottke Associates in Chicago.

But, he suggests open interest, not trading volume, is significant. "Virtually all of the open interest is in the hands of commercial and professional entities," he said. "The fact that there hasn't been a trade isn't the issue. The fact that the open interest is in the hands of the right people is the issue."

"I don't think (the volume drop) is a commentary on the viability of this as a risk transfer mechanism," said Robert W. Montgomery, managing director at Sedgwick Lane Financial L.L.C. in Chicago. "It's been my experience that we still enjoy a very wide and growing constituency."

A growing group of investors "use this instrument as an investment that is uncorrelated and has very wide appeal," Mr. Montgomery said.

Sophisticated investors recognize cat options as a tool for diversifying portfolios, he said. "It's true for an individual, and it's true for large pools of capital around the world that use it as an investment tool."

"You can say that the industry hasn't embraced it as much as we would have liked the past year, but there are a whole host of reasons they haven't embraced it," Mr. Montgomery said.

One major factor is insurers' relatively good year in 1998, despite catastrophe activity.

"I know that even though we've had a lot of (insured) losses. . .generally they've had a pretty good year, and they've controlled their risks, by and large," Mr. Montgomery said.

Mr. Prouty noted that no dramatic catastrophe occurred. "I think the industry on a whole had a pretty good year in terms of nothing major, and that's kind of been the story here," he said. "Especially in the last quarter, nothing ever materialized."

"I certainly think with any dramatic catastrophic event, we would see a quick upsurge of interest," he said. If Hurricane Georges had "nailed Louisiana and New Orleans, it would have been a different story here."

"We're not going to see any real significant activity until we get an event similar to Hurricane Andrew, a direct hit on the U.S. on a major population center," said Dave Russell, an assistant professor of insurance at Illinois State University. "The reinsurance market is glutted, prices are low, there's currently no need for alternative risk transfer mechanisms."

"But that situation could change overnight," Mr. Russell said. And if it should, "the Board of Trade will assume a major role in a very short period of time," he said.

Ongoing consolidation in the insurance industry is another factor Mr. Montgomery said limited cat option activity last year.

Consolidation breeds uncertainty in many companies, he said, and in times of uncertainty people tend to look toward what they know rather than more innovative approaches.

Mr. Crouch suggested that another factor is simply the cat options market's ongoing evolution.

"I think that the exchange is still trying to define the contract, define the best use for the industry," he said. "Any time you go into an industry, you try to find an instrument that will benefit the industry the most."

A significant step in that process could be the adoption of a single-event contract, he said, a move currently under consideration.

Such an instrument, for example, would be tied to a single hurricane generating insured losses falling into a certain range. Currently, contracts are tied to total losses in a state or region over a three-month, six-month or 12-month period.

Single-event contracts "would certainly help us," Mr. Prouty said.

The exchange has tweaked the contract previously to make it better fit the needs of the industry. In 1995, the exchange began trading an expanded menu of catastrophe options based on loss data indices compiled by Property Claim Services, a unit of the Insurance Services Office Inc.

The PCS indices reflect actual industry catastrophe losses, unlike the indices underlying the cat futures and options when they first began trading at CBOT in 1992. Those original indices which were compiled by ISO Data Inc. based on loss data from a sample group of insurance carriers.

The move was acknowledged as providing a trading vehicle that better fit industry needs, and it did spur increased activity in the CBOT catastrophe contract.

With the exchange currently dealing with such higher priority issues as the Year 2000 bug and electronic trading, however, further refinement of the catastrophe options contract has been moved to the "side burner," Mr. Crouch said, though emphasizing that it has not become a "back burner" issue at the CBOT. BI

Updates

Centre issues second cat bond

HAMILTON, Bermuda—Centre Solutions (Bermuda) Ltd. has entered into a second risk securitization deal with a $56.6 million catastrophe bond deal backing retrocessional coverage against the risk of Florida hurricanes.

The one-year notes were issued by Trinity Re 1999 Ltd., a Cayman-domiciled special-purpose reinsurer created by Centre Re. Goldman Sachs & Co. was lead manager of the deal.

The issue includes a $5 million class that guarantees repayment of investors' principal at a later date in the event of a loss. In the second class of $51.6 million, investors' principal is threatened if Centre Solutions suffers losses as the direct result of a 1999 hurricane under an excess-of-loss reinsurance policy. This policy covers a book of Florida residential property insurance.

The transaction is similar to a $72 million cat bond deal Centre Solutions used last March to secure $72 million in retrocessional coverage for 1998 Florida windstorm exposures (*BI*, March 16, 1998).

DuPont settles discovery charges

COLUMBUS, Ga.—E.I. duPont de Nemours & Co. has paid $11 million to resolve plaintiffs' allegations that it withheld information from them in litigation over its Benlate DF fungicide.

U.S. District Judge Hugh Lawson last month entered an order outlining the settlement, under which DuPont will provide $2.5 million each to four Georgia colleges to fund instruction in legal ethics. They are the University of Georgia, Georgia State University, Emory University and Mercer University. DuPont also will pay $1 million to fund an annual symposium on legal ethics and has agreed to pay plaintiffs' costs and legal fees.

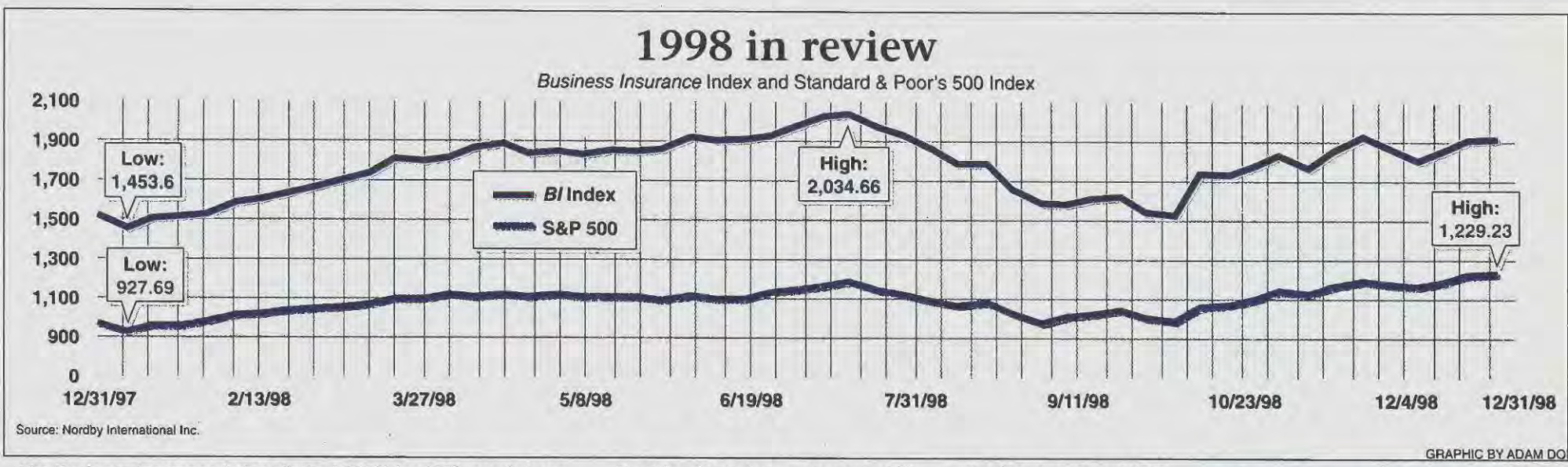
Alston & Bird, the Atlanta law firm that represented DuPont in the litigation, also agreed to pay $250,000 to the Georgia Supreme Court's Commission on Professionalism.

Neither DuPont nor Alston & Bird admitted any wrongdoing in the case, the first to be tried among hundreds of lawsuits charging that Benlate destroyed crops. Alston & Bird conceded a "fundamental misunderstanding" of the court's discovery requirements.

The Georgia plaintiffs brought their action for sanctions against DuPont in 1995, after they had settled their underlying damage claims, and then discovered the alleged misconduct. Judge Lawson last November ordered the U.S. Attorney's office to investigate the allegations to determine whether DuPont should be charged with criminal contempt of court. Federal prosecutors were scheduled to report their findings Jan. 4, but the investigation has been dropped as part of the settlement.

Briefly noted

Swiss Reinsurance America Corp. is reorganizing an inactive New Hampshire-based unit to expand the issuing of policies and other services it provides to Swiss Re's insurance company and alternative risk transfer clients. European Reinsurance Corp. of America, formerly a broker market reinsurance unit, now will operate as a direct property/casualty insurer, offering fronting and other services to Swiss Re clients alongside Swiss Re's North American Specialty Insurance Co. and North American Capacity Insurance Co. . . .Long Grove, Ill.-based Kemper Reinsurance Co., which was acquired by GE Capital Corp. last October, is being renamed **GE Capital Reinsurance Corp.** In addition, First Excess & Reinsurance Corp. will become a subsidiary of the renamed reinsurer. A statutory merger of First Excess and GE Capital Re, which is subject to regulatory approval, is planned for the second quarter of 1999. . . .House Banking Committee Chairman James Leach, R-Iowa, has introduced **financial services reform legislation** very similar to H.R. 10, the bill approved by the House last year. The measure, which enjoys the support of much of the insurance industry, would lower barriers between banks and insurers and would retain state regulation of insurance activities. . . .Roosevelt University in Chicago is establishing a **baccalaureate program in risk management and insurance** that it says will be the first of its kind in the Chicago area. The program, which will be available beginning in the 1999-2000 academic year, is designed to prepare students for many of the exams required for the Chartered Property and Casualty Underwriter designation. . . .The city of Atlanta is considering whether to join New Orleans and Chicago in **suing gun manufacturers,** said a city spokesman. In November, New Orleans sued firearms manufacturers, alleging that their products were "unreasonably dangerous" (*BI*, Nov. 9, 1998). Later that month, Chicago sued gun makers and sellers, alleging they were violating public nuisance laws by flooding the area with handguns (*BI*, Nov. 16, 1998). . . .Texas' new insurance commissioner is **Jose O. Montemayor**. He previously oversaw the Insurance Department's financial division. Gov. George W. Bush said he is appointing Mr. Montemayor to fill Elton Bomer's unexpired term, which ends Feb. 1. Mr. Bomer left the position to become a senior aide to Gov. Bush. The governor plans to reappoint Mr. Montemayor to a two-year term subject to confirmation by the state senate. . . .The National Institute for Occupational Safety and Health has issued a new publication containing strategies for reducing **workplace stress**. "Stress. . .At Work" suggests a three-step process for preventing stress problems in the workplace. The process involves identifying stress factors, designing and implementing solutions, and evaluating outcomes. . . .Fifty people have become ill and eight have died from an **outbreak of listeriosis,** according to the Centers for Disease Control. The same strain of bacterium was discovered in one unopened package of hot dogs produced by Bil Mar Foods Inc.'s Zeeland, Mich., packaging plant, which prompted its parent company, Sara Lee Corp., to recall several of its meat products. The Atlanta-based CDC is continuing its investigation of the outbreak.



GRAPHIC BY ADAM DO

The Business Insurance Index climbed 26.2% for 1998, nearly keeping pace with the S&P 500 Index increase and outpacing the Dow Jones Industrial Average's gain for the year.

Normalized figures, which track all three indexes according to identical starting points, show that the S&P 500 made the most progress this year, finishing at 1266.67, up 26.7% from 1000. The BI Index was close behind, finishing the year at 1262.18, up 26.2% from 1000. The Dow's 16.1% increase—to 1160.99 from 1000—was not as significant.

Tracking the indexes using actual figures, the BI Index started 1998 at 1517.58, reached a Jan. 9 low of 1453.60 and hit a high of 2034.66 on July 17. It finished the year at 1915.46. The S&P 500 started at 970.44, hit its 1998 low Jan. 9 at 927.69, and completed 1998 at a high of 1229.23 on December 31. Starting the year at 7908.30, the Dow went through a correction in August, September and October, hitting a low of 7784.69 on October 2. The Dow peaked at 9333.08 on Nov. 27 and then lost some ground in December to finish the year at 9181.43.

PWBA helps benefit plans with Y2K

By ROSEANNE WHITE

WASHINGTON—The Labor Department has released sample questions that investigators may ask benefit plan fiduciaries to determine plans' Year 2000 compliance.

The questions the Pension and Welfare Benefits Administration released last month that may be used in Year 2000 reviews during civil investigations of benefit plans include two that directly concern plan sponsors' computer systems: Has the plan obtained appropriate and timely information from the plan's sponsor regarding the Year 2000 compliance of its computer system? Has the plan's fiduciary considered the potential impact of a Year 2000 problem in the plan sponsor's computer system in developing the plan's contingency plan?

"Because a Year 2000 problem involving a plan sponsor's computer system could have an adverse impact on the plan, plan fiduciaries have an obligation to determine how best to address this issue," the PWBA said in a memorandum.

For example, if the plan's sponsor provides participant data that is used to calculate benefits, a Year 2000 problem in the sponsor's computer system could harm the plan's ability to make benefit payments, the memorandum states.

The 35 questions also cover, among other items, plans' internal computer systems; plan service providers' systems, including third-party administrators, financial institutions and health care administrators or providers; and investment-related issues.

PWBA warned plan fiduciaries in February and July 1998 of their responsibilities and potential liability under the Employee Retirement Income Security Act.

Certain questions also address investigations focused on banks, insurers, brokers, investment managers and other financial institutions.

Investigators have been given 10 sample questions concerning plan service providers. For example:

- Have contracts between the plan and its service providers been amended to address the plan's expectations regarding Year 2000 compliance? If so, the plan should provide copies of the contract amendments.
- What action has the plan taken to ensure that the remedial measures required to bring the service provider's computer system into Year 2000 compliance have been or will be implemented?
- Has the plan obtained documentation describing the service provider's contingency plan or the measures the service provider intends to implement in the event essential plan operations are disrupted due to a Year 2000 problem?

PWBA warned plan fiduciaries in February and July 1998 of their responsibilities and potential liability under the Employee Retirement Income Security Act. In addition, informal Year 2000-related guidance in a question-and-answer format was posted in July on the PWBA's World Wide Web site, www2.dol.gov/dol/pwba/.

The latest guidance responds to inquiries from benefit plan administrators, trustees and service providers about the information the government is seeking to demonstrate that plans are working to avoid or solve any potential Y2K problems, the PWBA said. BI

PCS catastrophe options

As of Jan. 8

Call spread	Price bid/ask
National Annual 1999	
40/60	11.0/15.0
60/80	6.0/12.0
80/100	4.0/8.0
150C	4.3/6.0
200/250	2.8/4.0
Southeastern September 1999	
40/60	2.6/—
60/80	1.9/3.4
80/100	1.4/2.8
Eastern September 1999	
40/60	1.5/—
California Annual 1999	
60/80	1.2/2.3
80/100	1.0/1.9
150C	0.5/2.7
Western Annual 1999	
80/100	0.5/2.2
Midwest June 1999	
10/20	1.0/1.4
Florida Sept./Dec. 1999	
100/150	2.3/—

Total volume: 0 Total open interest: 10,997

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

Source: Chicago Board of Trade

British Issues

Companies	Price pence	P/E	Div. pence	Yield %	52-week high-low
Gdn Royal Exch	345	5.4	13.4	3.8	495-227
Legal & Gen	813	23.3	13.3	2.1	834-500
Royal & Sun	551	16.0	23.6	4.3	825-437
Brokers					
Lmbrt Fenchurch	79	9.8	4.2	6.6	121-78
JLT	188	11.7	10.5	6.8	236-152

Note: Prices are Jan. 8 closings; other numbers from Jan. 7.

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

BI Industry Stock Report JAN. 4, 1999, THROUGH JAN. 8, 1999

BROKERS		Price	Weekly % change	Year to date % change	52-week High	52-week Low	Vol.(000)
Aon Corp.	NYS	55.75	-0.56	-0.56	75.56	48.25	2678
E.W. Blanch Holdings Inc.	NYS	46.06	-1.34	-1.34	49.25	33.00	195
Gallagher Arthur J. & Co.	NYS	44.56	1.86	1.86	46.75	33.56	175
Hilb, Rogal & Hamilton	NYS	19.13	2.68	2.68	19.88	15.38	76
Kaye Group Inc.	NDQ	7.13	-1.72	-1.72	8.06	5.13	16
Marsh & McLennan	NYS	61.00	3.17	3.17	64.31	43.38	3366
Poe & Brown	NYS	34.00	-2.68	-2.68	42.50	28.81	28
Sedgwick Group PLC	NYS	18.50	-1.33	-1.33	19.50	10.63	3
BROKERS	AVERAGE		0.09	0.09			
INSURERS/REINSURERS							
ACE Ltd.	NYS	33.19	1.53	1.53	43.00	24.38	3259
Accel International Corp.	NDQ	3.00	0.00	0.00	3.50	2.13	1
Acceptance Insurance Cos.	NYS	19.25	-3.14	-3.14	25.75	16.75	132
AEGON N.V.	NYS	120.06	-1.54	-1.54	130.13	44.50	493
Aetna Life & Casualty	NYS	89.81	12.53	12.53	89.81	60.19	4138
AFLAC Inc.	NYS	41.56	-5.54	-5.54	45.31	22.69	3019
Allmerica Financial Corp.	NYS	55.63	-1.77	-1.77	75.25	38.38	1667
Allstate Corp.	NYS	40.00	3.90	3.90	52.38	36.06	16766
AMBAC Indemnity Corp.	NYS	60.75	1.36	1.36	65.94	40.88	888
American Bankers Ins.	NDQ	48.06	0.65	0.65	66.06	30.13	982
American Financial Group	NYS	41.56	0.91	0.91	45.75	30.50	223
American General	NYS	74.44	-4.87	-4.87	79.00	52.31	3781
American Heritage Life Ins.	NYS	22.50	-6.49	-6.49	26.69	17.06	194
American Indemnity/Fin'l	NDQ	11.38	7.06	7.06	15.38	9.50	1
American International	NYS	107.19	10.08	10.08	107.19	64.88	17317
American Safety Insurance	NDQ	9.75	2.63	2.63	15.06	6.75	62
Argonaut Group	NDQ	26.25	9.38	9.38	37.50	21.25	193
AXA-UAP Group	NYS	77.00	7.60	7.60	80.25	36.19	365
Baldwin & Lyons Inc.	NDQ	25.25	8.02	8.02	26.00	18.50	9
Berkley W.R. Corp.	NDQ	32.38	-4.07	-4.07	49.88	25.25	395
Berkshire Hathaway Inc.	NYS	65300.00	-4.39	-4.39	84000.00	46100.00	5
Capital RE Corporation	NYS	20.13	2.88	2.88	38.69	14.75	468
Capitol Transamerica Corp.	NAS	19.50	10.25	10.25	22.75	15.00	45
Centris Group Inc.	NYS	10.63	13.33	13.33	14.81	7.94	262
Chartwell Re	NYS	25.31	8.87	8.87	34.63	21.94	103
Chubb Corp.	NYS	65.13	0.29	0.29	88.81	55.38	2865
CIGNA Corp.	NYS	83.00	6.75	6.75	83.00	55.94	4309
Cincinnati Financial Corp.	NAS	37.00	3.68	3.68	45.63	30.50	1295
Citigroup	NYS	57.88	14.46	14.46	73.50	28.50	67188
CNA Financial Corp.	NYS	40.31	2.54	2.54	53.25	34.50	177
CNA Surety	NYS	13.81	-7.53	-7.53	16.75	12.56	141
EMC Insurance Group Inc.	NDQ	12.53	-1.72	-1.72	15.88	9.00	17
ESG Re Limited	NDQ	21.88	10.41	10.41	28.88	12.75	284
Enhance Financial Services	NYS	27.94	-7.64	-7.64	37.56	17.31	491
Everest Reinsurance	NYS	37.63	2.56	2.56	45.25	28.75	1288
Executive Risk Inc	NYS	53.75	-0.23	-0.23	75.75	35.50	124
EXEL Ltd.	NYS	69.00	-3.58	-3.58	83.25	61.56	2150
Fremont General Corp.	NYS	25.25	4.66	4.66	31.06	18.00	506
Frontier Insurance Group	NYS	13.56	8.50	8.50	25.69	11.06	1881
Gainsco Inc.	NYS	6.19	-1.98	-1.98	10.00	5.75	105
Gryphon Holdings	NDQ	18.69	0.00	0.00	19.38	11.38	173
Harleysville Group	NDQ	23.00	-9.80	-9.80	28.50	17.25	187
Hartford Steam Boiler	NYS	40.25	0.16	0.16	59.56	34.75	290
HCC Insurance Holdings	NYS	19.75	16.61	16.61	23.94	15.63	899
ING Groep N.V.	NYS	66.38	8.81	8.81	76.75	36.06	565
IPC Holdings Ltd.	NDQ	21.88	-3.85	-3.85	33.25	19.00	1121
Hartford Financial Services	NYS	55.50	-0.56	-0.56	60.00	37.63	2616
LaSalle Re Holdings Ltd.	NYS	21.88	6.06	6.06	42.94	19.50	251
Lincoln National	NYS	83.69	0.98	0.98	98.88	67.00	1849
MAIC Holdings Inc.	NYS	33.00	3.13	3.13	33.13	23.25	141
Markel Corp.	NYS	178.75	-0.83	-0.83	187.00	132.00	31
MBIA Insurance Group	NYS	70.50	6.31	6.31	80.94	46.06	1366
Meadowbrook Insur. Group	NYS	16.50	1.15	1.15	35.00	14.94	104
MMI Cos. Inc.	NYS	17.69	5.99	5.99	26.00	13.75	102
Mutual Risk Mgmt. Ltd.	NYS	37.63	-0.82	-0.82	39.94	25.38	380
NAC Re Corp.	NYS	46.94	0.54	0.54	55.88	43.69	325
Navigators Group	NDQ	15.56	2.05	2.05	20.75	13.25	168
NYMagic Inc.	NYS	19.25	-7.78	-7.78	34.25	19.25	32
Ohio Casualty Corp.	NDQ	41.19	0.15	0.15	51.75	33.75	511
Old Republic Int'l	NYS	21.38	-0.29	-0.29	32.25	17.94	2341
Orion Capital Corp.	NYS	38.69	-1.28	-1.28	59.25	28.00	455
Partner Re Ltd.	NYS	45.19	0.00	0.00	52.50	33.63	476
Penn-America Group Inc.	NYS	9.38	1.35	1.35	23.00	8.13	32
PMA Capital Corporation	NDQ	18.63	-4.79	-4.79	23.75	16.25	69
Philadelphia Cons. Holding	NDQ	23.25	9.41	9.41	24.50	16.38	153
PXRE Corp.	NYS	23.94	-5.20	-5.20	35.25	20.63	52
Reliance Group Holdings	NYS	13.19	1.93	1.93	19.81	10.75	1036
Reliastar Financial Corp.	NYS	45.25	1.12	1.12	52.44	29.00	1305
RenaissanceRe Holdings Ltd.	NYS	35.25	-2.42	-2.42	50.75	34.50	135
Risk Capital Holdings	NDQ	21.25	0.59	0.59	25.50	18.81	128
RLI Corp.	NYS	33.00	-1.12	-1.12	45.63	30.69	22
St. Paul Companies	NYS	35.31	0.89	0.89	47.19	28.06	2848
SCOR	NYS	67.00	3.08	3.08	72.75	46.00	88
SAFECO Corp.	NDQ	41.75	-1.76	-1.76	56.00	38.25	3257
SCPIE Holdings Inc.	NYS	28.88	-3.95	-3.95	38.38	26.63	NA
Seibels Bruce Group	NDQ	3.50	0.00	0.00	8.38	3.06	88
Selective Ins. Group	NDQ	21.25	4.94	4.94	29.25	16.69	663
Terra Nova Insurance Co. Ltd.	NYS	22.94	-5.90	-5.90	35.00	22.50	367
TIG Holdings	NYS	15.81	2.02	2.02	34.31	11.63	1018
Tokio Marine & Fire	NDQ	58.31	-0.96	-0.96	61.38	39.00	163
Torchmark Corp.	NYS	35.13	1.08	1.08	49.81	31.81	2031
Transatlantic Holdings	NYS	75.19	-0.58	-0.58	94.50	68.75	211
Travelers Property Casualty	NYS	31.25	2.04	2.04	46.06	24.13	1925
Trenwick Group Inc.	NDQ	34.50	9.09	9.09	41.75	26.75	39
Unico American Corp.	NDQ	11.34	-1.63	-1.63	18.13	8.88	11
United Fire & Casualty	NDQ	33.75	1.41	1.41	44.50	32.00	11
Unitrin	NDQ	74.00	4.41	4.41	74.13	55.56	300
UNUM Corp.	NYS	61.88	3.23	3.23	61.88	41.75	4287
Vesta Insurance Co.	NYS	7.06	22.83	22.83	64.75	5.00	2177
Zenith National Ins.	NYS	23.00	-0.54	-0.54	30.50	22.50	47
INSURERS/REINSURERS	AVERAGE		1.94	1.89			
HEALTH MAINTENANCE ORGANIZATIONS							
Foundation Health Systems Inc.	NYS	11.06	0.57	0.57	32.63	5.88	2445
Humana Inc.	NYS	19.56	3.30	3.30	32.13	12.25	3833
Oxford Health Plans	NDQ	20.03	43.08	43.08	21.75	5.81	21718
Pacificare Health Sys.	NDQ	69.25	-3.15	-3.15	88.88	46.75	116
Safeguard Health Enter.	NDQ	4.31	21.05	21.05	13.19	3.28	40
Sierra Health Services	NYS	21.44	2.69	2.69	27.63	15.88	345
United Healthcare Corp.	NYS	45.50	2.10	2.10	73.94	29.56	5602
Wellpoint Health Networks	NYS	83.69	-2.55	-2.55	87.88	42.94	1802
HMOs	AVERAGE		8.39	8.39			
ALL COMPANIES	AVERAGE		3.47	3.46			

Top advancing issues: Oxford Health Plans, Vesta Insurance Co., Safeguard Health Enter. Leading decliners: Harleysville Group, NYMagic Inc., Enhance Financial Services. Most active issue: Citigroup. The *BI* Index gained 6.1%; the Dow Jones 30 Industrials increased 4.0%; the S&P 500 rose 3.5% and the NYSE Composite increased 2.8%. Average P/E: Brokers, 18.3; Insurers/reinsurers, 20.1; HMOs, 82.7.

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

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