

# Business Insurance

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

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## RIMS, QIC launching project to assess insurance quality

NEW YORK—The Risk & Insurance Management Society Inc. and The Quality Insurance Congress are launching a project to evaluate the quality of insurers and related service providers.

RIMS and QIC will jointly publish a "scorecard" that risk managers can use as a benchmark to assess insurance products and services and also will publish quality reports on individual insurers, reinsurers, brokers and third-party administrators.

One project objective is to define what See Updates on next page

## Massachusetts court reverses EMLICO move to Bermuda

State seeks receivership of insurer

By DOUGLAS McLEOD

BOSTON—The already bitter fight over Electric Mutual Liability Insurance Co.'s liquidation is descending toward the chaotic after Massachusetts' highest court ruled that EMLICO's 1995 move to Bermuda was illegal and state regulators sought to place the insurer in receivership.

The Massachusetts Supreme Judicial Court ruled last Monday that Insurance Commissioner Linda Ruthardt had no authority to allow EMLICO to redomesticate to a foreign country and that the insurer in effect never left Massachusetts.

The decision threw out a proposed settlement in which the state Insurance Department would have become ancillary receiver to EMLICO's Bermuda liquidators.

Two days later, Ms. Ruthardt filed a petition to place EMLICO in receivership as a preliminary step to possible liquidation in Massachusetts.

The ruling and petition amount to a victory for reinsurers that have battled for two years to reverse the redomestication.

Assuming it is granted, the petition also creates huge new uncer-

tainties for the EMLICO estate, though, including questions about which jurisdiction will control the estate, how control will be decided and whether the Bermuda liquidation will be hamstrung in the meantime.

"We're in legal Disneyland," said David Spector, a lawyer with Hopkins & Sutter in Chicago who is familiar with the case but not directly involved. "They are going where no one has gone before."

"We're in totally uncharted waters now," agreed Larry Brandes, a lawyer with Rosenman & Colin in New York, representing two EMLICO reinsurers in arbitrations against the estate. "It's a mess. I honestly do not know where it goes from here."

Several lawyers predicted that the Massachusetts regulators and EMLICO's liquidators—partners of Coopers & Lybrand L.L.P. in Bermuda and London—will sue each other over control of the insurer.

Some also predicted that reinsurance collection efforts by the Bermuda liquidators will stall as reinsurers challenge their authority to act on the estate's behalf.

Statements last week by the joint liquidators and General See Emlico on page 42

## Proposal creates incentives to cut retiree health benefits

Clinton plan would open Medicare to early retirees

By JERRY GEISEL

WASHINGTON—The Clinton administration's proposal to open Medicare to people under 65 would give employers a huge financial incentive to terminate their early retiree health care plans.

Under the administration's package, employees 62 through

the retiree when he or she enrolled in Medicare. The surcharge would be paid in addition to the current \$43.80 monthly Medicare Part B premium.

Employees as young as age 55 who lost their jobs and exhausted employer-provided COBRA coverage also could enroll in See Medicare on page 29

IRS issues new rules on COBRA and plan loans.....Page 30

64 could enroll in Medicare by paying a monthly \$300 premium. At age 65, that premium would cease, but retirees would pay a surcharge of roughly \$15 to \$50 a month, depending on the age of

## New health care options

The Clinton administration's proposals would expand access to health care for older workers and retirees

Employers terminating health plans for retirees 55 and older would have to extend COBRA coverage until the retirees reached 65

Retirees age 62 through 64 could purchase Medicare coverage by paying about \$300 a month until age 65, when they would pay a monthly surcharge

Employees 55 and older who lose their jobs and exhaust their health care benefits could purchase Medicare coverage by paying a monthly premium of \$400 until age 65

## Health care regulation re-examined

California panel issues recommendations for reform

By ROBERTO CENICEROS

SACRAMENTO, Calif.—Employer and health plan representatives expect several recommendations of a managed care task force in California will lead to rushed legislation even though the cost impact of the proposals has not been evaluated.

One substantial recommendation was to create a new state agency that would oversee health maintenance organizations and risk-bearing medical providers. The panel also called for health plan payers to offer participants

more choice, greater emphasis on risk-adjusted premiums, disclosure by health plans about drug formularies, and creation of a new grievance mechanism for consumers, among others.

The 30-member, bipartisan Managed Health Care Improvement Task Force, which first met last April, was created by Gov. Pete Wilson. The body made more than 60 recommendations, which it sent to the governor last week.

Gov. Wilson, along with legislators, appointed panel members who include representatives for employers, health plans, medical

providers and consumer organizations.

The task force was charged with advising state leaders about the appropriate role of government in overseeing managed care. The members reviewed many aspects of how managed care works in California, including its regulation, dispute resolution, competition, care quality, doctor-patient relationships, provider incentives and other factors.

The conclusions of the task force are expected to play a vital role in how managed care regula- See Task force on page 39

# 1998

## JANUARY RENEWALS

Coverage begins on page 3

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## U.S. companies' risk costs down fourth year in a row

By MICHAEL BRADFORD

The freefalling cost of risk for U.S.-based companies sank even further in 1996, the fourth-consecutive year of a decline fueled by fewer catastrophic losses and much cheaper insurance.

In a year of continued improvement in workers compensation costs and few natural catastrophes, which kept property costs down, 1996 risk costs for U.S. companies tumbled 12.2% compared with 1995, to \$5.70 per \$1,000 of revenue.

The decrease is the largest in a four-year decline that began after the cost of risk reached \$8.30 per \$1,000 of revenue in 1992.

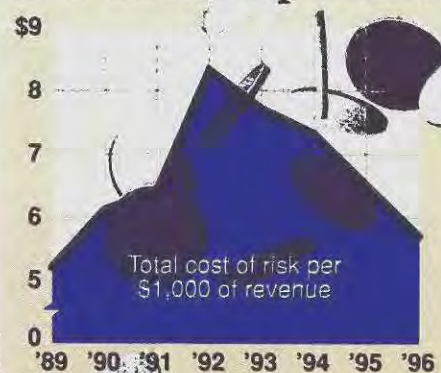
1996's decrease was slightly larger than the 11.1% fall in 1995 but more than twice the 5.2% dip in 1994. Costs in 1993 diminished by 7.2%.

Overall, the cost of risk has plunged 32% since 1993.

The 1997 Cost of Risk Survey is based on responses from 621 U.S. and 47 Canadian companies in 26 industry groups and was conducted by Tillinghast-Towers Perrin and the Risk & Insurance

See Risk on page 40

### U.S. costs drop 12.2%



Source: Tillinghast-Towers Perrin and the Risk & Insurance Management Society Inc.

## Updates

### RIMS, QIC to create scorecard

Continued from previous page

risk managers believe to be aspects of quality, said Linda Lamel, executive director of New York-based RIMS. "Another is to draw improvements from providers," she said.

The project will begin with a poll of 260 risk managers to determine the quality benchmarks for products and services. Then 3,000 risk managers will be asked to assess their insurance and insurance service providers against the benchmarks. Most of the risk managers surveyed will be selected randomly from the RIMS membership roster, though other organizations may be tapped for respondents.

The Katie School of Insurance at Illinois State University in Normal, Ill., will analyze the data and administer the project. The results of the project will be released at the RIMS annual conference in San Diego in April.

### Health plan hikes expected

NEW YORK—Large employers expect their health plan costs to increase an average of 4% this year, according to a survey of 150 companies by Towers Perrin.

Surveyed employers project that traditional indemnity plan costs will increase by an average of 7%, while plans offered through health maintenance organizations and preferred provider organizations will on average rise by a projected 5%.

Employers also project that the cost of employee-only coverage for all types of plans combined will average \$162 a month, while the cost of employee plus spousal coverage will average \$332 a month, with family coverage costs averaging \$459 a month.

### Care credits could hurt FSAs

WASHINGTON—President Clinton's proposal to increase child care tax credits for working parents could have a negative impact on child-care flexible spending accounts.

The proposal calls for increasing the existing child and dependent tax credit for families with an adjusted gross income of less than \$60,000. According to a White House document released last week, "the credit is equal to a percentage of the taxpayer's employment-related expenditures for child or dependent care, with the amount of the credit depending on the taxpayer's income."

The proposal provides an additional average tax cut of \$358 for these families, the document states.

Single parents might benefit more than two-income households because of the \$60,000 phase out, making the higher-earner households still better off with the FSA option, pointed out Libby Terry, a consultant in Hewitt Associates L.L.C.'s Washington office.

While noting that the details of the proposal still aren't certain, "intuitively, there could be a negative impact if a disproportionate amount of only higher-income families take advantage of the FSA option, therefore potentially triggering discrimination penalties," Ms. Terry said.

The tax credit proposal is part of a larger child care initiative the president unveiled last week. In addition, the proposal would grant employers annual tax credits of the lesser of 25% of qualified costs or \$150,000 for providing child care services for their employees by building or expanding child care facilities, operating existing facilities, training child care workers or performing a variety of other services.

In addition, an insurance executive has been named to serve as one of the six members of the Treasury Department's Working Group on Child Care. Treasury Secretary Robert Rubin announced the appointment of Sanford I. Weill, chairman and chief executive officer of New York-based Travelers Group, to the commission in New York last week as Travelers opened its back-up child care center at its headquarters. The commission, which represents business and labor, will focus on private-sector child-care initiatives as well as public-private partnerships. It is expected to issue a report to the president this spring.

### TIG Re to get new CEO

NEW YORK—TIG Holdings Inc. is bringing in an outsider, Michael G. Wacek, to serve as president and chief executive officer of TIG Reinsurance Co.

In addition, TIG Holdings Chairman and CEO Jon W. Rotenstreich will become chairman of the reinsurance subsidiary.

The moves follow the announced retirement of William G. Clark, who will retire as chairman and CEO of TIG Re on Feb. 2.

Messrs. Wacek and Rotenstreich will assume the helm of TIG Re over some existing longstanding executives at the reinsurer, including Edwin Millette, former president and chief operating officer of TIG Re who was made vice chairman in November.

Mr. Wacek, who previously ran St. Paul Reinsurance Co. Ltd. in London, will bring to the position his international expertise and an understanding of the integration of reinsurance, finance and securitization, said Mary Hennessy, president and chief operating officer of TIG Holdings.

"His highly technical and quantitative background, as well as experience in property and casualty reinsurance, is complementary to the skills of our current management team," she said.

Other TIG Re senior executives include: Lydia B. Kam, executive vp and chief operating officer; Stephen G. Franks, executive vp and chief financial officer; and Mark W. Hinkley, executive vp responsible for international operations and marketing.

### Tough '98 forecast for Lloyd's

LONDON—Analysts already are predicting poor results for Lloyd's of London's 1998 underwriting year.

Although Lloyd's will report massive profits later this year when it

See Updates on page 42

# Ruling backs firing decisions

California high court OKs 'reasonable grounds' instead of proof

BY JUDY GREENWALD

SAN FRANCISCO—An employer need only have "reasonable grounds" to fire an employee for alleged misconduct, not ironclad proof of wrongdoing, the California Supreme Court has ruled.

A jury should not have to decide whether misconduct actually occurred, just whether the employer reasonably believed it did and otherwise acted fairly in terminating a worker, according to the court's Jan. 5 decision in *Ralph*

*Cotran vs. Rollins Hudig Hall International Inc.*

"If an employer is required to have in hand a signed confession or an eyewitness account of the alleged misconduct before it can act, the workplace will be transformed into an adjudicatory arena and effective decision-making will be thwarted," the state high court said in its 6-1 ruling.

The decision is seen as a victory for employers, but also benefits employees by requiring employers to adequately investigate claims

of misconduct before terminating someone, attorneys say.

Although the case focused on allegations of sexual harassment, the decision broadly applies to all wrongful discharge claims, attorneys say.

The case was brought by Ralph Cotran, who headed the West Coast international office of Rollins Hudig Hall until 1993, when he was charged with sexual harassment and fired following an investigation that included inter-

See Dismiss on page 37

# FDA seeks more PBM oversight

By ROBERT KAZEL

WASHINGTON—A proposal to tighter surveillance over prescription benefit management companies' marketing messages could raise costs but also could help benefit managers ensure quality, benefit consultants says.

In an effort to gain tighter control over drug "switching" widely practiced by PBMs, the Food and Drug Administration last week proposed that drug manufacturers that own or are closely allied with PBMs should be held responsible for the content of the PBMs' drug advertising and marketing.

The agency already closely regulates pharmaceutical manufacturers' promotional messages. Under the proposal, drug makers would be held to the same regulations whether the ads are their own or the promotion of a PBM with which they are affiliated.

The proposed policies came about because the FDA is afraid that unbridled drug switching can harm patients, officials said. The agency has received many complaints about adverse effects of switching, said Laurie B. Burke, regulatory research officer and epidemiologist at the FDA.

Examples of PBM communica-

tions the FDA wants to monitor include letters in "switch campaigns" touting particular brands of drugs to physicians and scripts that PBM staff pharmacists read to doctors, patients and other pharmacists to promote certain medications over the telephone. PBMs would be required to submit those materials to the FDA.

Switching, also called therapeutic interchange, is an effort to replace a prescribed drug with a medication of different composition and brand expected to have the same medical effect. PBMs point out that a different drug

See PBMs on page 41

# State comp reform pace slows

New legislation targets treatment guidelines: Study

By RODD ZOLKOS

Lawmaking to contain workers compensation medical costs has slowed nationally in the past two years, a new report shows.

New initiatives are focusing mainly on treatment guidelines, according to the Workers Compensation Research Institute's newly released 1997-98 edition of "Managed Care and Medical Cost Containment in Workers'

Compensation: A National Inventory." It showed 13 of the 51 jurisdictions surveyed adding cost containment strategies since the group's 1995-96 report. Of those, nine involved developing treatment guidelines.

The Cambridge, Mass.-based WCRI's study examines the full range of workers comp cost containment activities addressed by law in all 50 states and the District of Columbia.

The current edition presents information about each jurisdiction as of January 1997, along with any changes scheduled to have been implemented by last July and changes expected to take effect later in 1997.

Medical cost containment mechanisms examined in the study included limits on provider choice or provider changes; medical fee schedules; regulation of

See Contain on page 29

# GM benefit change OK: Court

By MICHAEL PRINCE

CINCINNATI—Retirees of General Motors Corp. may ask the U.S. Supreme Court to hear their appeal of a decision upholding the automaker's right to change their health benefits.

The Jan. 7 ruling by the 6th U.S. Circuit Court of Appeals overturns a 1996 ruling by a three-judge panel of the same court that had ruled in favor of early retirees.

A majority of the divided 6th Circuit agreed that GM had noti-

fied the retirees in writing that it retained the right to change the terms of the health plan and could therefore change benefits, even though statements in plan documents said that benefits would be provided free for life.

"We see no ambiguity in a summary plan description that tells participants both that the terms of the current plan entitle them to health insurance at no cost throughout retirement and that the terms of the current plan are subject to change," Judge David A. Nelson wrote for the appeals

court's majority.

Benefit experts say the ruling may help employers in drafting early retirement plans.

The ruling comes in a class-action suit brought in 1989 by former GM employees who retired between 1974 and 1988. The plaintiffs claimed the company changed the health plan for retirees—introducing a deductible and copayments—violating an agreement made by the company to provide free, lifetime health benefits. The 84,000 retirees com-

See Retirees on page 39

## Inside

• We applaud the motivation for the president's Medicare proposal, but parts of the plan trouble us, this week's editorial says. **PAGE 8**

• OSHA announces the first new standards for respirator safety in 25 years. **PAGE 28**

• Storms that have battered Western Europe may cost insurers more than \$800 million. **PAGE 33**

• Analysts predict another good year for property/casualty insurance stocks in 1998. **PAGE 42**

## Departments

Advertiser Index .....29

Classifieds .....38  
 Commentary .....41  
 Datebook .....27  
 Global Briefs .....33  
 Insurance Services Guide .....36  
 International .....33  
 Letters .....8  
 Opinions .....8  
 Ticker .....43

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# Buyers find more capacity, lower prices

By MICHAEL BRADFORD and MICHAEL PRINCE

**R**isk managers are expecting the new year to be a lot like the last year when it comes to buying coverage. Putting the final touches on their renewals, insurance buyers are saying prices remain low and in some cases are falling, capacity is plentiful and things aren't likely to change anytime soon. "We're finding what probably most risk managers are: The market is very soft, and we are the beneficiaries of that," said Gerald W. Wilkins, manager of risk man-

agement at Oklahoma Gas & Electric Co. in Oklahoma City. "It certainly makes for a happy buyer from this end."

"The market is still declining," said Arnold L. Davenport, vp-risk management for Bethesda, Md.-based Marriott International Inc. "It's hard to believe that." "There's a lot more capacity than there ever has been, and therefore the market is quite soft," echoed Ed Greene, deputy

treasurer-insurance for General Electric Co. in Fairfield, Conn.

"I assume they know what they're doing," he said of insurance companies that are keeping prices low in order to maintain market share.

Mr. Greene said the only exception to abundant capacity among casualty risks is with some excess liability risks, though General Electric has been able to purchase what it needs in that area.

Earthquake coverage for risks in California and Japan is "one spot where you don't find a real explosion in capacity," Mr. Greene added.

Unless a cataclysmic natural calamity or a stock market col-

lapse eats up insurers' dollars, the trend of falling prices is likely to continue, risk managers agree.

"It won't go on forever," Mr. Wilkins suggested. "But the traditional cycles aren't traditional anymore."

If insurers' investment income somehow takes a hit, that could lead to rising prices to offset such losses, he pointed out.

"Insurers are able to stay in business because they are able to make good investment income," Mr. Wilkins said.

If that income is cut, as it was in the 1980s when interest rates plunged, insurance companies could be caught short, Mr. Wilkins noted. Such an occur-

rence could lead to higher insurance prices, just as rates soared and capacity vanished in the mid-'80s.

"A prolonged correction in the stock market could be a catalyst" to spark a rate rise, said Greg Turk, director of risk management and employee benefits at Electrolux Corp. in Atlanta.

But barring such an event or a natural catastrophe, Mr. Turk said he thinks the market will continue to operate much as it has in recent years.

Mr. Davenport and other risk managers found some decreases in rates when they renewed their casualty coverages. See Market on page 20



## Insurers see rates continue in free fall

By MARK A. HOFMANN and ROBERTO CENICEROS

**H**ow low can you go? That question yields multiple answers from insurance companies that have survived the just-completed renewal season.

Risk managers are asking for—and getting—rock bottom prices and then some, say underwriters. It's a buyers' market, with insurers loosening up on terms and conditions for just about every line of liability coverage.

In addition, an extremely mild Atlantic hurricane season has put pressure on pricing in the already-depressed property insurance market. The much-feared El Nino has had a generally benign impact on North America.

Absent natural catastrophes or a dramatic upheaval in the equity markets, underwriters see little chance of significant change in the near future. Some insurers are responding to competition and risk manager demand with blended, multiyear policies (see story, page 14). But critics within the industry charge that in many cases, underwriters are throwing underwriting guidelines for such policies out the window to chase accounts, increasing the odds they'll be caught short.

Also lurking on the horizon are new and potentially costly liabilities, notably those associated with the Year 2000 computer problem. But while the full impact of the Year 2000 problem won't be known for two years, the effects on insurers of nearly a decade of soft market conditions are showing now.

"It's a combat zone. The market has become very, very soft. Rates are becoming very thin," said Fred Mina, president of Zurich-American National Accounts in Schaumburg, Ill.

"If anything, it's softer" for both commercial property and casualty lines than a year ago, said Dave McDonald, chief underwriting officer for Royal Insurance Group in Charlotte, N.C.

"I can't pick out a line that is not soft today. Work comp is probably the most competitive line because the results have been good so everyone is trying to write it," said Lary Rand, vp and chief underwriting officer-commercial insurance for CNA Insurance Cos. in Chicago.

Liability insurance rates are flat to 5% lower for accounts up to \$1 million, depending on the buyer's product line, said Paul J. Krump, senior vp and managing di-



# 1998

## JANUARY RENEWALS

|  |         |
|--|---------|
| Demand grows for multiline, multiyear policies ..... | Page 14 |
| London renewals find buyer in driver's seat .....    | Page 25 |
| Surplus lines market sees tough competition .....    | Page 25 |

## Brokers' clients finding new solutions in market

By RODD ZOLKOS and SALLY ROBERTS

**N**o matter what coverages insurance buyers are shopping for, they can find it and fashion it to their liking.

"I think the market is the most competitive that I have ever seen it, including 1983-84," said J. Hyatt Brown, chairman, president and CEO of Poe & Brown Inc. in Daytona Beach, Fla. "And it extends across all lines."

Larry Sorensen, executive vp-corporate marketing for Aon Risk Services Cos. Inc. in Chicago, said, "I think a very good summation would be that conditions continue to benefit clients across the board."

"There is a strengthening of the marketplace through consolidation, a broadening of coverage, new coverages being offered and promoted, prices remain competitive, and there is an abundance of capacity," Mr. Sorensen said.

Robert C. Nevins, executive vp of Acordia Inc. in Indianapolis, said he saw most January renewals "going at the current market rate or less than the current market."

"Really, the changes are that insurance carriers are willing to listen to unique ap-

proaches to coverages, like buying down deductibles," Mr. Nevins said.

For example, he said, "a year and a half ago, insurers were not fond of California quake coverage. Now, they are willing to look at different layered programs and lower deductibles."

"The attitude from a risk manager's standpoint is it is as good as it has ever been," Mr. Nevins said. "Companies are willing to listen to them."

Mr. Brown said he expects the competitive market to continue well into 1998. He noted that because of a big price dip in mid-1997, it's possible that as those accounts renew at the middle of this year, they won't be able to achieve further price cuts.

Still, those renewing during the first half of 1998 will continue to enjoy big cuts, he said, adding, "The first and second quarters will be a bloodbath."

One effect of the competitive market is that some clients are going back to the market with exposures they had been self-insuring, several brokers said.

"There seems to be increasing interest in self-insureds becoming insureds and having some sort of portfolio transfer for their past liabilities," said Robert L. Peretti, managing director and head of global broking casualty operations at J&H Marsh & McLennan Inc. in New York.

"In the mid to upper-middle accounts, a number of customers are reverting back See Brokers on next page



## Reinsurers say some rates now inadequate

By GAVIN SOUTER and JUDY GREENWALD

**I**nurers continue to encounter little resistance from reinsurance companies as they push for better deals at marked-down prices during the January renewals.

Insurers taking advantage of the soft reinsurance market easily won lower rates combined with broader coverage, including multiyear contracts.

While a few market observers see some signs of resistance to soft pricing by a few reinsurance underwriters, it has not impacted the market overall.

Reinsurance buyers generally are enjoying easy renewals, said Steven Bolland, senior vp with reinsurance brokerage Gill & Roeser Inc. in New York. "Reinsurers are looking to write business, and they are doing whatever it takes."

That competitiveness has resulted in 10% to 15% rate reductions in most lines of reinsurance, Mr. Bolland said.

Reinsurers are cutting rates in all lines, agreed Patrick Steele, president of Cooper Gay Steele, the New York subsidiary of London reinsurance brokerage Cooper Gay (Holdings) Ltd.

"We are seeing 10% to 15% off everything and, in some cases, it is even more," said Mr. Steele, who places mainly facultative reinsurance.

Some casualty reinsurance placements are being charged rates 20% to 25% below last year's levels, said Salvatore D. Zaffino, chairman and chief executive officer of Sedgwick Re, the Hartford, Conn.-based unit of Sedgwick Group P.L.C.

Over the past year, he said, several casualty insurers have reduced their loss reserves as the number of large liability awards has generally declined, and this has improved the results of the insurers and their reinsurers, which can reduce reserves as their cements do.

"That is probably quite a legitimate improvement right now, but it can't go on for long," Mr. Zaffino said.

Reinsurers today often are writing business for inadequate rates, said Dennis Zettervall, CEO of Hartford Re Co. in Hartford, Conn.

"It's a very stressful time of the year, and many underwriters may have already lost their minds, because they seem to be more afraid of losing business than losing money, and there's sort of an out-of-control feeling to the market, an anything-goes mentality, See Reinsurers on page 16



## Brokers

Continued from previous page into guaranteed cost programs or lowering their self-insured retentions," said Sandra Lulich, chief operating officer of Willis Corroon of Illinois in Chicago.

Ms. Lulich said she sees that trend particularly in workers compensation lines and to some extent in product liability insurance.

The interest in obtaining workers comp coverage is one of the major differences between the current market and that in 1983-84, Mr. Brown said. "I believe workers comp is a much sought-after line in almost every state, and that wasn't true back in the early '80s," he said.

While most see workers comp rates remaining competitive Charles Fiske, senior vp of Sedg-

wick Inc. in Memphis, Tenn., predicts an 8% increase in workers comp rates for accounts generating \$50,000 in premiums or less; a 6% increase for accounts generating between \$50,000 and \$250,000; and 4% increases for accounts larger than \$250,000.

The increases, he said, are due to increasing medical costs and loss costs being as low as they can get. Furthermore, Mr. Fiske said, "I don't think insurers are making money at the rates today."

"Most other lines are flat to somewhat down, with commercial multiperil lines suffering the most," Mr. Fiske said.

But Mr. Nevins offered a differing view, saying, "I think in a couple of states, workers comp rates have flattened up, and in other states, rates have gone down."

"On the total book of comp, it's pretty flat; I don't see any real trend going back upward."

In addition to the single-digit increases in workers comp, Mr. Fiske said risk managers can expect single-digit increases in directors and officers liability insurance rates.

Again, others disagreed.

"The only area that is in some way tightening in the market would be certain medical lines in certain states," Mr. Brown said.

Mr. Peretti said he doesn't see any casualty lines where prices are rising or capacity is tightening.

"I think the casualty market is certainly very responsive to what clients need," he said. However, with the price reductions in recent years, "there's a law of diminishing returns coming into this thing," he said. "What's probably more favorable to the client is the flexibility of the marketplace."

Enhancements are being negotiated into traditional umbrella

covers to make those policies even broader, Mr. Peretti said. "On the excess liability side you see a trend to multiyear agreements going out three years or so," he said.

Examining the property side of the equation, which he described as similarly competitive, Robert K. Meyers, a principal and senior vp at J&H Marsh & McLennan in New York, said, "In the soft market, looking for differentiation in the marketplace is becoming more important."

"It's putting a little bit more emphasis on qualitative measures, and I think that's good for our clients," Mr. Meyers said. Flexibility and customization are two keys clients are looking for, he said.

According to Aon's Mr. Sorensen, underwriters in the current environment are more prepared "to step out of the box to really meet clients' needs."

The existing market also is prompting clients to look at how they can take advantage of the opportunity it provides to cover their entire spectrum of risks, Mr. Meyers said.

"Risk managers are always looking for alternatives," said Ms. Lulich. "There's been some considerable interest in product development of alternative risk financing."

"Again, with pricing what it is, I think risk managers are looking beyond the short term," she said.

Among the immediate developments many brokers say they're seeing on the property side is a light 1997 hurricane season resulting in lower deductibles and even in some cases lower rates for coastal property coverage this year.

"We've seen really the first rate reductions since Andrew coming through; a little more capacity," said Robert Schneider, a vp at J&H Marsh & McLennan in New York. "And the easy hurricane season contributed to that."

"Catastrophes tend to affect the market in a negative way," Aon's Mr. Sorensen said. Therefore, the unusually light hurricane season "adds to its stability. There is still capacity available, and rates remain competitive."

Among the issues Mr. Meyers said he thinks requires ongoing observation is the "millennium bug" computer issue, which takes on additional consequence in light of the multiyear programs many policyholders are looking to implement.

Regarding the Year 2000 issue, Mr. Meyers said the immediate concern facing many clients is that insurers are trying to include "millennium bug" exclusions in policy language. He said J&H Marsh & McLennan is working with clients to make sure they at least have coverage for any damage resulting from Year 2000 computer problems.

"I think right now there's an absolute exclusion initiative on the table that we're trying to push back," Mr. Meyers said.

The potential impacts of El Nino are another issue many brokers are watching as they look for potential market developments.

"What we're looking at as a wild card for '98 is El Nino," Mr. Schneider said. "It's also having a collateral effect in driving some creativity in the marketplace. Our feeling is that will carry on beyond El Nino season into some new types of property products."

One trend some brokers said they see coming is a move to integrated disability coverage, which Mr. Fiske predicted will be "the hottest product."

As a broker, Mr. Fiske said Sedgwick is trying to persuade companies to "tear down the political barriers internally" to facilitate that sort of integration of workers comp and disability insurance.

"There has been quite a bit of interest in that. It's an emerging market," agreed Mr. Sorensen, adding that Aon is providing information to its clients on the opportunities integrated disability programs offer.

Ms. Lulich said Willis Corroon has received some inquiries into integrated disability programs and that the broker is looking into providing more information to risk managers about how to develop such programs.

Mr. Nevins, however, said that while he has heard a lot of talk about integrated disability, "I have not seen anything that works and is exciting."

See Brokers on page 6

# MADAME ROULENSKA JUST LOST HER BEST CUSTOMERS

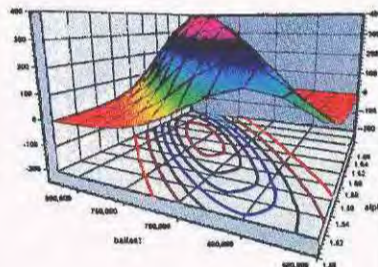


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# Brokers

Continued from page 4

"I think it eventually will happen," he said, though not in 1998.

Legislative action ultimately will tie workers comp and medical disability programs together, Mr. Nevins predicted, noting, "Health care and workers comp are both politically controlled."

Another concern Mr. Nevins sees continuing in 1998 involves the financial security of insurers.

In 1997, American Eagle Insurance Co. began operating in conservatorship after the proposed acquisition of its aviation book of business by American Financial Group Inc. fell through (*BI*, Aug. 4, 1997). And Liberty Mutual Group assumed control over Golden Eagle Insurance Corp. last August.

"We've spent lots of time" making sure clients are placing business with

financially secure companies, he said.

Mr. Meyers offered a similar view, saying, "I think the issue of market security is even more in the minds of the buyer right now, and it should be."

Most of the brokers said they see the significance of the Jan. 1 renewal date continuing to decline.

"Our business is pretty much quarter by quarter. We don't have a big quarter," Mr. Brown said. "It's about the same in April and July and October (as in January)."

"I think that that Jan. 1 kind of key date is not as extreme as it was five or six years ago," agreed Mr. Meyers. "Quite candidly, 1/1 is like any other day of the year right now."

Mr. Peretti said J&H Marsh & McLennan might see about 30% of the excess casualty policies they are involved with renew Jan. 1. "But years ago it probably was 50% or more," he said. "You see 10/1 activity as well. July probably isn't as big as it

used to be."

Brokers offered various opinions on the impact consolidation in the brokerage industry has had on the

## The significance of the Jan. 1 renewal date is continuing to decline, according to most of the brokers.

market, often varying with their own vantage point.

The merging in early 1997 of Marsh & McLennan Cos. Inc. with Johnson & Higgins and Aon Group Inc. with Alexander & Alexander Services Inc. has had a positive effect on Acordia, according to Mr. Nevins.

"That's what I'm excited about with Acordia. We're now back into

focusing on clients," said Mr. Nevins, referring to Acordia's recent management buyout of its predominantly property/casualty operations from Anthem Insurance Cos. Inc.

"We may not go after the same business (as J&H Marsh & McLennan and Aon), but we are getting inquiries from substantial accounts looking for alternatives to the two big boys," he said.

But Aon's Mr. Sorensen said his company has had "a very, very good new business year." Noteworthy in November was Aon Risk Services' acquisition of Microsoft Corp.'s retail insurance brokerage business from J&H Marsh & McLennan (*BI*, Nov. 17, 1997).

"We have accrued a great deal of talent, which is helping us deliver on the types of expectations and services clients are requiring," Mr. Sorensen said.

From the J&H Marsh & McLennan perspective, Mr. Meyers said he

thinks the result of his company's 1997 megamerger is an insurance broker greater than the sum of its parts.

"I think what we're bringing is strength on strength from a lot of different perspectives," he said. "It's been a wonderful thing to see, the amount of knowledge and skill the individual companies have. (Together) it equals three."

Meanwhile, Mr. Fiske said rumors surrounding Sedgwick's future "haven't affected us at all."

Sedgwick Group P.L.C. took an unusual step last month by announcing it has not held merger talks with Aon Group Inc. for the past year and that no such talks are in progress. The London-based broker was prompted into breaking its traditional silence on market rumors after its share price began rising after a press report that Aon was poised to unveil a £1 billion (\$1.62 billion) agreed bid for it (*BI*, Dec. 22, 1997). **BI**

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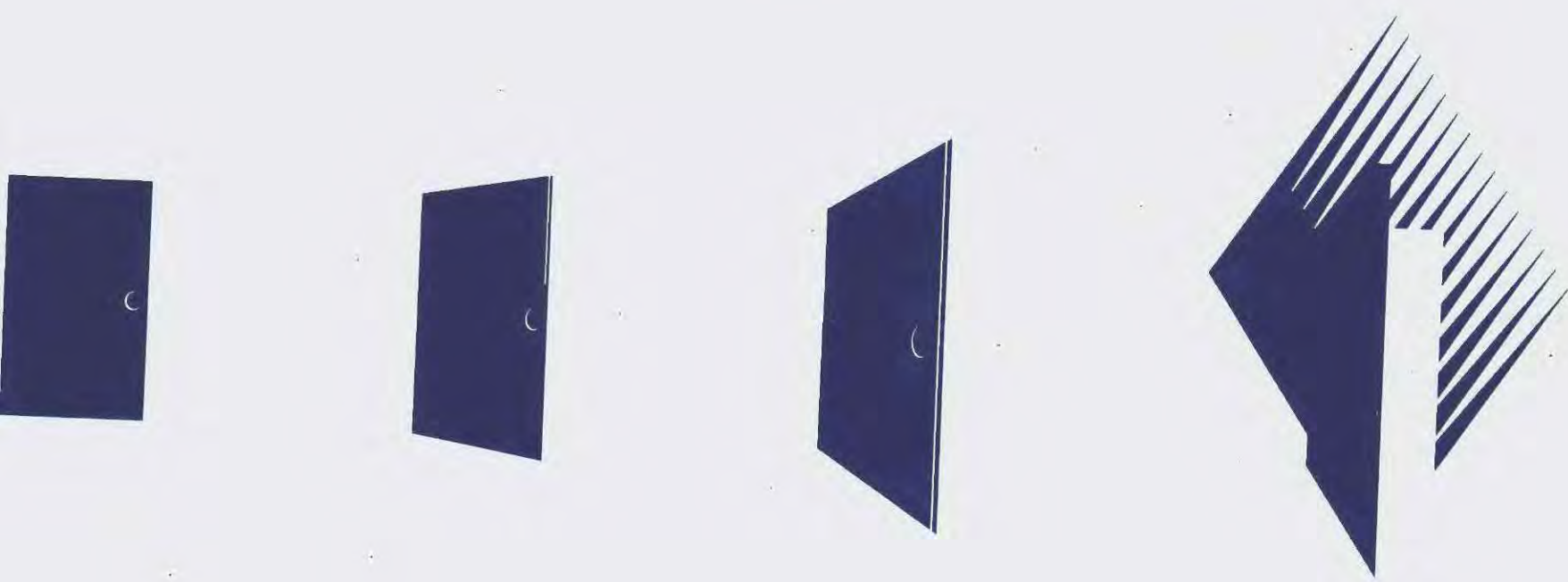
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## Opinions

## Unwelcome side effects

AT FIRST GLANCE, the Clinton administration's plan to allow retirees as young as 55 into the Medicare program appears very attractive.

Roughly 3 million people between 55 and 64 now are uninsured, according to the administration. Those people now are too young to be eligible for Medicare and yet—depending on their health—may find coverage too costly or unavailable in the personal lines market.

The administration wants to open up the program to those younger retirees. Perhaps as many as 300,000, or 10% of the uninsured in this age bracket, would opt for early Medicare enrollment and pay monthly premiums of roughly \$300 to \$400, according to administration estimates.

Unquestionably, the proposed program will help a portion of the uninsured and, as we report on page 1, also aid employers with early retiree health care plans.

Having said this, several aspects of the program disturb us greatly.

The administration, sensing the obvious reluctance of Congress to pass legislation that would exacerbate the already precarious financial condition of Medicare, says the program would be self-financed through a combination of premiums and other payments by retirees as well as new Medicare anti-fraud initiatives.

We don't, for a minute, believe that. We found after a quick check last week with several insurers that healthy early retirees—depending, of course, on where they live—now can get good coverage for less than the premiums they would pay to get Medicare coverage.

For example, a healthy 60-year-old man buying a comprehensive indemnity plan with a \$200 deductible offered by Blue Cross & Blue Shield of Maryland would pay a monthly premium of \$248.42, considerably less than the \$400 premium he would pay to obtain coverage through Medicare. Given the choice of paying about \$250 a month or \$400, we think we know what the 60-year-old would do.

Of course, the situation is a lot different for early retirees with big medical problems and who live in states with high health costs. For them, paying a monthly Medicare premium of \$300 or \$400 would be a bargain compared with what the private market would charge, if coverage was even available.

And therein lies the flaw of the administration's program. It would attract individuals with the highest health care costs, and the premiums charged—at least at the current levels—never could support the true cost of the program. In the end, the expanded program would be another drain on the Medicare



trust fund.

We also question the COBRA aspect of the package. The administration says employers that "renege" on their promise to provide coverage by terminating health plans for early retirees will have to offer COBRA coverage—charging a premium of about 125% of the group rate—until retirees turn 65. For some retirees, that could mean a 10-year commitment by their former employers to provide COBRA.

We don't quite follow the administration on this one. How is an employer renege if its terminates a plan it voluntarily agreed to provide—and from the beginning reserved the right to amend or terminate?

By tagging on such a long COBRA commitment, surely the administration would be discouraging any employer that now does not offer an early retiree health plan from ever doing so.

All these criticisms aside—significant as they are—we'd be remiss if we didn't say the administration Medicare package is well-intentioned. Certainly, it is in the public interest to have as many people as possible covered in employer and public health care plans.

People without health insurance end up getting their medical problems treated, but often they end up in hospital emergency rooms, where the costs of treatment are highest.

The challenge for policymakers is to find the best and most cost-efficient ways of extending health care coverage to the uninsured. Even if the Clinton administration proposal is flawed, we hope it at least begins a debate that will lead to coverage solutions.

## Letters

## Kudos for story on pollution exclusion

To the editor: Various pollution exclusion forms have bedeviled policyholders, confounded courts and maddened journalists for more than a generation.

Instead of claims people, the insurance industry has put forward armies of lawyers, most of whom would not know a risk transfer mechanism if they saw it.

David Lenckus' Nov. 10 article, "Illinois

Court Narrows Pollution Exclusion," covered one of the many versions of the absolute pollution exclusion. The article was a masterpiece of clarity and objectivity. For one of the few times in print, Mr. Lenckus makes reference to the fact that none of the versions of the pollution exclusion, old or new, limited or absolute, was ever meant to apply to products liability and

completed operations liability coverages.

With guidance from Mr. Lenckus, there is hope that courts, insurance regulators and insurance companies will get it right.

My hat is off to Mr. Lenckus and to *Business Insurance*.

Eugene R. Anderson  
Anderson Kill & Olick, P.C.  
New York

## Letters to the Editor

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# Insurers

Continued from page 3

director of Chubb & Son Inc. in Warren, N.C. He said 16% of Chubb's business renews in January.

But in \$1 million-plus accounts, rates are falling even more precipitously, he said. Decreases range from 5% to 10%—or even up to 15% in a few cases—with workers comp taking the deepest discounts, he said.

Mr. Krump said he saw in year-end renewals what he thinks are people acting without a strategy, who are "simply acting in a transactional fashion." The market is chasing the lowest common denominator and the most uninformed underwriter, he added.

"The rates have become so soft that, really, there's nothing to give anymore," said Zurich's Mr. Mina.

Lower-level excess liability rates are "definitely down," he said, generally by the high single digits.

"We're seeing some accounts come in looking for a 40% or 50% decrease. Others try to be more reasonable in the 10% to 20% range," said Larry Lombardo, executive vp and chief operations officer at ACE Insurance Co. Ltd. in Hamilton, Bermuda.

Mr. Lombardo said the Bermuda-based excess liability insurer has managed to keep rate decreases to about 7%.

He said larger accounts that think they have been paying too much are the ones trying to get the big discounts. ACE has walked away from a number of them, he said.

Companies are looking for cuts so if ACE gives them larger than usual discounts, the insurer also reduces limits and pushes up its

attachment. "So premiums have gone down more because we cut limits and raised the attachment point, so we have to give them credit for that," said Mr. Lombardo.

"I'm surprised more companies are not buying more limits given the market. A few companies are, but others are not. Some companies are saving 30% or 40% of their price underneath us, but they are not using their savings to increase limits," Mr. Lombardo said.

"I think maybe they are beginning to realize these great prices can't last. So they think, 'I don't want to increase my limits and then have the market turn on me and have my manager say we were buying it before, we ought to keep buying it,'" he said.

Professional liability rates still are heading south, underwriters say.

"The market is soft no matter

whether you are talking of D&O, E&O or miscellaneous professional liability programs," said Ward Jungers, group vp and chief underwriting officer for CNA.

For-profit directors and officers liability insurance remains "a very competitive marketplace," said John F. Kearney, senior vp and chief underwriting officer for Executive Risk Inc. in Simsbury, Conn. Rates have dropped "marginally" by single digits, he said.

Mr. Kearney said one of the major issues confronting insurers is trying to deal with "the Year 2000 issue. We've been asking questions of all of our prospects and insureds for quite some time, such as how they're dealing with the issues, what sort of visibility it is getting."

Regarding employment practices liability insurance, "it's hard to say what's happening with rates, because rates are all over the place," said Mr. Kearney. "Expo-

sure are still in a state of evolution."

"You can see incredibly diverse proposals being offered on the same risk by different companies," with "enormous swings" in rates and terms, he said.

Baltimore-based USF&G Co. recently added to its umbrella book of business D&O and E&O as well as a non-standard umbrella market segment in an effort to cope with the competitive marketplace, said Steve Lilienthal, executive vp and chief underwriting officer.

He said five years ago, USF&G had about five "earnings platforms"—or product lines—and now has 16. This served "the underlying strategy of diversifying our earnings portfolio in the face of tremendous rate erosion," he said.

Pressure on rates has been accompanied by pressure on terms and conditions as well, noted several underwriters.

"It's not just a matter of rates any more. We have seen continued pressure on pricing on a year-to-year basis," said Mr. Lilienthal. He said the pressure on terms and conditions is what is being masked.

"Because in many areas you are getting down to levels where you can't push the price anymore and you are getting to the point where you are just about covering your burn costs, and now there is tremendous pressure on terms and conditions," he said.

CNA's Mr. Jungers agreed that the soft market is placing greater pressure on non-rate factors.

"In addition to customers seeing actual reductions in charged premium, there is a lot of implicit or hidden cost reduction going on in terms of extension of coverage without charge. In some cases, application of more advantageous classification and that sort of thing," he added.

Commercial auto rates will go up in Arizona, but his company is "bringing them down in Washington, D.C.," said Bill Stanway, president of commercial lines for Hartford Group Inc. in Hartford, Conn.

He said workers comp rates will go up in California but hold steady in Texas. Hartford is trying to get a 2.5% increase in California for workers comp but does not know if the market will allow it. Workers comp loss costs have stopped decreasing and, on average, have started to increase for many insurers, he said.

"This is the one area where we might, might see some stabilizing of the market as we get into the second half of next year. Sooner or later the financial imperatives prevail," he said.

While Hartford is not counting on workers comp rate stabilization, Mr. Stanway said there are some signs it might happen.

"I'm not going to name names, but there is one large company that I have seen positive evidence of in the last week that they are stepping back from the work comp market. That was in the Southeast," he said late last year.

One company doesn't make a trend, but "if one or two people are starting to draw the line, that is the first sign that something is happening. It may take a year; it may take two years. It has to start somewhere," Mr. Stanway said.

Meanwhile, buyers in the middle market are becoming more sophisticated in understanding claims just as large-market purchasers did, said Robert Steinberg, president and chief operating officer of Reliance Group Holdings Inc. in New York.

See Insurers on page 14



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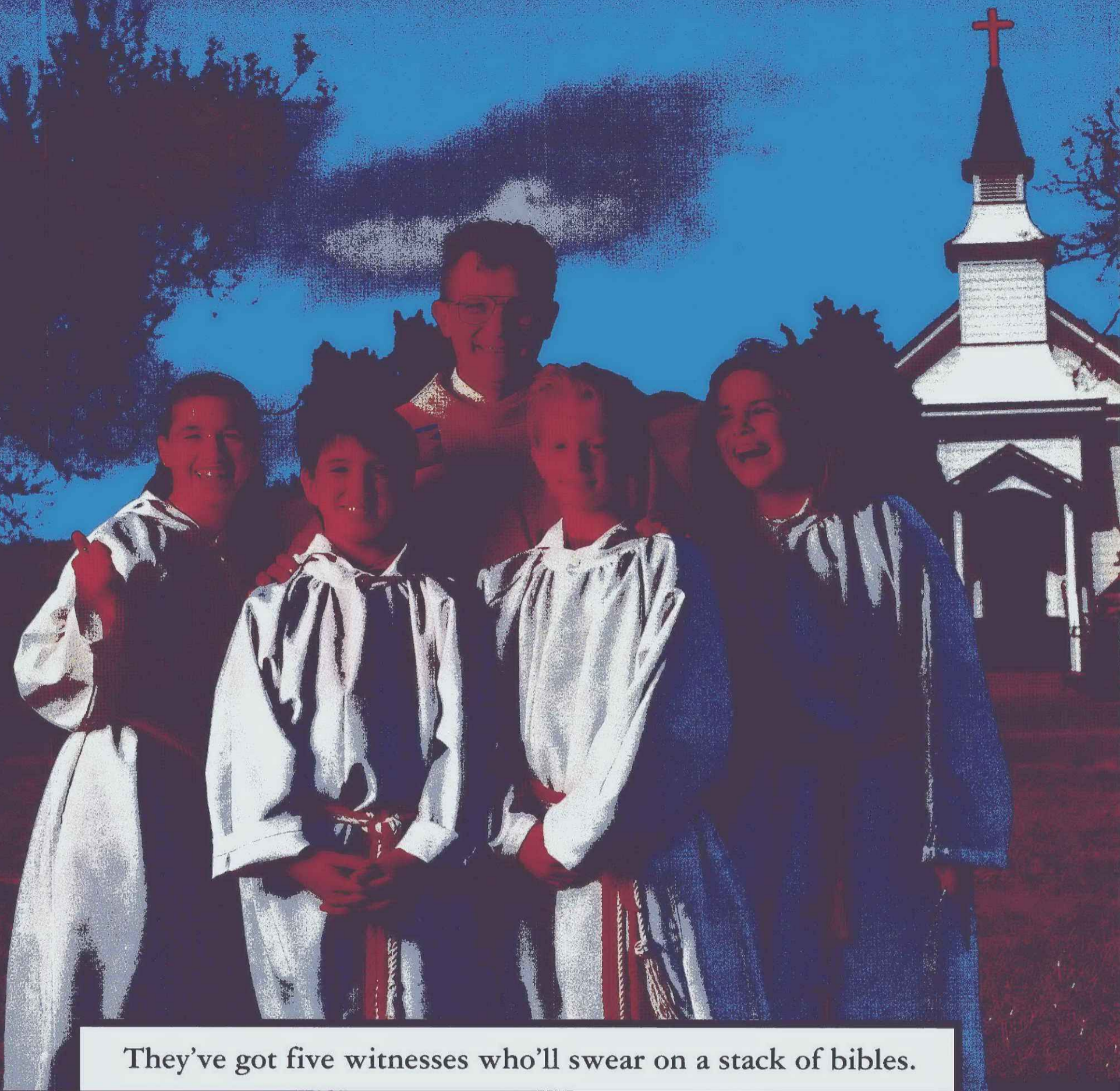


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## Underwriting questioned in multiline policies

**L**ooser underwriting standards, especially within blended product offerings, have been one result of the continuing soft market and its fiercely competitive pricing.

Although some insurers say there still is more talk than contracts when it comes to multiline, multi-year programs with a single retention, other insurers have seen demand increase during the current renewal period.

"We are seeing pressure to move that concept—which has in the past been strictly for the very large accounts—down into the medium or large medium-size commercial market," said Ward Jungers, group vp and chief underwriting officer for CNA Insurance Cos. in Chicago.

But as insurers broaden their offerings and lower rates to retain business or generate additional cash flow, some are disregarding underwriting discipline, some market observers maintain. They con-

ed programs there is an increasing tendency to blur pricing, terms and conditions, and underwriting standards said Steve Lilienthal, executive vp and chief underwriting officer for USF&G Corp. in Balti-

pieces of these things, they are almost blind to underwriting analysis," he said.

"Some of the programs I have seen out there contain coverages and terms for 1998 renewals that were not there in 1997," Mr. Lilienthal added. "Things that wouldn't even have been discussed except in true specialty markets are now being lumped into the core marketplace in these blended products."

At the same time, a reinsurance market eager to apply the tremendous amount of available capacity heavily supports blended programs, Mr. Lilienthal added.

"It's not just the subpar companies, the B+ or B company putting these numbers out; it's mainline insurers and reinsurers," he said. "You see a big program, and a lot of premium and analysis just goes

out the window. Ultimately, if you take the pieces apart, you will find a lot of these programs are being written for less than the burn rate."

Paul J. Krump, senior vp and managing director of Chubb & Son Inc. in Warren, N.J., agrees that the underwriting on blended products has blurred. In fact, sloppy underwriting in general is more evident during this renewal season as some underwriters abandon a strategy for earning underwriting profit. Instead, they are focused on increasing cash flow, he said.

"I think what we are seeing in this renewal is people without a strategy that are simply acting in a transactional fashion," Mr. Krump said.

"Unfortunately, the market tends to chase the lowest common denominator, and that is typically the least-informed underwriter," he said.

—By Roberto Cenicerros

**'I think what we are seeing in this renewal is people without a strategy that are simply acting in a transactional fashion,' says Paul J. Krump of Chubb & Son Inc.**

tend that some insurers are blending lines of coverage with which they have little experience into their standard offerings.

Consequently, with some blend-

more. There is also a blurring of frequency-and-severity issues within an account, he added.

"As these big programs go out and people just sign on to the

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## Insurers

Continued from page 10

"Either they are moving to a large deductible or they are understanding the power of claims and how one claims organization vs. another claims organization can make a very big difference in their premiums or long-term premiums. I think the market is becoming very, very sophisticated in that regard, and it's now moving to the middle market," he said.

Companies are going to differentiate themselves by their claims-handling services—by managing outcomes rather than managing the process.

"As the customer becomes more and more sophisticated, he is going to fully comprehend what that means to him," he said.

The commercial property market in general remains "highly competitive" with rates down 10% on average compared with a year ago, owing in large part to a lack of catastrophes, said Royal's Mr. McDonald.

The highly protected risk commercial property segment also remains highly competitive, say underwriters.

"1997 has certainly been a very competitive year," said Kevin Lavin, vp and director of operations for Protection Mutual Insurance Co. of Park Ridge, Ill. On average, single-digit rate declines have been the rule, a situation that's "fairly uniform" throughout the country, he said.

There has "probably been a slight change in rates in a negative manner," agreed Kerras Campbell, chief operating officer of Industrial Risk Insurers of Hartford, Conn. But an "apples to apples comparison is no longer very easy to do any more" given the use of self-retentions, captives and other alternative risk financing mechanisms, Mr. Campbell said.

HPR rates have dropped, on average between 5% and 10%, said Roland Bonitati, senior vp-marketing for Allendale Mutual Insurance Co. in Johnstown, R.I.

He said there is "some flattening" in the electronics industry, in particular for the semiconductor industry.

"Risk managers have a powerful influence on product scope and price. I think they recognize it and are using it to negotiate their terms in a significantly improved way," said Allendale's Mr. Bonitati.

Arkwright Mutual Insurance Co. is stressing how it can help customers be better prepared for natural disasters, said Esther

See Insurers on page 16

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# Insurers

Continued from page 14  
to the market, an anything-goes mentality," he said. Sprano, vp and chief marketing officer for the Waltham, Mass.-based HPR insurer.

"We are looking at our book of business and identifying customers that would be in things like the flood plains that would be affected by El Nino. There's a good side and bad side to El Nino—with the good being fewer hurricanes and the bad higher-than-normal rainfall in

parts of the western United States, she explained.

The light hurricane season has probably furthered the competitive market, said Protection Mutual's Mr. Lavin. "Some of us as insurers tend to forget the losses of the past," he said.

In fact, El Nino "has been a benefit to this point" because of its dampening effect on Atlantic hurricanes, and the prospect of a milder-than-normal winter also could be a benefit of the unsettled weather pattern, though El Nino could still have a negative impact on the West Coast, Mr. Lavin said.

"We deal with some of the more astute buyers, and most of them rec-

Mr. Campbell.  
Mr. Campbell said he sees few

**'We do believe the market has reached the bottom. It's subtle, but we've seen some markets begin to respond to adverse loss experience,' says Kevin Lavin.**

ognize '97 for what it has become, which is a remarkably light year for natural catastrophes," said IRI's

omens that the HPR market will change absent a major correction of the stock market or "at least a couple of catastrophes."

But Protection Mutual's Mr. Lavin did not entirely agree. "We do believe the market has reached the bottom. It's subtle, but we've seen some markets begin to respond to adverse loss experience."

There is so much capacity that a series of Hurricane Andrew-size catastrophes would be needed to change the direction of the property market, said Chubb's Mr. Krump.

The lack of catastrophes is having a "profound effect" on behavior, said CNA's Mr. Jungers. People forget they need to account for losses, he said.

The situation is slightly better in the boiler and machinery market,

according to Mike Downs, senior vp at Hartford Steam Boiler Inspection & Insurance Co. in Hartford, Conn. Monoline boiler and machinery rates are pretty much the same, he said. Mr. Downs added there are "still trends toward packaging, but for clients buying monoline, the rates are holding firm."

Meanwhile, exposures looming on the horizon include the potential impact of the Year 2000 problem. Insurance companies can get hit from both sides: They have their own large exposure to losses as well as exposure under the products they sell, said Royal's Mr. McDonald. Royal has had a specific group looking at its own exposure and its relationship with vendors since 1995, he said.

How the insurance market will respond to the Year 2000 issue is an upcoming liability issue, said Hartford's Mr. Stanway. Mr. Stanway said he is not referring simply to insurers' systems and whether they can cope with the problem but rather whether insurers will cover exposures of their policyholders.

"This is going to be the proverbial snowball that starts very small and it gets bigger as it moves down the mountain. There's no other way to look at it. It is a serious issue for everybody," said Mr. McDonald. **BI**

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## Reinsurers

Continued from page 3  
he said.

"It's almost like there's this big party. When the party's over, some underwriters will wake up to find the furniture broken, the house on fire and the cat drowned in the swimming pool, and they will look at this and ask 'What have I done?' and when that question is asked, the market has turned," Mr. Zettervall said.

Reinsurers continued to make substantial profits in 1997 due to the below average number of catastrophe losses during the year, said Mr. Bolland of Gill & Roeser.

But the combined ratios of many reinsurers signal that their results would turn sour if they suffer a year of average catastrophe losses, he said.

"People are coming in with about

100% combined with no catastrophe losses, so they would probably have 115% to 120% combined with normal catastrophe levels," Mr. Bolland said.

As reinsurance rates continue to fall, cedents are holding back from buying reinsurance as they wait for the cheapest price to emerge, said Jacobus Van de Graaf, managing director and CEO of Towers Perrin Reinsurance in Stamford, Conn.

"A number of people held up their renewal orders with the expectation that the later they get into the market, the better prices they can get," he said.

When they go to the reinsurance market, cedents are shopping for the best deals rather than simply renewing with their existing reinsurers, said Frank Ruyak, president of Constitution Reinsurance Corp. in New York.

"We're seeing not only a lot of renewal business, but a very large flow of new business... people are looking at alternative quotes and trying to get alternative input on the programs they have," he said.

Despite the across-the-board decrease in rates, some reinsurers see signs of change ahead.

Jacques Bonneau, executive vp and chief underwriting officer for Stamford, Conn.-based Chartwell Reinsurance Co., said he sees a tug of war between reinsurers and ceding companies in reinsurance negotiations.

"I think you're starting to see some resistance to dramatic changes in terms and conditions" on the part of reinsurers, he said.

Mike Schell, senior vp of North American underwriting for St. Paul Re in New York, said, "The last two years it has been clear that both insurance underwriters and reinsurance underwriters have been more scared about the damage done to their top line—and have more fear of losing the business because of that—than fear of what's going to happen to their bottom line if they've retained and written the business at inadequate rates."

But pricing has become so bad, said Mr. Schell, that some fear now is starting to develop about the impact on the bottom line from writing business at current rates.

"There's starting to be a seed of change," he said. "I do know we're closer to it now than we were six

See **Reinsurers** on next page



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# Reinsurers

Continued from previous page  
months ago or a year ago."

Some underwriters are turning down business rather than cutting rates further.

"We have been put in a position, unfortunately, of having to decline or actually have to not renew some of our business because of the softness of the market," said Bonnie Boccitto, chief underwriting officer for Risk Capital Reinsurance Co. in Greenwich, Conn.

"It's hard for me to say if other reinsurers are resisting," she added. "I would like to think that there are some that are, but there's also enough capacity that deals continue to get done even with these decreased rates or broadening terms and conditions."

In a few lines, rates are not decreasing as much as in most areas of the market. For example, catastrophe reinsurance rates are slipping slightly less than other lines, reinsurers say.

"We're seeing cat rates down about 10%," commented William J. Adamson, CEO of CNA Reinsurance in Chicago. "It's a little bit less than we would have expected, and in some cases that's not out of line," he said.

"It's still a difference in pricing for business in catastrophe-prone areas, and a little harder to find coverage," said Constitution Re's Mr. Ruyak.

Graham J. Dimmock, executive vp of Hamilton, Bermuda-based Partner Re Ltd., said of the United States, "I think we see downward pricing pressure, but less so than we see globally, perhaps, because the exposures are more clearly perceived by the buyers."

Catastrophe reinsurance rates for Caribbean exposures are declining, but reinsurers are slightly less willing to chase rates downward than in other lines, said Patrick Steele of Cooper Gay Steele.

"People are aware that that is one place where losses do happen," he said.

Although reinsurers allocate to the region a certain level of aggregate exposure they are unwilling to exceed, there has been such an increase in reinsurers targeting the region over the past several years that there still is ample capacity available to cedents, Mr. Steele said.

In some cases cedents are using the premium savings due to lower rates to buy higher catastrophe limits for specific geographical areas, said Edmund Megna Jr., managing director and an executive vp with Guy Carpenter & Co. Inc. in New York.

The greater sophistication of computer-based catastrophe models allow insurers to get a much better grasp of their exposures, he said.

"So they are getting much more specific in addressing the exposures up top," Mr. Megna said.

While there have been few exceptional weather-related events over the past year, the one unusual meteorological phenomenon, El Nino, has had no significant impact on cat rates, say observers.

"El Nino has had very little effect," said St. Paul Re's Mr. Schell. "Most of the catastrophe excess-of-loss programs on an occurrence basis for clients would attach above the western storm flooding."

Most reinsurers, in fact, say El Nino could have had a positive impact because its wind forces have helped prevent the formation

and maturation of hurricanes, "which is a much bigger exposure to reinsurers than the additional storms and intensity of West Coast storms from El Nino," said Mr. Schell.

Coverage is continuing to broaden, including a push toward multiyear contracts, say observers.

"I think clients like the idea of a little more stability in their costs because a number are concerned about a turn in the market like '86, where the market changed substantially, and it's hard to plan for that," said CNA Re's Mr. Adamson.

Insurers more frequently are seeking multiyear deals, agreed Mr. Megna of Guy Carpenter. "It locks in capacity with a set of reinsurers that appeal to particular clients and it can also lock in favorable pricing," he said.

"We do have some requests for

multiyear contracts, and if they make sense, we've been entertaining them," said Steve Tirney, president and chief operating officer of Philadelphia-based PMA Reinsurance Corp.

"I don't know if they help us out at all, but you're getting something on your books for three years, and maybe if the ceding company likes the rates and wants to lock into a three-year rate, that's fine, as long as it makes sense to us," he said.

Partner Re also has noticed a "slowly growing interest in three-year deals, and that's something that we are still a little hesitant about" because so many of them have been renegotiated before the deal is over, said Mr. Dimmock.

Often the multiyear deals written by reinsurers simply reflect the structure of the multiyear deals that primary insurers are offering their policyholders, said

Mike Bungert, president and CEO of Aon Re Inc., a unit of Aon Corp. in Chicago.

"The primary market is doing it to serve their clients, so you can't have non-concurrent terms from reinsurers," he said.

However, it is another reflection of the overall soft reinsurance market that primary insurers are having few problems in finding reinsurers to write the multiyear deals, Mr. Bungert said.

In addition to multiyear contracts, brokers and their clients are asking for profit commissions in areas where they would not formerly have asked, said St. Paul Re's Mr. Schell.

As a result of the soft market, "there have been a lot of brazen proposals made," said Mr. Schell, speaking in mid-December. "Some of them have already backed off and are already considering less generous terms,"

while in other cases "the poker game is still going on, and I don't know how much of this will take and how much won't take."

Risk Capital Re is seeing "considerable broadening of terms and conditions," including increased ceding commissions and the disappearance of "bells and whistles" such as caps, said Ms. Boccitto.

Hartford Re's Mr. Zettervall noted that after Hurricane Andrew, there were a number of quota share reinsurance contracts that typically had occurrence caps. "We're finding those caps are coming off now, and some reinsurers are willing to write programs on an uncapped basis."

"The biggest concern, I think, is just the broadening of coverages," said CNA Re's Mr. Adamson. "We've seen some risks out there where individuals have removed

See Reinsurers on page 20



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**ZURICH RE**

## Market

Continued from page 17

"It went very well," Mr. Davenport said of Marriott's casualty renewals.

The hotel chain inked 1998 coverages for workers compensation, general liability and commercial automobile risks at expiring limits and slightly lower prices with American International Group Inc.

Mr. Greene said abundant capacity led insurers to write General Electric's excess liability and property renewals at rates 5% to 15% lower than last year.

"I've never seen capacity like this before," said Mr. Greene.

Justin Industries Inc. in Fort Worth, Texas, expects to grab lower rates while reducing deductibles when its workers compensation, commercial automo-

bile, general liability and product liability coverages are renewed in February.

"There is a lot of interest by a number of carriers on quoting business," according to Jim Green, risk manager at the western footwear manufacturer. "Excess layers are open to higher limits for virtually no increase in premiums."

Mr. Green said Justin Industries shopped its program in the market this year for the first time in four or five years. "Every so often you need to do that," he said, to test the insurance market.

He found a lot of insurers were interested in underwriting Justin's program. "Insurers are trying to differentiate themselves from their competitors" by offering better services, Mr. Green explained.

Competition has meant cheaper pollution coverages in the marketplace, Mr. Green pointed out.

In addition, new directors and officers liability insurance forms that include improved coverage for employment-related suits have become available in the past year or two.

General Electric's Mr. Greene

**'Excess layers are open to higher limits for virtually no increase in premium,' Jim Green of Justin Industries says.**

said he noticed that insurers were more willing to write multiyear policies. "Insurers seem to be more open to innovation than ever before," he said.

Borg-Warner Automotive Inc. in Chicago was able to buy a multi-

year aggregate policy with a reinstatement clause for the first time this year, according to Claudia Brumm, director-risk management.

The arrangement allows Ms. Brumm to buy more insurance for the second or third years of the three-year policy if losses approach the policy limits during the initial 12 months.

Borg-Warner pocketed an 18% savings at this year's renewal of property/casualty coverages, Ms. Brumm noted, part of which is attributable to the company's favorable claims history over the past five to 10 years.

In addition to better rates, Borg-Warner received broader coverages and beneficial wording changes in the policies, resulting in "a lot more coverage," she added.

Burgess Ridge, senior vp-administration for textile manufacturer

Fruit of the Loom Inc. in Bowling Green, Ky., said various insurers are trying to offer coverage that presently isn't available. For example, Mr. Ridge said he knows of a product written by offshore insurers to cover punitive damages in states where permitted.

A good loss history helped Fruit of the Loom save 25% when property/casualty coverages were renewed at expiring policy limits, according to Mr. Ridge.

Competition also spurred Celotex Corp. to market its workers comp program this year, according to Mark DeLillo, vp-risk management. The Tampa, Fla.-based building products company buys excess coverage above retentions in states where it self-insures the exposure.

"We marketed it for the first time in three years as a result of competition in the marketplace,"

Continued on next page

## Reinsurers

Continued from page 3

"It went very well," Mr. Davenport said of Marriott's casualty the asbestos and pollution exclusions, that type of thing, where if you've had other limitations or exclusions they're just getting broadened."

George Roberts, president and CEO of Reliance Reinsurance Corp. in Philadelphia, said, "A lot of companies are looking at buying higher limits of reinsurance."

Caps also are increased or done away with, he said.

In addition to offering broader coverage, more reinsurers are increasing the amount of proportional business they write, said Mr. Bolland of Gill & Roeser.

"Reinsurers were trying to unlink themselves from the primary insurance cycle by writing excess-of-loss reinsurance. Now some of them are again linking themselves to the primary cycle by writing proportional reinsurance...it's a very quick way to increase your top line growth," Mr. Bolland said.

While most reinsurers and brokers expect little change in the market in 1998, one factor that will likely gain greater attention is coverage for the Year 2000 computer problem, they say.

The Year 2000 exposure arises from the practice of programming computers with only two digits to indicate the year. Computer experts say that unless many computers are reprogrammed, internal clocks will treat the year 2000 as 1900, which could wreak havoc in systems that the computers control.

Late last year, the Insurance Services Office Inc. introduced several wordings to exclude Year 2000 coverage from primary policies, but so far, few reinsurers have addressed the issue of Year 2000 coverage, according to brokers.

"We are beginning to see people starting to alter coverage in reinsurance contracts to exclude Year 2000 coverage, but we are not seeing a groundswell yet," said Mr. Bungert of Aon.

As the problem date grows nearer, more reinsurers will likely include Year 2000 exclusions, he said.

The number of reinsurers excluding the coverage will likely grow in 1998, agreed Mr. Steele of Cooper Gay Steele.

Despite the soft market, reinsurers are so wary of the possible catastrophe of Year 2000 losses that they will seek to exclude coverage, he said.

"There will be exclusions put in, but everybody will have different wordings," Mr. Steele said. **BI**

**Protecc**

**Factory Mutual System**

Continued from previous page  
Mr. DeLillo said. He said he expects Celotex will end up with rates equal to expiring levels or slightly lower.

Workers compensation reforms such as those enacted in Florida have led insurers to compete more heartily for business, Mr. DeLillo explained.

"I hear that some large-deductible programs are being considered by some who were previously self-insured because prices are so attractive," he said.

The Vanguard Group of Investment Cos. in Malvern, Pa., is seeing a significant price break on a liability coverage it is renewing, according to Earl Varney, risk manager.

Describing it as a "very specialized" type of professional liability coverage, Mr. Varney said the insurance currently is written by a "consortium of players."

He expects the group to offer rates 20% to 25% lower for the 1998 policy. That might be the biggest price drop for a while.

"I don't think it can get any lower than it already is," Mr. Varney said of the professional liability market.

**'I don't think it can get any lower than it already is. There is still an awful lot of softness in (the professional liability) market,' Earl Varney says.**

ity market. "There is still an awful lot of softness in that market. There's more than adequate capacity."

But, even though insurance rates may not sink further, "I

don't see them hardening, either, unless that capacity begins to dry up," Mr. Varney added. "I see them stable for at least 12 to 18 months."

Mr. Varney is hoping to find coverage for the looming Year

2000 computer problem.

Insurers are offering a "true risk transfer" product that appears to provide adequate coverage if computer problems lead to losses because of the millennium

bug, he noted.

Mr. Varney said he is pressing management to seriously consider purchasing coverage for the risk.

Mr. Wilkins said Oklahoma Gas & Electric's general liability and D&O liability renewals went "very smoothly." The general liability coverage was renewed at expiring limits for no additional cost, while D&O limits were increased slightly, also for no extra cost.

Associated Electric & Gas Insurance Services Ltd., a Bermuda-domiciled surplus lines mutual insurer, writes the primary layers for those coverages. Energy Insurance Mutual Ltd., based in Tampa, Fla., writes the excess layers.

Ralph's Grocery Co. is shopping for the best deal on excess liability insurance to sit atop its self-insured general liability and workers comp programs.

"We're putting it out to market,

and we'll see how it goes," said Earl H. Sherman, director of risk management for the Los Angeles-based grocery retailer.

Mr. Sherman said he expects the coverage, which AIG now writes, to renew at existing or lower prices when the renewal is completed in February.

Although Ralph's won't be affected because the company self-insures its workers comp exposure, Mr. Sherman predicts the market for that coverage in California will soon start to tighten.

Prices are going to rise slightly in 1998 as workers comp underwriters in the state complete mergers, he said.

Next year, a "strong hardening" could be in store for that market as fewer insurers dominate the field, Mr. Varney added.

Risk managers say some of their price breaks on property coverages could be related to a light weather year in 1997.

Few major storms and the absence of devastating hurricanes like those that have wracked the United States in past years may have given "underwriters a little more nerve in writing these policies," said Fruit of the Loom's Mr. Ridge.

Ms. Brumm of Borg-Warner said the lack of major catastrophes helped keep rates down. Insurers could use catastrophes to justify rate increases, she noted, and during a year without such calamities, underwriters are keeping prices low.

Mr. DeLillo of Celotex said his company "did a little better than the previous year" when renewing property coverages during the past hurricane season, despite the company's large exposure in Florida.

"We renew Aug. 31, smack in the middle of hurricane season," Mr. DeLillo pointed out. "Fortunately, we had a light season."

"I think that creates a certain comfort with underwriters" writing property insurance in storm-prone regions, he said.

Despite its nationwide presence, Electrolux isn't too worried that it will be affected by the fickle behavior of El Nino.

"We could stand to lose some inventory" from a storm fostered by the recurring weather phenomenon, "but that's really the landlord's responsibility," said Mr. Turk, referring to any damage to leased facilities.

Ralph's Grocery doesn't expect its West Coast presence and El Nino exposure will figure too greatly in property renewals later this year because the retailer self-insures much of such risks, according to Mr. Sherman.

"It probably won't affect us, our retentions are so high," he explained.

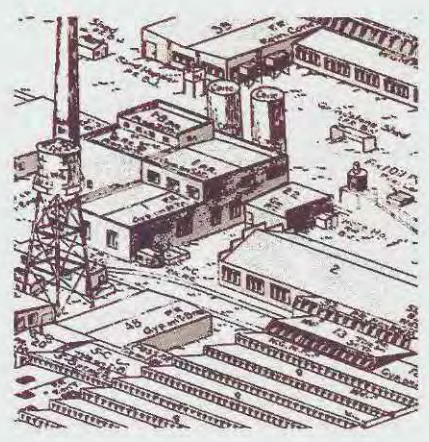
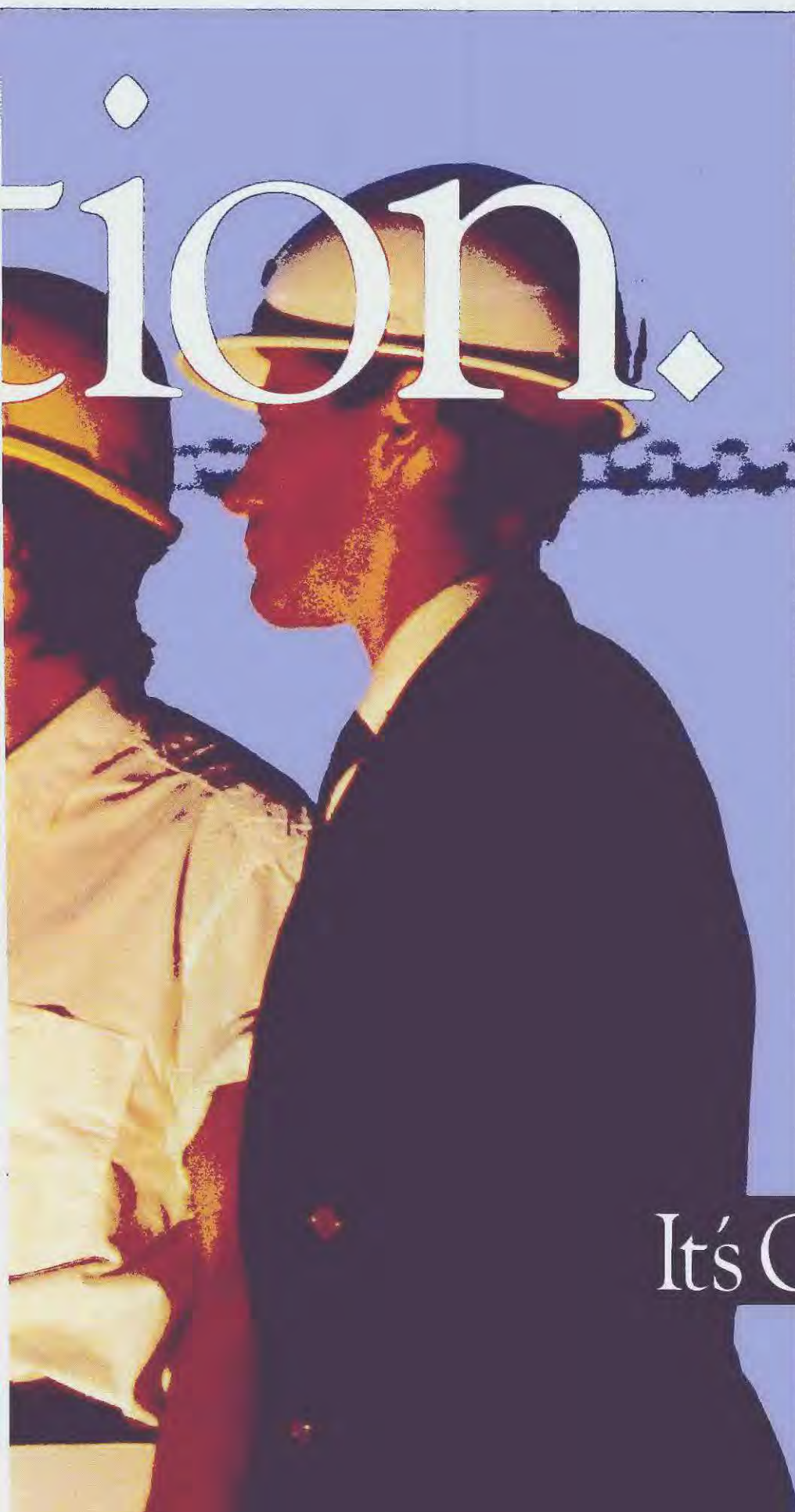
Risk managers continue to keep a close eye on the shrinking ranks of brokers and insurers through consolidations.

Mr. Greene of GE said he hopes the innovative spirit in the marketplace today isn't snuffed out as intermediaries grow.

Broker consolidation has not had a major impact yet, he said, and it could benefit policyholders by making it simpler to buy insurance. "As long as their size doesn't kill their creativity or competitiveness, it's fine," he said.

But, he added, buyers may be hurt in three or four years when brokers settle into their consolidations and competition slows down.

"If anything can happen, they will be overwhelmed by their success and stop being innovative and competitive," Mr. Greene said.



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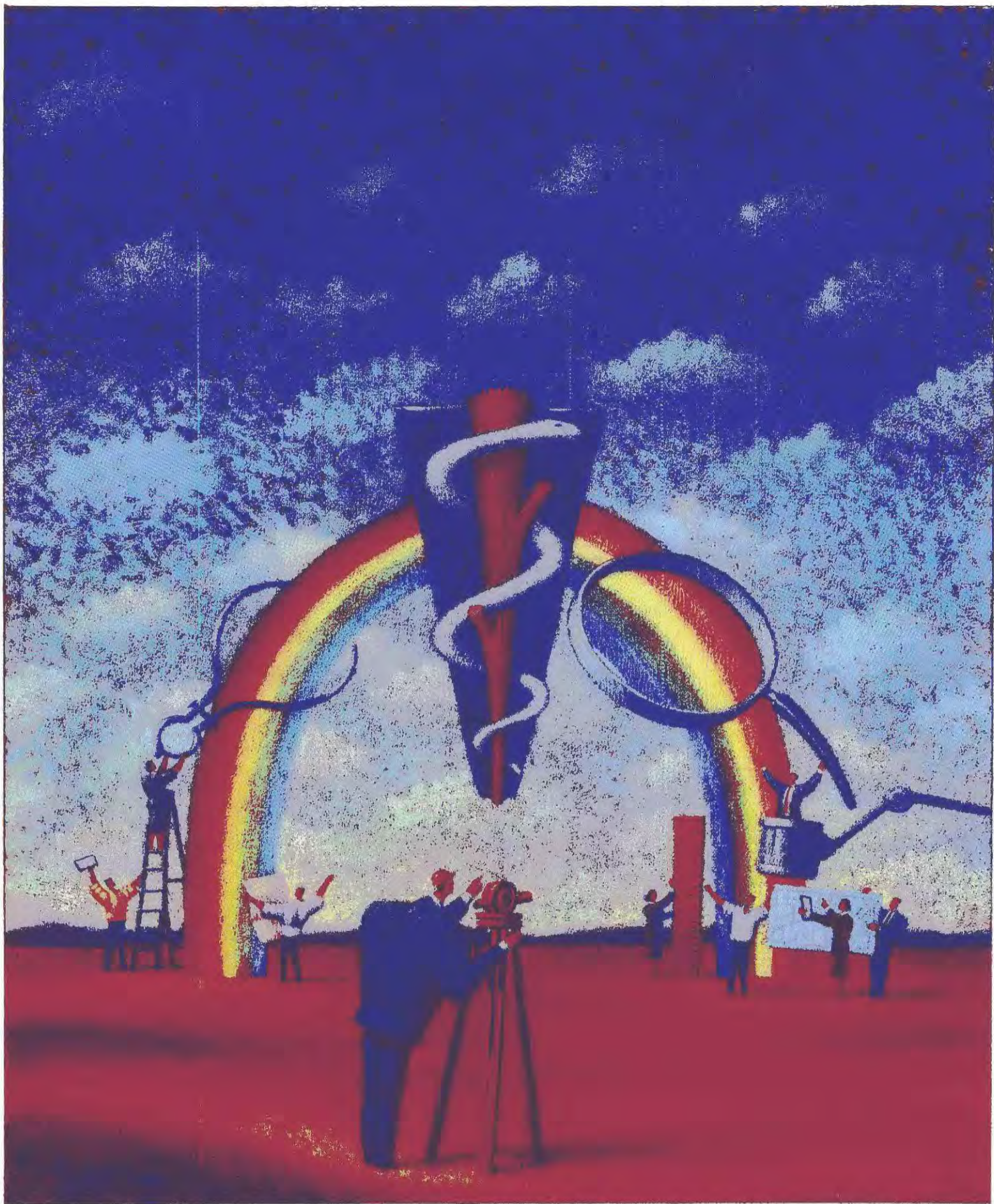


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# London market lets buyers steer during renewal season

By SARAH GODDARD and EDWIN UNSWORTH

**M**ore of the same is the verdict on everyone's lips after the close of the Jan. 1 renewal season in London.

Rates diminishing as capacity soars. Renewals negotiated later and later, with programs still being completed last week. And greater use of self-insurance by risk managers, adding to the competition crunch among underwriters.

In sum, most buyers are in the driver's seat during January renewals in the London market.

For insurers, reinsurers and brokers, market conditions are not good news, though major factors in the continuing soft market are the absence of major catastrophes, natural or man-made; buoyant investment markets; and resulting favorable financial results for insurers.

The London renewal season started extremely late, even compared with the previous year's extension, and certain contracts remained to be completed last week.

At a meeting of the London International Insurance & Reinsurance Market Assn. at the beginning of December, underwriters reported there was nothing to report—the renewal season had barely twitched into life.

"Everybody's holding back," said Ross McKenzie, chairman of non-marine at Aon Group Ltd. in London, speaking in mid-December, because they did not want "to go too soon to set a precedent."

As clients continued to withhold decisions, they encouraged further rate drops, resulting in a rush of orders at the end of December. Susan Gwynne, planning and marketing director of Eagle Star Reinsurance Co. Ltd., said late last month that the season was "a couple of days behind" the previous year. But she added that nobody was panicking and "it will all get done as if by magic by Jan. 1."

Nevertheless, early in January brokers still were walking around the London Underwriting Centre and Lloyd's of London, placing their clients' orders. That fulfilled a prediction by Timothy Stokes, underwriter at Copenhagen Reinsurance Co. (U.K.) Ltd. that hitting the Jan. 1 target would be "unlikely" this year.

"The buyers are very aware of market conditions, and brokers are marketing programs as a defensive measure, even if not being asked by their clients," said Michael Earp, underwriter at Archer Managing Agents Ltd.

"Isn't it good!" said Clive Pracy, a risk management consultant with Andersen Consulting in London, talking about the ever-decreasing rates: "After donkey's years of being told what they can have (by insurers), it has now turned round," and buyers are in charge, he said.

It's not that it's a soft market only at the moment, said Mr. Pracy. This is the form the market will continue to take, he predicted,

particularly for large industrial risks as loss prevention and sophisticated risk management techniques continue to reduce the risk of man-made catastrophes. Continuing in this vein, organizations will start questioning why they are buying insurance, he predicted, and will transfer fewer and fewer of their exposures into the conventional insurance market.

Eddie Hester, general manager of Zurich International (U.K.) Ltd. in London, said this already was a trend during the year-end renewals. The increase in multi-year policies also meant a quieter renewal season, he said.

"The market conditions are unfavorable to insurers," he commented, but even though rates continue to fall, that hasn't slowed the trend for commercial policyholders to move toward self-insurance as part of their long-term strategy.

Rates have fallen across the board, though insurers have not necessarily lowered prices for customers with poor claims experience.

William Knapman, financial institutions underwriter for Archer syndicate 839, said average rate reductions were between 10% and 40% for D&O liability, financial institutions liability and bankers' blanket bond business. "These reductions are typically tied up with 'stretched' aggregates for two-, three- or four-year periods," as well as multiyear arrangements, he said.

Archer's Mr. Earp noted a drop of 10% to 15% in the general liability market, though rates for construction companies have not fallen as much as other lines.

Aon's Mr. McKenzie said he saw reductions in general liability rates of no greater than 10%, while some accounts were seeing the same rates as last season.

European casualty rates are off between 20% and 25%, said Stephen Hitchcock, deputy managing director of the international division of Heath Reinsurance Broking Ltd.

On the property side, a client with "a nice portfolio of business" may see rate reductions topping 25%, said Mr. McKenzie of Aon, with the average being about 20%. Property risks is the area people were holding back from completing the programs, waiting for the best possible terms, he said.

On the catastrophe reinsurance side, clients are seeing reductions up to 50%, said Martyn Hooper, managing director of the non-marine division of reinsurance broker Kininmonth Lambert Ltd. "What this market is doing is testing the client's approach to the purchase of reinsurance," he said. "At the end of the day, it's up to the client."

Because clients are king, insurers are actively courting them, putting together modified products and additional services "to mask rate reductions," Mr. Hooper said. "There's a lot of manipulation of the terms of a standard deal to avoid a huge up-front rate reduction," he said.

As with 1997 renewals, market executives said privately that certain insurers and reinsurers appeared to be taking on business merely to boost their top-line figures, rather than bottom line profits. Nevertheless, last season's premium chase so far has not led to heavy losses for any London

market companies.

"While the return is acceptable, people will continue to have an appetite for risk," said Zurich's Mr. Hester. Underwriting results recently have been cushioned by a bullish investment market, noted Mr. Hester, predicting that reinsurers will start feeling the impact of the price reductions, leading to "worse results next year."

But the consensus opinion is that it will take much more than some poor underwriting results to push the market into an upturn in the underwriting cycle.

"I can't see anything that would cause the market price to change," said Mr. McKenzie. With the current levels of capital, capacity and the lack of catastrophes, there is nothing "on the horizon that would suggest any change to the situation."

A correction in the abnormally low incidence of natural catastrophes could have an influence, said Mr. Hester, though it would depend on which geographic regions of the world were hit.

"I firmly believe that it will take more than one catastrophe to turn the market," said Copenhagen Re's Mr. Stokes. "Not one windstorm or even a reasonable sized earthquake is going to make the market turn around."

But all is not rosy for insurance buyers. The specter of the year 2000 problem has overshadowed recent renewals, and many in the London market see the potential computer problem as the biggest emerging liability in the near future.

A number of clients have been put on notice that their coverages will include a year 2000 exclusion on renewal, said Nick Bonner, excess-of-loss underwriter for Lloyd's syndicate 588. Even so, "with things that have been done on a risks-attaching basis, there has been success in getting the year 2000 (problem) put on," he added.

Market consolidations have played a part in the increased competition in London market, giving smaller players an opportunity to participate on programs as insurance buyers have been cautious of relying on too few providers.

Conversely, as the capacity of insurers and reinsurers has increased, there are fewer underwriters participating on individual risks, said Aon's Mr. McKenzie.

Overall, Copenhagen Re's Mr. Stokes saw consolidation among brokers is having little effect, though he said that it could encourage the rise of the niche broker as buyers seek to spread their programs beyond the megabrokers.

Archer's Mr. Earp said, however, that he was "having to form strategic alliances with certain brokers."

Despite the doom merchants' claims of the market suffering from rates set far too low, capital set too high and insurance buyers leaving the traditional insurance market, Aon's Mr. McKenzie was extremely positive about the future of the London market.

It has "always been a market of last resort," he said, which will write any business at a price. The resurrection of Lloyd's fortunes have in turn helped the strength of the London market overall, he added, and "the viability of the London market as a whole is back to where it used to be." **BI**

# Surplus capacity pushes down on non-admitted market

By DAVE LENCKUS and JOANNE WOJCIK

**I**t was a deal that underwriting manager First State Management Group just wouldn't beat, even to save an existing account for its parent, Hartford Group Inc.

A new market offered to write an account's liability umbrella coverage for \$385,000, or a 68% reduction in the account's \$1.2 million expiring premium.

"That's an opportunity to walk away. We just can't take that type of decrease," said Peter Coghlan, executive vp with First State in Boston.

The competition in the surplus lines market typically is not quite that ferocious. But, an overabundance of capacity, including some from new surplus lines underwriters, continues to push down rates significantly—when the admitted market has not snared the business.

Even earthquake risks are taking bites out of the fruits of the soft surplus lines market. Reduced rates, though, often are not enough for surplus lines insurers to win business. They also are offering more attractive terms and conditions. And, to trim insurance buyers' frictional costs, some non-admitted markets are packaging multiple coverages and writing larger layers of coverage.

"We're eating ourselves up," said Marcus Payne, president and chief operating officer of Dallas-based wholesaler Crump Insurance Services Inc.

Some potentially threatening images cloud that rosy market picture for risk managers, though, as insurers begin seriously sorting out how they will respond to year 2000 liabilities.

In the meantime, market executives' complaints about a tough market signal continued good buys for risk managers.

Indeed, Mr. Payne said, the market is so soft that "those who were a prime prospect for a captive just aren't anymore."

For all casualty lines of business, rates for excess and primary coverage are falling 10% to 25%, according to market executives.

Types of risks seem to be less important to underwriters than whether an account represents new business and a huge source of premium volume, according to Mr. Payne. He said renewal accounts can expect 10% to 20% rate cuts, while new accounts are negotiating 25% reductions. The biggest winners are the biggest accounts, which are commanding 20% to 50% rate cuts, he said.

Other market executives said surplus lines insurers are cutting excess and umbrella coverage rates the most.

Umbrella insurance rates have fallen 25% during the past year, while primary insurance rates are

down 15% or more for all lines, "especially product liability risks" if the standard lines market has not grabbed them, said Tom Ciardello, an executive vp with independent wholesaler Tri-City Brokerage Inc. of San Francisco.

First State's Mr. Coghlan said the deals that surplus lines underwriters are striking for excess and umbrella coverage are the best in the market not because of price alone but also because of the additional capacity and the more attractive terms and conditions insurers are offering.

Many excess markets are writing layers in \$25 million increments, which holds down risk managers' frictional costs, he said.

And, some umbrella underwriters are offering large accounts pollution coverage that is available through one of the three pollution endorsements the Insurance Services Office Inc. unveiled last year (*BI*, May 19, 1997).

Primary markets also continue to cut rates. Risk managers can expect 10% to 15% rate cuts typically, market executives said.

Some underwriters are so "desperate" to win business to hit their premium volume budgets that they will cut rates by up to twice as much, said First State's Mr. Coghlan. Those underwriters will offer such deals even if that means writing the business for a premium that will not cover their insurers' loss costs, he said.

Accounts generating \$100,000 or more in premiums are the favorite targets for those underwriters, he said.

Like umbrella markets, primary markets are expanding their coverage offerings in an effort to retain business.

For example, Markel Corp. subsidiary Evanston Insurance Co. of Evanston, Ill., now offers E&O and employment practices liability coverage—for an additional premium—to its comprehensive general liability policyholders.

"The objective is to make a comprehensive package of coverages for clients—professional liability, premises liability, EPL—all in one contract," explained Paul Springman, president of Evanston Insurance.

Evanston also is introducing a new EPL form that will cover prior acts for some policyholders, according to Mr. Springman.

Zurich-American Specialties, the surplus lines division of Zurich-American Insurance Group, also will write additional coverages for the first time for its malpractice and general liability clients.

"Now our customers want other lines in the casualty area. So we're now offering, beginning 1-1-98, auto and workers compensation on a packaged or unbundled basis," said Dave Osborn, vp in the insurer's Atlanta-based health care division.

The insurer also is offering policyholders access to claims-handling and loss control services.

Surplus lines insurers typically have not offered such services, but some are now offering them in an effort to differentiate

See Surplus on next page



# Surplus

Continued from previous page themselves from other markets.

Underwriters also are cutting sweet deals for directors and officers liability and errors and omissions liability insurance. Rates are about 20% lower than they were a year ago, estimated Tri-City's Mr. Ciardello.

In addition, D&O underwriters are liberalizing terms and conditions for the coverage, he said. Along with the financial protection they can secure for their companies' directors and officers, risk managers also can obtain—at little additional cost—coverage for their corporate entities' share of a loss, Mr. Ciardello said.

D&O policyholders and insurers in recent years have faced off in court battles over how insurers can allocate D&O claims between insured corporate executives and the corporate entity, which D&O policies until recent years had not covered.

Large D&O accounts also can add employer practices liability coverage for a small additional premium, Mr. Ciardello said.

The only risk tough to place is general liability for homebuilders. That tight market may be spreading east from California, said David R. Hartoch, president and chief executive officer of whole-

saler Swett & Crawford Group of Woodlands Hills, Calif.

But, Crump's Mr. Payne said, markets still will write the coverage if a specialty wholesaler brings them the risk.

Property rates continue to fall as well. Rates have fallen 15% over the past six months, according to Tri-City's Mr. Ciardello.

Insurers are being equally generous with catastrophe property coverage.

Because of few losses in recent years and a growth in capacity that Mr. Payne estimated at 20%, earthquake underwriters are trimming rates between 15% and 20% in most cases and up to 40% for large accounts, market executives said.

The swelling market capacity means buyers likely can find as much coverage as they need, Mr. Payne said. "We don't see any signs of it changing at this point."

Still, earthquake coverage is 20% to 50% more expensive than it was before the 1994 temblor that hit Northridge, Calif., market executives said.

Insurers also are tracking their earthquake exposures better than they were a few years ago, Mr. Ciardello said. As a result, finding the coverage still may be tough, especially for insurance buyers that cannot generate the \$20,000 minimum premiums insurers are seeking, he said.

On a case-by-case basis, though,

some insurers that have reached their aggregation limits in a quake zone will write a risk that will push the underwriters beyond those limits, Mr. Payne said.

Some risk managers also will be able to negotiate lower deductibles, as market pressure is building for

warm waters in the Pacific Ocean, would produce climatic changes that would lead to an unusually light hurricane season, market executives said.

Deductibles for that coverage, too, are dropping. Market pressures are forcing down deductibles

## The only risk tough to place is general liability for homebuilders. That tight market may be spreading east from California, says David R. Hartoch.

dollar deductibles to replace percentage-of-loss deductibles, Mr. Coghlan said.

Some large accounts have moved away from the typical 10% deductible to a \$10 million cap, which could represent only 1% or 2% of a loss, Mr. Coghlan said.

Other large accounts that cannot command such a cap often seek a 5% deductible, he said.

The cost of windstorm insurance in Florida also has swooned 20% for large accounts since June.

One reason is new capacity, Mr. Ciardello said.

Another reason rates dropped were the predictions that El Nino, the large areas of abnormally

to a dollar amount that equates to 0.5% to 1% of loss values. Previously, deductibles ranged from 2% to 5% of losses.

The year 2000 computer problem troubles underwriters. But, they are not sure how they will respond to the risk of anticipated claims when computers in various businesses and products interpret Jan. 1, 2000, as Jan. 1, 1900, and malfunction or shut down.

"We've done a comprehensive internal audit, and clearly at the top of our list is directors and officers liability (claims against policyholders)," said Evanston's Mr. Springman.

However, "we haven't made any

definitive underwriting decisions other than not to write three-year policies for D&O," he said.

Mr. Springman said insurers themselves—heavy mainframe computer users—are likely to have significant year 2000 exposures. Mainframe computers, which often operate with older languages such as COBOL and FORTRAN, generally are not equipped to handle date information beyond 1999.

"Physicians, lawyers and architects have some exposure, but it's moderate compared with insurers," he said.

Evanston writes insurer E&O and D&O coverage on a surplus lines basis.

The insurer also writes E&O coverage for year 2000 solution consultants.

Zurich-American Specialties is "sorting through endorsements—ISO's and others—to see if they can be used" to limit year 2000 liability coverage in the general liability and product liability lines, said Janet Jordan-Foster, a New York-based senior vp for Zurich-American Specialties.

One area of concern is the D&O, E&O and other professional liability lines that Zurich-American Specialties writes to cover hospitals and health care organizations.

"If they've got year 2000 problems, it could cause prescriptions to be issued incorrectly," Mr. Osborn explained. **BI**

# Report on Riverwalk crash misses lawsuits

By MICHAEL BRADFORD

NEW ORLEANS—A U.S. Coast Guard report blaming the crew of the M/V Bright Field for last year's New Orleans Riverwalk crash is not expected to affect dozens of lawsuits filed in the accident.

Suits have been filed in state and federal courts related to damage, personal injury and business interruption losses suffered by merchants, residents and others at the Riverwalk when the ship lost control and plowed into the popular shopping area about a year ago (BI, Dec. 23/30, 1996).

The ship carrying 61,600 tons of corn lost its ability to steer and

ripped into the 182,000-square-foot strip of shops and restaurants that line the Mississippi River. The crash injured more than 100 people and caused about \$15 million in

The "root cause" of the accident was "ineffective management and oversight" in maintaining the vessel, Coast Guard Commandant Robert E. Kramek wrote in the re-

actions to prevent future accidents.

The commandant concurred with a recommendation in the report by the Marine Board of Investigation that officials in Liberia, where the Bright Field is registered, should conduct a "suspension and revocation investigation" of the ship's licensed engineers for "negligence and misconduct." The engineers are accused of failing to maintain proper lubrication in the ship's engine.

Attorneys for both sides say the report is unlikely to change their tactics or impact the outcomes of lawsuits.

In addition, they don't expect it will affect the outcome of a trial to determine whether the shipowners

can limit their liability.

"I don't see where it plays a major role in the case," said Jimmy Roussel, an attorney with the New Orleans firm Phelps Dunbar, representing ship operator COSCO (H.K.) Shipping Co. Ltd. and Bright Field owner Clearsky Shipping Corp.

Mr. Roussel pointed out that the Coast Guard report is not expected to play a role in that trial partly because of a federal law that makes such reports inadmissible in civil litigation.

"The report will not significantly affect the lawsuits one way or another," agreed Michael Delesdernier, a New Orleans attorney who with four other lawyers represents about 50 plaintiffs in the case.

The attorneys said that lawsuits are on hold until a trial is held to determine whether the shipowner can limit its liability to the value of the vessel.

Maritime law limits a shipowner's liability to the amount of the value of the vessel and its cargo if it is found that the owner had no awareness of negligence that led to damages. Liability is unlimited if it is found the owner knew or should have known about negligence that led to damages.

Mr. Delesdernier said the trial on the limitation issue is expected to begin this summer.

Estimates of the value of the vessel have ranged from \$10 million to \$17.5 million. The corn was valued at about \$7 million.

When the vessel owners filed proceedings in U.S. District Court in New Orleans seeking to limit liability, the judge ordered all suits related to the crash be filed in federal court and issued a stay on any filings until the limitation question was settled.

However, when the one-year anniversary of the crash approached last month, claimants persuaded the judge to relax the stay so they could file lawsuits in state court against defendants other than the shipowners before the statute of limitations expired and those claims were barred. **BI**

## Attorneys for both sides say the Coast Guard report is unlikely to affect the outcome of a trial to determine whether the shipowners can limit their liability.

property damage to the pier and nearby structures.

port conducted to determine the cause of the crash and recommend

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**FEB. 1-4. The Interactive Disability Forum** in St. Petersburg, Fla., sponsored by The Hartford and Disability Consulting Group Inc.; \$795. Jami Berube, Disability Consulting Group Inc., 66 Pearl St.,

Suite 300, Portland, Maine 04101; 207-756-8551.

**FEB. 3-4 Solving the Health Care Benefits Puzzle** seminar in Milwaukee, sponsored by the University of Wisconsin's University Center for Continuing Education; \$695. Paul Haussman, program director, University of Wisconsin, University Center for Continuing Education, 161 W. Wisconsin Ave., Suite 6000, Milwaukee, Wis. 53203-2602; 414-227-3265.

**FEB. 3-4. Captive Insurance Companies** workshop in London, sponsored by the Risk & Insurance Research Group Ltd. £790 (\$1,325) plus VAT. RIRG, 44 Maiden Lane, Covent Garden, London WC2E 7LJ; 44-171-836-0614.

**FEB. 4-6. Workers' Compensation Management** course in Seattle, sponsored by the Risk & Insurance Management Society. \$675 for members, \$775 for non-members. Also May 6-8 in Chicago, Nov. 18-20 in Boston. RIMS, 655 Third Ave.,

New York, N.Y. 10017-5637; 212-286-9292.

**FEB. 4-6. Financial Analysis: Property/Casualty Insurance** seminar, in Philadelphia, sponsored by Fells Road Group. \$1,250. Also April 1-3, Sept. 16-18, Oct. 28-30 and Dec. 2-4. Denise Danalis, Fells Road Group, 271 Route 46 West, Ste. D-207, Fairfield, N.J. 07004; 973-227-5955.

**FEB. 4-6. Advanced Pension Conference** in Orlando, Fla., sponsored by Corbel; \$695. Corbel Educational Services, 1660 Prudential Drive, Jacksonville, Fla. 32207-8197; 800-326-7235.

**FEB. 4-6. 1998 Products Liability Seminar** in New Orleans, sponsored by Defense Research Institute Inc.; \$595 for members, \$640 for non-members. DRI, 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

**FEB. 5-6. Seventh Annual Employers/**

**Coalition Health Conference** in Sarasota, Fla., sponsored by the West Coast Healthcare Coalition; \$345. WCHC, 6637 Superior Ave., Suite C, Sarasota, Fla. 34231; 941-923-1697.

**FEB. 5-6. Pharmacy Benefits Management** seminar in Milwaukee, sponsored by the University of Wisconsin's University Center for Continuing Education; \$695. Paul Haussman, program director, University of Wisconsin, University Center for Continuing Education, 161 W. Wisconsin Ave., Suite 6000, Milwaukee, Wis. 53203-2602; 414-227-3265.

**FEB. 9-11. Fundamentals of Insurance** course in San Diego, sponsored by the Risk & Insurance Management Society; \$675 for members, \$775 for non-members. Also April 1-3 in Washington, June 15-17 in Chicago, Sept. 16-18 in Atlanta, Oct. 19-21 in Scottsdale, Ariz., Dec. 7-9 in Orlando. RIMS, 655 Third Ave., New York, N.Y. 10017-5637; 212-286-9292.

**FEB. 9-13. PRIMA's 1998 Government Risk Management Seminar East** in Orlando, Fla., sponsored by the Public Risk Management Assn.; Foundations in Risk Management, \$665 for members, \$835 for non-members. Continuing Education for School Risk Managers; \$560 for members, \$720 for non-members. PRIMA, 1815 N. Fort Myer Drive, Suite 1020, Arlington, Va. 22209; 703-528-7701.

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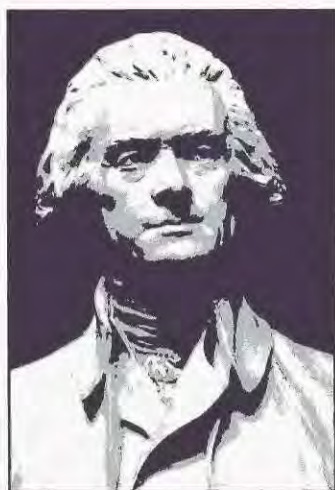
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## Standards revised on respirator use

By MARK A. HOFMANN

WASHINGTON—The Occupational Safety and Health Administration is updating its standards for respirator use, a move the agency estimates will save more than 900 lives a year.

The action represents the first revision of the respirator safety standard in more than 25 years, said Charles Jeffress, assistant secretary of labor for occupational safety and health during a Washington news conference last week. He said the revisions took into account changes in technology and consolidated previous respirator standards, making it easier for employers to comply.

Respirators are safety devices covering at least the nose and mouth and thus protect wearers against "hazardous atmospheres" containing particulates or dust, gases, radioactive materials and other dangers, OSHA said.

Although the focus of the press conference was on how the updated standard would affect firefighters, Mr. Jeffress said it would impact as many as one in five work sites in the country. He noted that the standard also would apply to respirators worn during such activities as sandblasting.

The most notable change requires firefighters to use the so-called "two-in, two-out" approach. Under this approach, two firefighters enter a burning building while two remain outside ready to rescue the first pair, if need be. The firefighters inside the struc-

ture must remain in visual and vocal contact with each other.

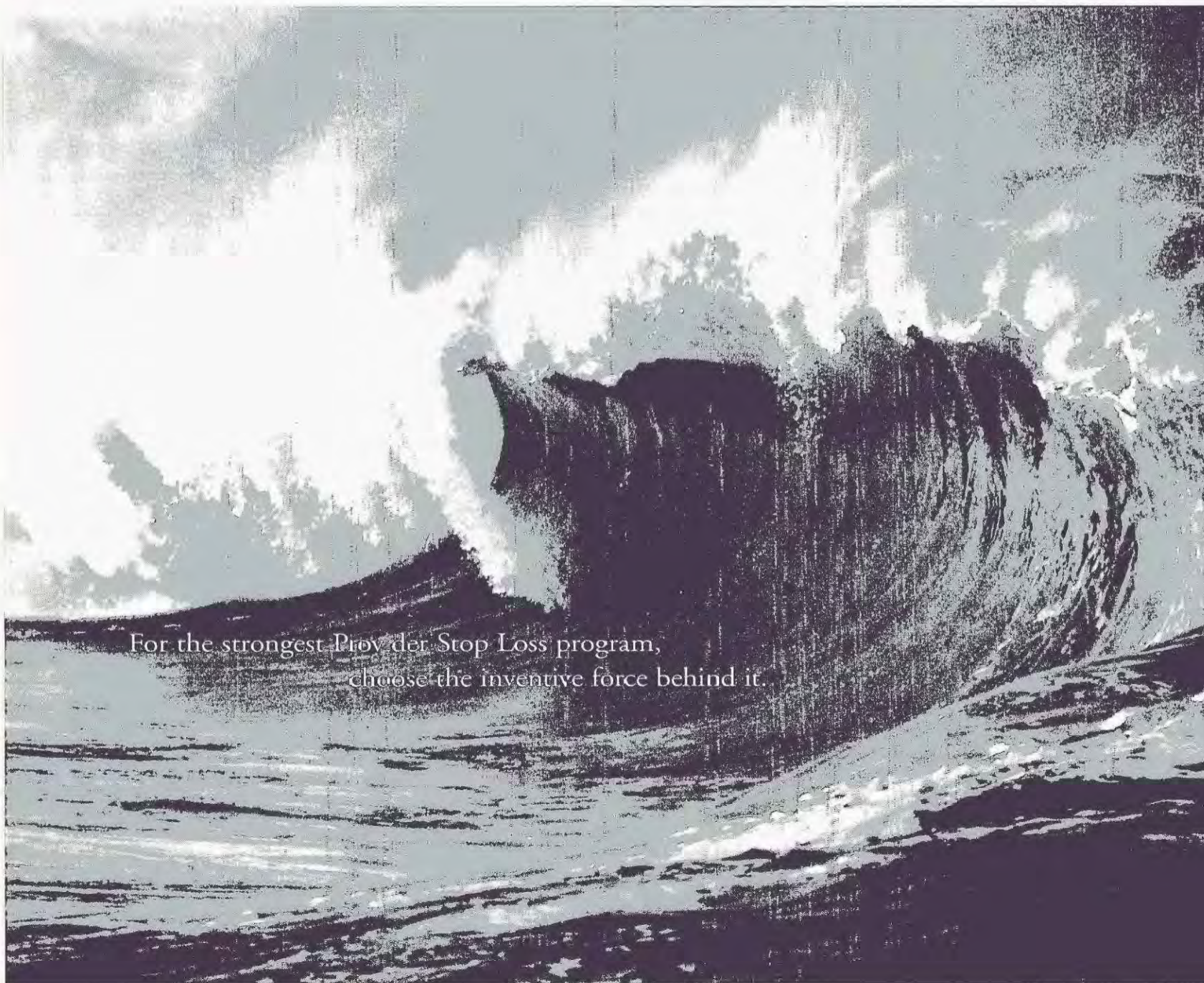
OSHA does not, however, have jurisdiction over state and local government firefighters in the 25 states that operate their own workplace safety programs.

Among other things, the revised standard will also require:

- A written plan to tailor a respirator safety program to individual worksites.
- A hazard evaluation to help employers choose the right respirators.
- Medical evaluation of workers to determine whether they can use the selected respirators.
- Testing how respirators fit to minimize leakage and assure that they provide adequate protection.
- Employee training in the use of respirators.
- Periodic program evaluation.

OSHA estimates the cost of compliance at \$22 per employee annually for those employers affected by the change, with the average cost per establishment at \$87 per year. OSHA also estimates that the change will save up to \$94 million in injury and illness-related costs annually.

The revised standard, published Jan. 8 in the Federal Register, takes effect April 8. States and territories with their own occupational safety programs must adopt standards comparable to the new OSHA standard and extend them to state and local government workers within six months. **BI**



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*Continued from page 1*  
 Medicare by paying a monthly premium of \$400 until age 65.  
 In addition, the package would require employers that terminate retiree health care plans to extend COBRA coverage to retirees as young as 55 and continue that coverage until age 65. For this lengthy COBRA coverage, employers could charge retirees a premium of 125% of the company's group health plan rate. Under current law, employers only have to extend COBRA coverage for 18 months to former employees and can charge them a premium equal to 102% of the group rate.  
 The administration package would make it financially attractive and a lot easier for employers to terminate

health care plans for retirees under age 65 who are not yet eligible for Medicare, benefit experts say. Companies with high health care costs would have the greatest incentive to terminate their plans.  
 One factor now preventing employers from terminating early retiree health care plans is the difficulty and high cost retirees with medical problems face in obtaining coverage in the personal lines market.  
 But with early retirees having assured Medicare coverage, employers would not have to worry that eliminating retiree health plans would result in retired workers encountering coverage problems.  
 What employers could and would do, benefit experts say, is terminate their early retiree health care plans and then heavily subsidize the retiree's Medicare premium.

By adopting such a strategy, employers easily could come out ahead financially. For example, while annual health care plan costs for healthy retirees in their early 60s can be in the \$3,600 to \$3,800 range, costs for retirees with significant health care problems can be as much as three times more.  
 As a result, employers in many cases could reap huge savings by dumping early retiree health care plans and paying part or even all of their retirees' Medicare premiums.  
 "If there is another plan—that is, Medicare—an employer can eliminate its plan. This could generate a windfall for employers and be a good arrangement for retirees," said Barry Barnett, a principal with The Kwasha Lipton Group in Fort Lee, N.J.  
 "This could be very positive for employers. It is certainly something em-

ployers would consider," added Richard Stover, a principal with Buck Consultants Inc. in Secaucus, N.J.  
 "There definitely is an incentive to drop coverage," said John Piro, a consultant with Hewitt Associates L.L.C. in Rowayton, Conn.  
 The package is attractive both to employers anxious to shed retiree health care plans and to early retirees without employer-sponsored coverage who have severe health problems. But that dual attractiveness could spell political trouble for the package when Congress considers it.  
 Clinton administration officials last week said the program is structured so that the costs of the additional participants would be covered by premiums charged, the additional surcharge, and savings from unspecified initiatives to fight Medicare fraud.  
 Benefit actuaries and others doubt that would happen. They say early retirees will do a quick calculation. Those who can obtain coverage in the personal lines market for less than premiums charged in the Medicare program will not switch to the new program.  
 But retirees with health problems so severe that private premiums are several times those of Medicare will opt for Medicare.  
 That will lead to massive adverse selection, in which those retirees with greatest health care expenses will opt for coverage.  
 "There will be huge anti-selection. This program invites selection against Medicare," said Lewis Borgenicht, a consulting actuary with ASA Inc. in Somerset Inc.  
 While the program would be a boon for retirees with high health care


costs, "it will come at the expense of the Medicare trust fund," Mr. Borgenicht said.  
 That leads some to question whether the new program truly will be self-financed, as the administration maintains.  
 "One of the biggest hindrances that this program faces is that an entitlement program would be expanded, and yet that expansion would not be adequately financed," said James Klein, president of the Assn. of Private Pension & Welfare Plans in Washington.  
 There are other concerns. Under the package, employers who terminate early retiree health plans would have to extend COBRA coverage for as long as 10 years.  
 Because of adverse selection, the 125% premium employers could charge retirees would not come close to covering employers' costs, notes Joseph Martingale, a principal with Towers Perrin in New York.  
 Some say it is unfair that employers who voluntarily agreed to offer early retiree health care plans and then legally terminated those plans should have to offer COBRA for such a long time.  
 "What is the rationale for such a punishment? Why not instead give employers an incentive to offer retiree health care plans," asked Chip Kerby, an attorney with William M. Mercer Inc. in Washington.  
 It is ironic, Mr. Kerby says, that in the same week the administration proposed giving employers tax credits if they develop child care centers, it also proposed sticking employers with such an extended COBRA responsibility. **BI**

## READER REPLY SERVICE

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#### Issue of January 12

| Reader Service # | Advertiser                    | Page # | Reader Service # | Advertiser                     | Page # |
|------------------|-------------------------------|--------|------------------|--------------------------------|--------|
| —                | Admiral Insurance             | 27     | —                | Jefferson Insurance Group      | 28     |
| 17               | Brownyard Group               | 26     | —                | Legalgard                      | 30     |
| 16               | Burnham Systems               | 36     | 7                | Liberty Mutual                 | 44     |
| —                | Business Insurance            | 24     | —                | Lockton Companies              | 35     |
| 1                | Carvill America, Inc.         | 16     | 8                | Wm. H. McGee & Co., Inc.       | 17     |
| 15               | Chubb Group of Insurance Co's | 6      | —                | R. E. Moulton Insurance Agency | 28     |
| 2                | Commonwealth Risk Service     | 14     | 9                | NAC Reinsurance Corp.          | 12-13  |
| —                | Control Data Systems, Inc.    | 40     | —                | Oppenheimer Wolf & Donnelly    | 16     |
| 3                | Enterprise Advisors Inc.      | 34     | 10               | Protection Mutual Ins. Co.     | 20-21  |
| —                | First State Management Group  | 37     | —                | SAFECO Insurance Company       | 10     |
| —                | General Accident Ins.         | 31     | —                | Sedgwick Re - In Strat         | 4      |
| —                | General Business Services     | 29     | 11               | Swiss Re America               | 22-23  |
| 4                | General Reinsurance           | 32     | 12               | TIG Insurance                  | 9      |
| 5                | General Star Management       | 15     | 13               | USF & G                        | 7      |
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| 31  | 32  | 33  | 34  | 35  | 36  | 37  | 38  | 39  | 40  | 41  | 42  | 43  | 44  | 45  |
| 46  | 47  | 48  | 49  | 50  | 51  | 52  | 53  | 54  | 55  | 56  | 57  | 58  | 59  | 60  |
| 61  | 62  | 63  | 64  | 65  | 66  | 67  | 68  | 69  | 70  | 71  | 72  | 73  | 74  | 75  |
| 76  | 77  | 78  | 79  | 80  | 81  | 82  | 83  | 84  | 85  | 86  | 87  | 88  | 89  | 90  |
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| 121 | 122 | 123 | 124 | 125 | 126 | 127 | 128 | 129 | 130 | 131 | 132 | 133 | 134 | 135 |
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## Contain

*Continued from page 2*  
 hospital charges; hospital fee schedules; mandates for managed care, utilization review and bill review; and treatment guidelines.  
 All 51 jurisdictions questioned responded to the survey, which found only one, Delaware, with no workers comp medical cost containment strategy in place. The District of Columbia and Illinois reported currently using only one strategy: restrictions on provider change.  
 According to the study, however,

multiple strategies are far and away the norm in the effort to rein in workers comp medical costs. While seven jurisdictions reported using only two mechanisms and six reported using three, 11 reported having four strategies in place, and 25 jurisdictions reported using five or more.  
 But that latter number is up only slightly from the findings of the survey conducted two years earlier, when 23 states reported using five or more strategies. That slight change reflects the slowing pace of activity on the workers comp medical cost containment front, the authors suggest.  
 Other evidence of the slowing trend is that no jurisdictions implemented fee schedules or mandated utilization review programs in the two years since the previous study.  
 The report suggests that the slowdown in legislative activity may stem from the reduction in the rate of growth of workers comp medical costs, which escalated more rapidly than medical costs in general during the 1980s.  
 The report suggests the likelihood for the time being, legislative efforts will focus primarily on evaluating strategies currently in place and gauging their impact on costs and quality of care.  
 Of those existing strategies, the survey showed restrictions on choosing and changing providers and fee schedules to be the most popular cost containment vehicles.  
 Physician fee schedules are on the books in 40 jurisdictions, with 36 reporting hospital bill regulation and 37 reporting restricting the injured worker's initial choice of provider, while 39 indicated they limit the worker's ability to change providers.

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Requests for copies of "Managed Care and Medical Cost Containment in Workers' Compensation: A National Inventory, 1997-1998," priced at \$250, must be made in writing. Those interested in purchasing copies of the report can obtain a WCRI publications list and order form by calling 617-494-1240.

# IRS proposes rules to clarify benefit laws

## COBRA coverage issues, tax treatment of interest on 401(k) loan defaults addressed

By JERRY GEISEL

WASHINGTON—Employers are receiving more than new tax forms from the Internal Revenue Service at the start of 1998.

The IRS earlier this month issued several proposed rules that will give employers guidance on key employee benefit issues. The rules, which employers are expected to comply with even before they are finalized, will:

- Provide answers to a number of questions employers have raised about the Consolidated Omnibus Budget Reconciliation Act, including COBRA coverage issues relating to disabled employees and babies born or children adopted while a

parent is covered under COBRA.

- Offer guidance on the tax treatment of accruing interest when an employee defaults on a loan taken from a 401(k) plan or other defined contribution plan.

Employers will welcome the guidance offered by the IRS, benefit experts say.

"There were some things that were ambiguous and the IRS has clarified some points," said John Piro, a consultant in the Rowayton, Conn., office of Hewitt Associates L.L.C.

For example, one portion of the proposed IRS regulations deals with a series of changes in federal law that allow disabled employees to receive COBRA coverage for longer periods of time than other COBRA

beneficiaries. Disabled individuals, though, must pay substantially higher premiums for the longer cov-

COBRA health care continuation coverage for up to 18 months. Employers can charge COBRA benefi-

**A newborn infant or adopted child will be eligible for COBRA health coverage only for the period for which the parent remains eligible, proposed IRS rules say.**

erage.

Under the Consolidated Omnibus Budget Reconciliation Act, employees who leave their jobs can obtain

beneficiaries a premium of 102% of the group rate, covering the added cost of administering benefits for former employees and dependents.

Former employees who are totally disabled can obtain an additional 11 months of coverage, but they can be charged a premium of 150% of the group rate for those 11 months of coverage.

The new IRS regulations make clear that this additional 11 months of COBRA coverage also must be extended to a disabled employee's dependents and not just to the employee.

The IRS regulations also address another COBRA-related question: How long must COBRA coverage be extended to a newborn infant or an adopted child when the parent already is covered under COBRA?

According to the IRS, the maximum coverage period for such a child is measured from the event that initially triggered COBRA coverage for the parent and not from the date of birth or placement of adoption.

For example, assume an employee quit her job and immediately opted for COBRA coverage. One year later, the woman gives birth. The infant, like the mother, would only have six remaining months of COBRA coverage and not a new 18 months of coverage.

"For purposes of measuring COBRA coverage, the child's maximum coverage period is measured from the date of the parent's qualifying event and not the child's date of birth or adoption," said Henry Saveth, an attorney with William M. Mercer Inc. in Washington.

The IRS also says it is considering providing guidance on COBRA responsibilities when an employer is purchased by another company through a sale of stock or when an employer sells a substantial asset, such as a plant or division, to another company.

Under one approach now being considered by the IRS—involving a stock sale to a buyer—the buyer's group health plan would be responsible, after the date of sale, for complying with COBRA continuation coverage for those employees whose last employment was with the acquired corporation.

However, if the buyer did not maintain a group plan, then the seller would continue to be responsible for complying with COBRA for those employees associated with the sold corporation.

In the case of an asset sale, the approach under IRS consideration would require that the seller be responsible for providing COBRA coverage to employees whose last employment was associated with the purchased assets.

An exception to this approach would involve situations in which the buyer purchased substantially all assets of the seller, continued the business operations without interruption or substantial change and in connection with the sale the selling employer ceases to maintain a group health plan. In that situation, the buyer would be responsible for providing COBRA coverage to qualified beneficiaries.

The IRS' defined contribution plan loan rules fill in some blanks left by regulations issued in late 1995 (*BI*, Dec. 25, 1995).

The earlier IRS rules require that loans on which the employee defaults be considered a "deemed distribution" and, as a result, added to an employee's taxable income.

Not addressed in those earlier rules was whether interest that keeps accruing on a defaulted loan should—when due—also be considered a deemed distribution and added to employees' taxable income.

The IRS rules clarify, however, that once a loan is deemed to be distributed because of a default, interest that accrues thereafter on that loan is not included in income and is not taxable. **BI**



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# INTERNATIONAL

## Storms batter Western Europe

By EDWIN UNSWORTH

LONDON—A stormy start to 1998 in Western Europe is causing insurers to brace themselves for claims of up to £500 million (\$812.3 million).

According to Assn. of British Insurers figures from members that have major property accounts, claims from the storms that began just after the New Year and extended into last week are likely to be in the £200 million to £400 million (\$324.9 million to \$649.8 million) range, an ABI spokesman said.

The French Federation of Insurance Cos. said it was too soon to estimate the insured cost of damage to property in northwestern France by winds recorded at almost 100 mph. However, the damage there, and to a lesser extent in Ireland, could raise the level of total insurance claims from the storms to about £500 million.

An ABI spokesman said it was unlikely the cost of the storms would, in itself, be sufficient to force an increase in rates. He said the U.K. property market is "still very competitive."

Insured damages from the latest spell of bad weather could rise if it is followed by a winter freeze, leading to a dramatic increase in claims for water damage from burst pipes, as happened in January 1996.

In Britain, the storms, which caused wind damage and flooding, affected mainly western England, Wales and to a lesser extent central England. Some of these areas reported that the weather was the worst since the storm of October 1987, when insured claims totaled around £1 billion (\$1.62 billion). However, in the early hours of Jan. 8 the town of Selsey on the south coast of England was hit by a freak tornado that damaged about 1,000 buildings.

Britain experiences about 50 tornadoes a year, but most are so minor that they go unreported. However, last week's twister was one of the most severe in recent years, with winds of 100 mph.

The ABI spokesman said most claims so far from the latest storms are from homeowners. Most claims are for wind damage to windows and roof tiles and range from £400 (\$650) to £500 (\$812) per claim. Be-

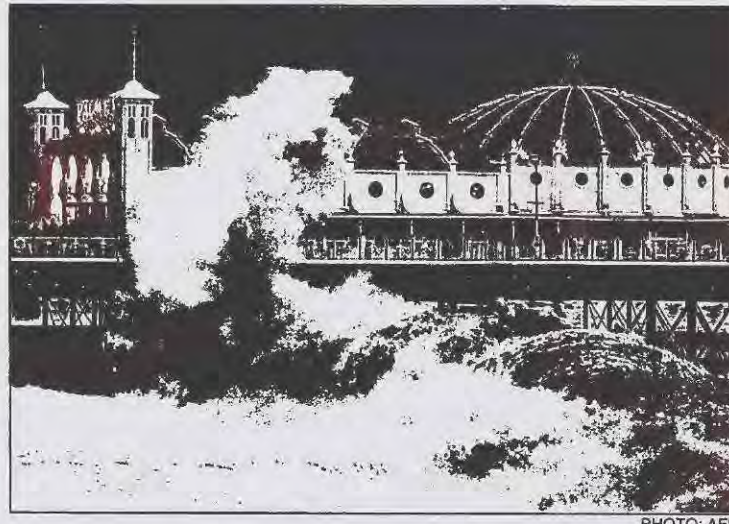


PHOTO: AFP

Severe storms in Europe have caused high winds and waves in coastal areas, such as this surge at the Palace Pier in Brighton, England. The recent storms have caused widespread damage.

cause the storms have affected mainly rural areas with few major centers of population, commercial claims have been relatively low.

One of the biggest commercial claims is likely to come from Stena Lines, the Gothenburg, Sweden-

based ship operator, which saw one of its three high-speed catamaran ferries damaged during the storms.

The Stena Discovery was sailing from Harwich, England, to the

See Storms on page 35

### Global Briefs

London broker Willis Corroon Group P.L.C. and Tower Insurance & Reinsurance Services (Private) Ltd. have agreed to jointly establish a reinsurance brokerage and insurance and risk management consulting firm in India. Willis Corroon Tower (Private) Ltd., which will take over the Indian business of both companies, will operate from Tower's current network of offices in Mumbai, Madras, New Delhi and Calcutta. It is expected to gain regulatory approval from Indian authorities by the end of March. Ashok Dalvie will be managing director, and Manju Sawhney and Bali Sawhney will be directors of the company. . . . John Carter, chief executive of Commercial Union Group P.L.C. and former chairman of the Assn. of British Insurers, was among several members of the U.K. insurance industry named in the New Year's Honours list for services to the industry. Mr. Carter was made Knight Bachelor. David Bland, director general of the Chartered Insurance Institute, was appointed an Officer of the Order of the British Empire for services to training in the insurance industry. Martin Crane, underwriting manager for the Export Credit Guarantee Department, also was appointed OBE, along with Geoffrey Lynch for services to the ECGD. Allan Bridgewater, group chief executive of Norwich Union P.L.C., was made a Companion of the Order of the British Empire. Professor Alasdair Wilkie also was made a CBE for services to the actuarial profession. . . . WFDA Holdings Ltd. has launched a new Lloyd's managing agency, Trinity Syndicates Ltd., to manage composite syndicate 1236. David Woodruff is active underwriter for the syndicate, capitalized by FAI Underwriting Ltd., a subsidiary of Australian insurer FAI Group, though all non-core functions are outsourced to consultant The Eastgate Group Ltd. . . . Max Taylor has cleared the final hurdle to the post of Lloyd's of London chairman with his formal election to the job last week by the Council of Lloyd's. At the same time, underwriter Ian Agnew was re-elected deputy chairman, and underwriter Elvin Patrick, newly elected to the Council, was appointed deputy chairman. . . . Membership of the Assn. of Insurance & Risk Managers has reach 814 with the acceptance of 37 applicants from the U.M. Assn. Ltd., which represents insurance and risk managers at universities and colleges across the United Kingdom. . . . French insurer AXA Global Risks has launched a new computer risks policy including coverage for year 2000 risks. The coverage, called Dat@net.2001, protects against financial losses resulting from alterations in computer data and programs, including the millennium bug if a company is modifying its computer systems to combat the problem. . . . Rating agency Standard & Poor's Corp. has assigned a BBB+ rating to China Reinsurance Co. (Hong Kong) Ltd., the international reinsurance subsidiary of People's Insurance Co. of China. The rating reflects China Re's strong position in Hong Kong's reinsurance market, adequate capitalization, prudent reserving and competitive performance but was tempered by the company's concentration on a few Asian markets. . . . Foreign non-life insurers in Russia will be subject to higher capitalization requirements under legislation signed this month by Russian President Boris Yeltsin. To do business, foreign insurers will be required to have minimum capital worth at least 25,000 times the average monthly wage. The move is intended to help domestic Russian insurers remain competitive, a Finance Ministry official said.

## Aviation insurers make bumpy landing

1997 losses down but still among worst

By EDWIN UNSWORTH

LONDON—High claims and nosediving rates marked the 1997 aviation insurance market.

Airline hull and liability losses last year amounted to \$1.41 billion, according to a preliminary estimate by Airclaims Ltd., the London-based aviation insurance consultant.

Although that loss projection is a 10% decrease from 1996 losses, it was the fifth-worst on record.

Barry Wilkes, London-based aviation underwriter for Italy's largest insurer, Trieste-based Assicurazioni Generali S.p.A., said he thinks Airclaims' loss estimate is on the high side. He expects airline hull and liability claims for last year to be nearer \$1.2 billion—a level at which he said aviation insurers would just about break even for the year on the underwriting side.

Although aviation losses fell last year by either estimate, they did not fall as much as insurance premiums. Mr. Wilkes says major airlines' latest renewals showed rate reductions of almost 30% on average for hull coverage and more than 20% for liability coverage—roughly the level of rate reductions at renewals a year earlier.

Airclaims calls the 1997 loss record "disappointing. . . especially so when considered in the context of recent trends in airline premium income." Its director, Paul Hayes, also warns that while improvements in air safety have kept pace with the growth in commercial air travel, "It would be complacent to say they will in the future."

With air traffic forecast to double over the next 15 years, "we've got to run as fast as we can just to stay in the same place" in commercial air safety, said Mr. Hayes. However, he added, there is evidence the safety experts are well aware of this and are working hard to improve aviation safety.

Last year, 22 Western-built jets became total losses, two fewer than in 1996 but in line with the average of about 22 that has been steady

over the past 25 years.

Excluding liability claims, the cost to insurers of major hull losses of Western-built jets, including total and major partial losses, was an estimated \$600 million. Although this is up from the \$525 million total for 1996, it equals the average annual cost of these losses for the first part of the 1990s, says Airclaims.

Additionally, 36 Western-built turboprop and commuter planes were total losses in 1997, five more than in 1996.

The cost of turboprop and commuter major hull losses in 1997 came to an estimated \$109 million. This is more than double the exceptionally low losses of \$50 million in 1996 but similar to the annual average for the first half of the 1990s.

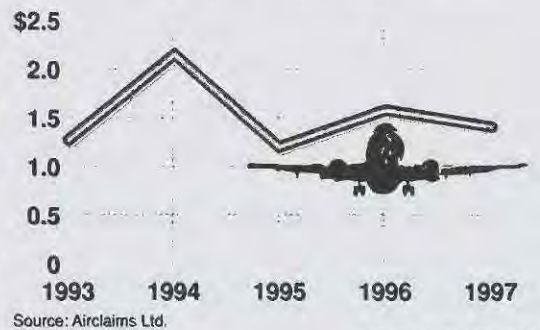
Passenger liability claims for all major air accidents last year, including Western- and Eastern-built jet and turboprop aircraft, are estimated at \$465 million.

Although this is down considerably from the 1996 total of \$768 million, totals do vary greatly from year to year. Mr. Hayes also pointed out that at this stage, last year's figure is an educated "guesstimate" based on liability claims already paid and reserves being set aside to meet anticipated claims.

Worldwide passenger fatalities on commercial aircraft declined last year to 1,056 from 1,605 in 1996.

### Aviation losses descending

Hull and liability costs for all types of aircraft (in billions of dollars)



Source: Airclaims Ltd.

GRAPHIC BY ADAM DOI

## Soft market in Germany hits broker profitability

By DON LEWIS KIRK

German brokers are cutting costs, trying to provide more services and seeking new clients to make up for revenue they are losing in a competitive insurance market.

An ultra-soft property market and changing buyer interests are slashing profits and forcing brokers to implement new strategies.

"It's unprecedented," said Christoph Keil, general secretary of Hamburg-based brokers association Bundesverband Deutscher Versicherungsmakler. "Broker profits are dropping like never before," Mr. Keil said.

A fierce battle among commercial insurers for market share has fueled a drop in brokers' commission revenue, said Mr. Keil. "When a German buyer can insure a large industrial risk for 70% less today than a year ago, that's dramatic," he said.

The drop in commissions has led to a 50% drop in profits, on average, according to a BDVM survey of its 257 members, which include leading German brokers. The brokers represent annual premium volume of 8 billion deutsche marks (\$4.43 billion).

"We're talking about effects on most lines of business," said Klaus Nowitzky, head of Frankfurt-based Jaspers Industrie Assekuranz GmbH, a leading industrial broker. "It's hitting everything from property to motor to marine."

With its "bread-and-butter" business under siege, Mr. Nowitzky said Jaspers is looking for new clients, particularly midsize companies and those that do not currently use brokers, by emphasizing products such as all-risks policies that may be attractive to those size companies. Jaspers also is scrutinizing its operating costs.

"Those are the alternatives," he said. "We are looking to cut unnecessary services and expand others. The current situation demands flexibility."

That flexibility has already taken Jaspers in a new direction. In September, the broker announced a merger with Bremen, Germany-based Wuppeshal Industrie Assekuranz. See Germany on next page

INTERNATIONAL

# Germany

*Continued from previous page*  
 ranz GmbH & Co. KG. London-based Willis Corroon Group P.L.C. will have a 30% stake in the new venture, which creates Germany's third-largest broker.

"Sure, it's a cost-cutting move, but more important, it gives us greater reach," said Mr. Nowitzky. "We plan to invest in new technology; that helps us do more with fewer people at less cost."

The situation is typical for leading brokers, which not only are turning to technology to become more efficient but also are seeking alliances to extend their reach internationally.

Jaspers plans to streamline its service costs, especially with mid-size and smaller companies. One

idea is to simplify risk assessment aided by model calculations and introduce agreed-amount policies to Germany, Mr. Nowitzky said.

"I just don't need to send in six people every time. A company with 100 employees doesn't need the tailor-fit risk analysis. Just consider the time and money we spend on gathering data for calculating insured sums. I can save all of that when we use an agreed-amount policy."

Georg Abegg, head of Wuppesahl, said some brokers will find business despite the hard times. "Opportunity is there," he said. "But brokers will have to rationalize and simplify business procedures, apply modern computer technology to network themselves with clients and insurers, and minimize costs."

One option is to eliminate job

duplicity with insurers. "We do many things double," said Wuppesahl board executive Karl-Max Vater. "Our engineers evaluate a risk, and the insurer sends in engineers to evaluate risk. We can share that burden. We are in the

**'The key is to cut cost where you can and expand where you must,' says Klaus Nowitzky of Jaspers.**

process of reaching an agreement with insurers that settles that issue...."

The issue is controversial, however. Insurers and brokers both see

claims handling and risk assessment as revenue sources.

"Insurers must evaluate the risk and handle large claims," insists Allianz board executive Manfred Illner. "It's another question when it comes to risk inspection and documentation. That could be done by a brokerage, if it's professional. The more professional the broker, the more he will be able to work with the insurer," handle more services and generate more income, Mr. Illner said.

One solution could be for insurers to share income with brokers, Mr. Nowitzky contends. "It really doesn't make sense for us to assess a risk and have the insurer do the same. If we could use our reporting and calculations as the basis for premiums, it would save costs. Those savings could be shared," he said.

Rather than duplicating their risk management services, insurers could compensate brokers for on-site risk assessment, for example.

But the service issue is particularly sensitive to brokers as German insurance buyers, looking to cut their costs, shift toward service fees and away from commissions.

"For global companies, fees are an issue," said BDVM chairman and Aon Jauch & Huebener executive Jochen Scheele. "Every business wants to save money, and clients are demanding proven performance of their brokers," he said.

To save costs, a growing number of companies are asking insurers to take commissions out of premiums, a process known in Germany as "net quotes." Buyers then pay fees for brokers' services. This arrangement allows buyers to shave costs, including a high 15% insurance tax. At the same time, buyers can get a clearer picture of brokers' cost vs. performance.

Mr. Scheele said brokers are under the gun to define services to their clients. "It's a matter of correctly defining and paying for broker services—not forgetting brokers assume some insurer services, to avoid job duplicity."

Cost is driving the insurance market, said Mr. Nowitzky. "Business will be more segmented in the future. While small and midsize companies continue to use insurance solutions, large companies will use other solutions: alternative risk transfer, captives, pools and finite risk. As a broker, you have to be in a position to offer this kind of service, to explain it, to form it and to service it," he said.

Mr. Nowitzky already sees demand for claims-handling services. "Industry is ready to say I don't want to insure the first 5 or 10 million, but I need someone to handle damages professionally and reasonably. That's a service no one can do better than the broker," he said.

To do that, however, requires brokers to invest in the necessary resources. "We must invest in communication and computer technology to exchange information directly with our clients. We need finance experts to develop risk financing models. But it's a cost problem. The key is to cut cost where you can and expand where you must," he said.

The broker association's Mr. Keil said he thinks the move will pay off. "Independent brokerages are already gaining market share against others, particularly captive brokers," he said. "Deregulation and growing competition from foreign insurers create a market of greater choice for the buyer, and global consultants are in demand."

"I see the trend toward broker services, not away from them," concurs Mr. Nowitzky. "Companies recognize the advantage of outsourcing services to the broker. If our services are up to date and professional, companies will use them."

Mr. Scheele expects further mergers among brokerage firms, particularly among smaller and medium-sized companies. Jauch & Huebener merged with Chicago-based Aon Corp. this year after its UNISON ally Johnson & Higgins merged with Marsh & McLennan Inc.

Germany has 5,000 independent brokers, which account for 15%, or about 36 billion deutsche marks (\$19.6 billion) of the nation's 240 billion deutsche marks (\$131.2 billion) in insurance premiums. The remaining market share is held by insurers' exclusive agents, banks, direct-writing insurers, captive brokers and other entities. **BI**

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# Tax hike fuels cry for pension alternatives

By DON LEWIS KIRK

BONN, Germany—German employers are pushing harder for retirement funding alternatives in the wake of a sales tax increase to finance Germany's social security system.

German Chancellor Helmut Kohl's coalition and the opposition Social Democrats agreed Dec. 12 to raise a key consumer sales tax one percentage point to 16% to pay for deficits in the German pension system. The increase will go into effect April 1, 1998.

Finance Minister Theo Waigel said Bonn would consider a second tax hike to 17% in 1999. But the opposition has yet to give its endorsement, which would be needed for another increase to pass the Bundestag's upper house.

Politicians hailed the agreement as an end to political gridlock over social security contributions, but employers insist the price is too high for industry. They want to reduce the role of social security and instead see employees contributing to their own accounts, which could earn investment returns, for their retirements.

"We're being sold down the river," said Hans Peter Stihl, head of Bonn-based German Chambers of Industry & Commerce and chief executive officer of international chain saw and outdoor power equipment manufacturer Stihl A.G.

Mr. Stihl said employer/employee contributions to social security, measured as a percentage of wages, "remain high at 20.3%, and now we have a (sales) tax hike."

Employers contend that a higher sales tax will lead to more inflation and employee calls for increased wages. They also say it would hurt sales and the economy because people would have less disposable income.

Also, employers argue that the sales tax increase does not directly address the problem of growing social security costs, which they say can be addressed only with alternatives.

Mr. Stihl blasted government pension reform efforts.

In October, the Bundestag passed new legislation to stabilize joint em-

ployer/employee pension contributions, which threatened to hemorrhage as Germany's birth rate drops and the number of retirees increases (*BI*, Oct. 20, 1997). The unemployment rate, still on the rise, is at 11.3%.

By slashing benefits from 70% to 64% by 2030 and cutting some disability benefits starting in 2000, the government hopes to keep contributions near the current level of 20.3% of wages. Employers and employees each pay half the contribution.

The reform will not have an immediate effect, however, and Mr. Stihl said efforts to implement reform as early as next year have evaporated. "All that's left of our grand pension reform is a tax increase," he said.

To get social security costs under

control, he favors major surgery to Germany's pay-as-you-go system. "The government must build on a system outside social security," he said. "Pensions have to be shifted—at least partially—to funded solutions; otherwise, contributions will skyrocket."

The issue is critical for employers and insurers, which both favor stronger insurance alternatives to Germany's pay-as-you-go system.

"In an aging society, return on investment from a funded system greatly exceeds one built on the young compensating the old," said Bernd Michaels, head of German Insurance Assn. GDV, which lobbies and represents insurer interests. "The same pension can be financed with less money, and our economy can use the

expanding capital to invest in jobs."

Social security accounts for 82% of retirement income in Germany, while additional benefit plans such as company pension programs make up 5%. Life insurance adds 12%.

In 1995, social security outlays amounted to 350 billion deutsche marks (\$243.64 billion), compared with 37.3 billion deutsche marks (\$25.96 billion) for pension plans.

By international standards, German social security plays an exceptionally heavy role in retirement. Based on 1994 World Bank statistics, privately funded systems provide 20% more of total retirement income in the United States, England and the Netherlands than in Germany.

Financial economist Han-Werner

Sinn says the balance must change. "Our birth rate is killing social security, and it's a fiction to believe paying into social security guarantees you'll get anything out of it," he said.

He favors a compulsory funded system to supplement social security that banks and insurers would administer. The program would channel 8% of social security contributions into a funded system with the investment freedom of a pension fund. The drop in social security income would be offset by raising the retirement age.

"It's wrong to equate social security with standard of living," said Boy-Juergen Andresen, chairman of a German association of defined contribution pension plan supporters.

He blames a lack of tax incentives for hindering funded systems. "Without them, employee pension schemes and other funded systems have no chance." **BI**



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## Storms

Continued from page 33

Hook of Holland when a large wave struck it in the early hours of Jan. 4. While the incident did not affect the vessel's seaworthiness or passenger safety, the Stena Discovery's high-tech nose cone was damaged, and 33 of the 275 passenger vehicles on board suffered minor damage.

Pim de Lange, managing director of Stena Line Holland, said damage to the catamaran is estimated at £200,000 (\$324,900) and is insured. Repairs are expected to take six to eight weeks. Stena Line is hoping to put a replacement vessel into service until the catamaran is repaired to avoid business interruption losses.

Mr. de Lange said Stena Line is insured in the Swedish and London insurance markets for the damage to the catamaran and any business interruption claims if services are not resumed within 14 days.

The stormy start to 1998 comes after a year in which the number of natural catastrophes fell and the level of insured claims dropped even more.

Munich Reinsurance Co. last month published figures showing insured damage in 1997 from natural catastrophes totalled some \$4.5 billion, half the 1996 level. (*BI*, Jan. 5). **BI**

## INTERNATIONAL

## South Korea woes push down ratings

LONDON—Rating agencies expect South Korea's economic woes to put pressure this year on finances of the country's insurance companies.

A.M. Best Co., based in Oldwick, N.J., says the "stringent" conditions that South Korea was forced to agree to in return for loans and loan guarantees from the International Monetary Fund "will have a major impact on the Korean insurance industry."

Just before Christmas, South Korea, faced with a default or a moratorium on paying its foreign debt, agreed to an emergency \$10 billion rescue package from the IMF. However, the assistance came with strict conditions attached, which included: forcing its Central Bank to raise the rate at which commercial banks borrow dollars from it; raising interest rates; and institutional reform of the financial sector, including creating an independent central bank regulatory body.

"Under the new economic order, the Korean insurance industry will have to cope with issues that weren't of concern in the previous high-growth, high-interest-rate era," said Simon Hu, Best's regional manager for Asia and the author of a report on South Korea that appeared late last month in "Best-Week."

Those issues include fierce competition for deposits, especially from Korean investment institutions and foreign banks, decreased investment income due to lower interest rates and deregulation of insurance pricing, said Mr. Hu.

New York-based rating agency Standard & Poor's Corp. has

downgraded its public information ratings on a number of South Korean insurance companies as a result of the country's weakening economy and marked associated reduction in asset values.

Having undertaken a review of the South Korean insurance industry in light of recent economic conditions, S&P concluded that these companies—a number of which it says already were under-capitalized—have experienced further trimming in the value of certain of their equity, loan and real estate investments.

S&P believes many South Korean companies "remain in a very vulnerable position" owing to the impact of reduced asset values on their financial position.

"In addition, the general downturn in the economy, which is likely to affect domestic demand for insurance products, may weaken underwriting results and further exacerbate the decline in companies' profiles in the future," S&P said.

S&P downgraded Korean Reinsurance Co. and Samsung Fire & Marine Insurance Co. Ltd. to BBpi from BBBpi, and LG Insurance Co. Ltd. and Hyundai Marine & Fire Insurance Co. to Bpi from BBpi. It affirmed at Bpi its ratings on Oriental Fire & Marine Insurance Co. Ltd., Daehan Fire & Marine Insurance Co. Ltd. and Ssangyong Fire & Marine Insurance Co. Ltd.

Korea's insurance industry has maintained average growth in premiums during the past decade of 25% annually, making it the 11th-largest market in non-life and the sixth-largest in life insurance.

—By Edwin Unsworth

## E.C. liability directive might hurt farmers, U.K. insurer warns

By CAROLYN ALDRED

BRUSSELS, Belgium—European farmers could face more lawsuits under a proposal to extend product liability legislation to agricultural products, a U.K. agricultural insurer warns.

The European Commission adopted the proposal late last year as an amendment to a 1985 directive on product liability.

NFU Mutual, which insures farmers throughout the United Kingdom, thinks the recent E.C. move will increase claims against farmers.

"The E.U. Commission's proposal would overturn a long-held principle of liability law: that negligence must be proven for an action against a primary agricultural producer to succeed," said Tim Hewson-Stoate, underwriting manager with Stratford-upon-Avon-based NFU Mutual.

"It is likely that there could be an increased number of claims for compensation from farmers," he warned.

Although the NFU points out that the "implications are difficult to assess," it warns that farmers may face higher premiums for insurance should the new legislation "prove a new source for liability claims."

Brussels-based agricultural organizations—the Committee of Agricultural Organizations in the E.U. and the Committee of Agricultural Co-Operatives in the E.C.—also have warned that the proposal would impose too great a duty of care on farm-

ers and will make them more susceptible to opportunistic lawsuits.

EUCOFEL, The E.U. committee of the fruit and vegetable wholesale, import and export industry, also rejects the E.C. proposal, arguing it would be impossible to determine the origin of a particular product, especially imported products.

Although primary agricultural products were excluded in the 1985

**'There could be an increased number of claims for compensation from farmers,' says Tim Hewson-Stoate.**

product liability directive, the European Commission adopted a proposal in October 1997 to include such products. Including primary agricultural products, which include live animals, meat, dairy produce, fruit, vegetables and cereal, would "help restore consumer confidence in the safety of agricultural products," the commission said.

Consumer confidence has waned in recent years, particularly as a result of "mad cow" disease in Europe as well as outbreaks of E. coli and salmonella.

The amendment to the directive means no-fault liability will apply to

unprocessed agricultural products put onto the market after implementation by the member states or on Jan. 1, 1999, at the latest.

"This means that farmers and growers can be made liable without fault, and the victim has to provide evidence of the existence of damage, the defect and the causal relationship between defect and damage, but not of the fault of the farmer or grower producing the defective product," according to a briefing note sent to executives in the National Farmers' Union, a U.K. farming association.

The E.C. move "comes against a background of ever-increasing claims for compensation as both the public and industry search harder for redress following real or imagined losses," Mr. Hewson-Stoate pointed out.

"Farmers are facing a more litigious environment, and one where increasing traceability and the prospect of fewer legal defenses are bound to lead to more liability claims being made against them," he noted.

To help farmers comply with new food safety legislation and increasing environmental legislation, the NFU Mutual already has extended its risk management services, said Mr. Hewson-Stoate.

The insurer offers free advice to farmers in areas where there are obvious environmental concerns and full risk analysis services to those who want to buy them, said Ernie Sheppard, NFU Mutual's underwriting superintendent. **BI**

## GAN sells U.K. subsidiary

Insurer disposing of foreign assets before privatization

PARIS—French insurer Groupe des Assurances Nationales continues to sell foreign operations to comply with the European Commission's terms for its privatization.

The European Commission last year approved the French government's plans to recapitalize the insurer to pave the way for privatization, on the condition that GAN dispose of at least half of its foreign assets, said a spokeswoman for GAN in Paris.

But this requirement need not be accomplished until one year after the privatization, which is expected in June, she said.

GAN sold 20% of its foreign holdings during 1996. These in-

cluded Belgian subsidiary GAN Belgique to Swiss Life Insurance Co. and reinsurer Cie. Transnationale de Reassurance to Fairfax Financial Holdings Ltd. of Canada.

On Dec. 31, 1997, GAN announced an agreement to sell its U.K. subsidiary GAN Life & Pensions to Life Assurance Holding Corp. Ltd. of London. The sale of the company will not be completed prior to the anticipated privatization in June. Once concluded, the deal will bring to 38% the amount of foreign holdings that GAN has disposed of, the spokeswoman said.

The formal procedures for GAN's privatization are expected

to be published by the end of January. Details about the privatization procedures are being negotiated among insurer management, labor unions and the French Finance Ministry, the spokeswoman said.

GAN's banking subsidiary, Credit Industriel et Commercial, is expected to be spun off and privatized at the end of February. A data room, which potential bidders for CIC can use to review previously unavailable financial information, opened in Paris on Dec. 15 and will close on Feb. 23. Once the CIC sale is complete, a GAN data room will be opened, she said.

—By Maria Kielmas

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# Dismiss

Continued from page 2  
views with 21 people.

Mr. Cotran then sued RHH, now Aon Risk Services Inc., charging a breach of an implied contract not to terminate employment without good cause.

Mr. Cotran said during the trial that he had affairs with the two women who had accused him of harassment. A jury, which was asked to determine whether Mr. Cotran had engaged in any of the behavior on which RHH had based its decision to fire him, said he had not and awarded him \$1.78 million in compensation.

RHH appealed, and the appellate court overturned the trial court decision. The court of appeal disagreed with a different case ruling by a California appellate court that said the employer has the burden of proving that the misconduct leading to the dismissal actually occurred.

In affirming the appellate court decision, the Supreme Court's opinion says: "The rule we endorse today... will ensure that 'good cause' dismissals continue to be scrutinized by courts and juries under an objective standard, without infringing more than necessary on the freedom to make efficient business decisions."

"Good cause," the court's decision continues, means fair and honest reasons "that are not trivial, arbitrary or capricious, unrelated to business needs or goals, or pretextual. A reasoned conclusion, in short, supported by substantial evidence gathered through an adequate investigation that includes notice of the claimed misconduct and a chance for the employee to respond."

As a result of the ruling, the case must now be sent back for retrial. The jury will be asked to decide not whether sexual harassment actually took place, but whether the company had acted in good faith following an "appropriate" investigation.

"It's a victory for employers and employees alike," said Shand S. Stephens, Aon's San Francisco-based chief trial counsel. "We can't have courtroom procedures inserted into the workplace, otherwise it would become unworkably inefficient."

"The sex discrimination laws in particular are designed to protect employees. This decision makes it easier for employers to investigate and enforce the sex discrimination laws."

"Employers don't have to be looking over their shoulder or consulting a lawyer as to what might be admissible evidence in a court of law three years after they make a decision about whether or not to terminate someone," Mr. Stephens said.

Tom Klein, an attorney with Orrick, Herrington & Sutcliffe in San Francisco, said, "I think it's a very significant decision, and what's most significant, perhaps, is that it didn't go the other way." His firm submitted a friend of the court brief supporting Aon on behalf of the Employers Group, a Los Angeles-based human resources management association that represents about 5,000 companies.

Had Aon lost, Mr. Klein said, "It really would have represented an untenable situation for employers. It would have put employers in the position of, in effect, running their workplace by the same rules as a court room."

Mr. Klein noted the trial judge had excluded an affidavit by a third Rollins employee, who said Mr. Cotran had made obscene phone calls to her when they had both worked for another company soon after a sexual relationship between the two ended. That information is included in the Supreme Court decision.

"The jury didn't hear about that, but the company had heard about it and obviously it had some weight to them in reaching their conclusion," said Mr. Klein. "If the standard is actual proof, then you really have to apply the rules of evidence," which means the company would have had to pretend it had not heard the third woman's information.

Mr. Klein said that he was surprised at the decision's breadth.

The court's ruling will apply not just to cases where the court has a statutory duty to take remedial action, such as discrimination cases, but also to other termination cases, he

said. This could include, for example, an employee fired for allegedly stealing a laptop computer, said Mr. Klein.

Less happy with the decision was San Mateo, Calif.-based attorney William Quackenbush, who had helped argue the case on Mr. Cotran's behalf before the court. "Obviously, it's a pretty poor decision from the standpoint of California employees. It potentially leads to the result that employees can be terminated for something they did not do."

Mr. Quackenbush said the "real question" the court was dealing with here is who should bear the burden when an employer makes a mistake.

"The court decided that the employee should pay the price of the employer's mistake, and we think it's unfair to put that on the employee, who has no voice in the employer's decision on what to do," said Mr. Quackenbush.

However, employee attorney Cliff Palefsky of McGuinn, Hillsman &

Palefsky in San Francisco, said: "I think the opinion was not as bad as it might have been. I think that obviously it gives a little bit more flexibility to companies, but it creates a whole new slew of obligations in terms of the quality of employer investigations, of giving employees opportunities to actually be heard before the decision is made," said Mr. Palefsky.

Mr. Palefsky added, however, that this case involves an implied contract between Mr. Cotran and RHH and "as a practical matter, there aren't that many implied contract cases being brought as opposed to sex discrimination cases, so I don't think really it would have a dramatic impact."

Ralph Cotran, plaintiff and respondent, vs. Rollins Hudig Hall International Inc., et. al., defendants and appellants, No. S057098, Supreme Court of California.

**Year 2000 stories on BI site**

The clock is ticking when it comes to finding solutions for the Year 2000 computer problem. To help readers review the issues surrounding the millennium bug, as well as potential solutions from the insurance industry, *Business Insurance* now offers a free archive of articles on Year 2000 issues on its World Wide Web site.

Cyber Beat, new on the *BI* Web site at <http://www.businessinsurance.com>, features articles on insurance-specific technology issues and applications. Formerly called Internet Articles, Cyber Beat now encompasses both Internet and Year 2000 topics reported in *BI* since January 1996.

In the first quarter of 1998, *BI* expects to launch a subscription-based searchable archive of the entire contents of the magazine from January 1994 to the present via its Web site.

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**FIRST STATE**

# Risk

Continued from page 1  
ance Management Society Inc.

The 1997 report, however, will be the last that Tillinghast and RIMS conduct jointly. Both have decided to conduct individual surveys beginning next year (see story, page 41).

While risk managers have enjoyed falling costs in recent years, that drop is unlikely to continue unchecked, points out Rick Moscicki, a principal with Tillinghast in Dallas.

"I think it will continue, but at some point it's got to bottom out," he said. "Costs can't go down forever."

He expects one more year of "fairly meaningful decreases" in the cost of risk if the insurance market remains hotly competitive and the economy stays healthy. Eventually, however, less significant dips or an eventual rise in costs is likely, he added.

The survey's indication that the cost

of risk is declining for companies of all revenue sizes is a significant finding, said Ellen Cooper, manager-risk management at Gardena, Calif.-based Nissan North America Inc and a member of the RIMS steering committee involved in the survey.

"In a sense, that is surprising, because we expect the prices of things to increase along with inflation and economic activity," Ms. Cooper said of the across-the-board cost decrease.

The report shows Canadian companies also incurred a much lower cost of risk in 1996. The cost amounted to \$2.52 Canadian (\$1.83) per \$1,000 Canadian (\$727), a 22% decrease from \$3.23 (\$2.37) Canadian in 1995.

The report points out, however, that there were significantly fewer Canadian respondents in 1996, and that the mix of Canadian companies in this year's report was not similar to the 1995 group.

The survey defines cost of risk as a combination of:

- Insurance premiums and associated taxes for property, liability and workers compensation exposures.
- Retained or uninsured losses for property, liability and workers comp exposures, along with any associated financial guarantees, fees and taxes.
- Budgets for risk management and insurance departments.
- Costs for outside services, such as fees from brokers, consultants and actuaries; risk management information system expenses; and captive management costs.

Because of Tillinghast's methodology, the sum of the two factors—premiums and retained losses—that make up the cost of each risk financing category do not equal the total cost for the category.

As in past years, a decrease in workers comp retained losses helped fuel the overall decline. But falling costs related to property risks had a greater impact in 1996 than in previous years.

Even though liability costs were virtually unchanged, those costs are making up a larger piece of the pie as expenses in other categories drop significantly.

The survey shows that liability costs accounted for 41.8% of the total cost of risk, compared with 38.7% in 1995. Workers comp costs in 1996 amounted to 32.5% of the total, down from 38.7%. Property costs accounted for 19.8%, compared with 17.8% in 1995.

Mr. Moscicki pointed out that significant drops in retained losses in property and workers comp risks were a bigger factor than lower premiums in generating the overall decline, a change from previous years.

Retained property losses plummeted 28.6% to 30 cents per \$1,000 of revenue in 1996. Retained workers comp losses dropped 24.5% to \$1.41 per \$1,000 of revenue.

Premium costs in those two categories also showed continuing declines.

Workers comp premium costs per \$1,000 of revenue slid to 55 cents in 1996, a 5.2% dip from 1995. Workers comp premiums were only 8.2% of the total cost of risk, the lowest amount since the study began. Those premiums represented 9% in 1995.

Property premium costs per \$1,000 fell to 78 cents, a 6.1% slide from 1995. Those premiums increased as a portion of the total cost of risk, rising to 14.1% in 1996 from 12.9% the year before.

The survey's authors indicate that the same factors that influenced prior declines are continuing to reduce workers comp costs: increased use of managed care, legislative reforms, a competitive insurance market and increased use of safety and loss control techniques.

Falling property costs can be attributed to luck and loss control, according to Nissan's Ms. Cooper.

A year free of sizable natural calamities helped keep those expenses down, she explained, while hard work by risk managers also had a hand. "Some of it was fortuitous, and some of it was due to employers really working to control losses."

Looking ahead, it's hard to know if the luck will hold, Ms. Cooper added. "We know El Nino is upon us, and that may have worldwide effects."

While some experts discount the potential harm that could come from the weather phenomenon, others fear it could be severe. "I wouldn't be surprised if there is an increase of losses due to El Nino," Ms. Cooper said.

While workers comp and property costs were down, costs related to liability risks were up 0.4% in 1996. That slight uptick comes after liability costs fell during the previous two years.

Liability costs per \$1,000 of revenue rose just one cent to \$2.51 in 1996. Premiums fell by a penny to \$1.12 per \$1,000.

"Given the continued competitive market, the reduction is not unexpected," the survey's authors wrote, "except that it was accomplished while limits increased."

Retained liability losses were unchanged in 1996 at \$1.41 per \$1,000 of revenue.

Liability premiums in 1996 made up 19.1% of the total cost of risk, a rise from 16.8% in 1995. Retained liability losses were 22.7% of the cost, up from 21.9%.

Risk managers saw their budgets shrink for a second consecutive year in 1996. Those costs amounted to 15 cents per \$1,000 of revenue, a 16.7% slip from 1995. But according to the survey, "it appears that some activities" have been outsourced, with the cost index for outside services rising to 17 cents in 1996 from 13 cents the year before.

The survey emphasizes that data related to Canadians' cost of risk is "qualified due to sample size" because only 47 responses were received from Canadian organizations. In addition, the average revenue size of respondents increased to \$2.5 million Canadian (\$1.8 million) from \$1.5 million Canadian (\$1.1 million) earned by 76 respondents in the 1995 survey.

Liability risk costs were \$1.13 Canadian (82 cents) per \$1,000 in 1996 and \$1.41 Canadian (\$1.03) in 1995. Property costs for the respondents totaled \$1.07 Canadian (78 cents) after amounting to \$1.61 Canadian (\$1.18) for the 1995 group.

The survey notes that cost data for Canadian companies excludes workers comp costs because those programs are run by provincial governments, and cost information is difficult to obtain.

History suggests even the loftiest organizations sometimes have difficulty sharing information.

{ Tower Of Babel, circa 2300 BC. }

Like the Tower of Babel, history has shown that when organizations try to communicate with each other, it can often lead to chaos and confusion. So when one of the world's leaders in the global insurance industry decided to link its operating units, customers and suppliers under a single network, it was a lofty undertaking indeed.

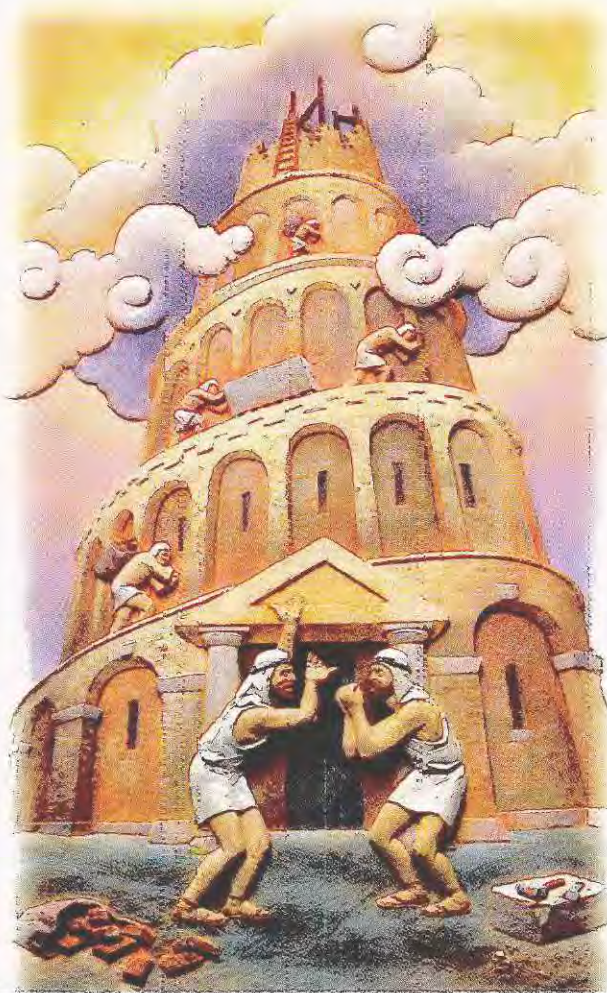
But thanks to Control Data, it represents the loftiest example to date of how large enterprises of every scope can share information on a global scale, with tangible, bottom-line results. Control Data is providing the messaging technology and global infrastructure that will enable insurance industry participants to communicate, trade and share information

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 CONTROL DATA

## Skiers should bear risk of sport in mind

The tragic deaths of Michael Kennedy and Sonny Bono on ski slopes are stark reminders of the risks associated with this winter sport and the need for a bit of personal risk management.

Unfortunately, the two accidents also immediately sparked questions of whether the ski areas would be sued, or whether the government should intervene to minimize the risk of skiing into trees by mandating helmets.

I find those knee-jerk responses absurd. Barring some sort of negligence, such as failing to mark known hazards, why should the ski area be liable? It's a sad testimony to the fact that people tend to look for someone else to blame after most accidents, rather than accept that maybe the victim was at fault.

I think a government helmet mandate is the wrong response, too. Legislating how one practices a voluntary recreational sport is fraught with problems. And what helmet manufacturer would want the liability associated with producing equipment under such a mandate?

There are plenty of inherent risks in skiing. When one gets right down to it, a skier rides a chairlift to the highest point on a mountain so he or she can hurtle downhill on two waxed boards with a pair of sharp sticks for support. But the skier assumes those risks voluntarily.

Indeed, a skier encounters many hurdles before even reaching the top of the slope that offer an opportunity to reconsider. These begin with the windows where lift tickets costing \$40-\$50 are sold. Then comes a 15- to 30-minute line in a maze leading to a chairlift. Then there's a 10-minute ride up the hill in a cold metal chair 30 feet above the ground. Even from the top, one can decide to walk down the hill or ride the chairlift back to the bottom.

I believe participants in skiing and other "dangerous" sports need to follow some basic risk management.

The first step is to identify and assess the risk (*It's a steep hill, with many moguls, large trees in the middle of the slope, and you are a lousy skier.*)

Next, decide what risk management technique to use. One can retain the risk (*go skiing anyways; you've been warned*), minimize the risk (*pick a bunny slope or*



Paul D. Winston

*buy a helmet*), or avoid the risk (*have a hot chocolate by the fire in the lodge instead*).

I personally have chosen to avoid the risk, a decision made after about 17 years as an above-average skier.

I started skiing at the ripe old age of 4. One of my first skiing memories is of an early instructor having his head split open as he stood at the top of a hill trying to collect a dozen toddler skiers, unaware he was in the path of an empty chairlift at head level. He survived with multiple stitches. I learned to keep an eye out for stray chair lifts and I continued skiing.

My younger brother at about age 10 went flying off a mogul and sailed into a tree, breaking his leg. I resolved not to make fancy jumps off moguls in front of trees and continued skiing.

At age 15, I was trying to do some fancy moves at the bottom of an expert slope (on the flat, uncomplicated section by the chairlift), tripped, fell and broke my thumb. I decided that falling down ran contrary to showing off and continued skiing.

My skiing career stopped at age 21. I was skiing with a friend down a moderate slope, when I suddenly realized I was by myself. When I turned around, I saw my friend lying in the snow behind me by a chairlift pylon and he wasn't moving.

I quickly hiked up the slope and found he wasn't breathing, either. His face was bloody and his left leg was twisted. I began to panic about having to resuscitate him, but fortunately he began breathing again, though he remained unconscious.

When the Ski Patrol arrived, my dread continued as they noticed fluid draining from his ear and began to prick his legs with a knife to check if he responded, checking for a spinal injury. My friend was placed in a neck brace and rushed down the slope to the hospital.

Ultimately, he had several operations to set a leg broken in two places, his arm was broken, and he sustained a concussion but no spinal injury. As best he could recall, he had skied off a mogul at a bad angle and flew into the steel pylon.

I hung up my skis for good, having finally been scared off the slopes. My friend resolved to be more careful and resumed skiing, more aware of its inherent risks.

As for me, I'd rather stay at the bottom of the mountain, preferably casting a fishing line.

*Publisher and Editorial Director Kathryn J. McIntyre and Editor Paul D. Winston write columns on alternate weeks.*

## New era for cost of risk surveys

### RIMS, Tillinghast-Towers Perrin to conduct separate reports

The Risk & Insurance Management Society Inc. and Tillinghast-Towers Perrin are parting ways in their long partnership to produce the annual Cost of Risk survey.

Both groups, however, plan to produce their own annual surveys detailing the costs incurred by companies in managing risk. While details of what each will examine are not final, RIMS and Tillinghast say the reports will not be duplicates.

Beginning with the next report, RIMS will pair with Ernst & Young L.L.P. to produce its survey, after partnering with Tillinghast since 1979 to compile the information.

"There're going to be two, but they will not be the same," said Rick Moscicki, a principal with Tillinghast in Dallas. Whether the Tillinghast survey will continue to look at "traditional" risks, such as workers compensation, property and casualty, has not been determined.

Tillinghast is certain its report will "expand the definition of risk"

beyond that of the current survey, Mr. Moscicki confirmed. It will include cost information on risks such as those related to global expansion, research and development, damage to corporate image and others that are priorities of top corporate executives, he explained.

RIMS is "staying with the core elements of risk management" in its survey, according to Amy Geffen, RIMS' director of professional development in New York.

The society plans to title its report the RIMS Benchmark Survey, and changes are in store for the RIMS effort.

"We're excited about it," said Linda Lamel, RIMS' executive director. "It will be a big step in terms of the nature of the information" in the report, she added.

RIMS decided to make changes to its survey after considering whether the current report was providing information that met risk managers' needs, Ms. Lamel said.

While more details will be re-

leased soon, Ms. Geffen said the new survey will contain some new questions and will examine new topics. And it will compare results from surveys taken in prior years.

Streamlined questions should make the survey easier to complete, she added.

RIMS aims to "increase participation both by our members and by surveying a larger group of participants," Ms. Geffen said.

RIMS selected Ernst & Young as its new partner partly based on the firm's response to a request for proposal circulated by RIMS, Ms. Lamel said.

She pointed out that Tillinghast received a copy of the RFP and "had an opportunity to look at what we wanted to do."

Mr. Moscicki said Tillinghast's decision to produce its own survey is "something we've been talking about for some time. . . . RIMS has a particular tack that they wanted to follow, and we had a particular tack that we wanted to follow."

—By Michael Bradford

## PBMs

*Continued from page 2*

sometimes may be more convenient, affordable and medically beneficial for the patient.

Prescription benefit managers also point out that the patient's physician must approve a drug switch.

But the Food and Drug Administration's draft proposal states that some information PBMs are disseminating would be considered false and misleading if it had originated with the drug manufacturers.

In particular, the FDA is concerned that PBMs are using terms such as "just as good" or "exactly the same" to compare their preferred drug with another, when in fact different drugs can act on people differently, according to Ms. Burke.

The FDA has received complaints from patients, plan sponsors, insurance companies, health maintenance organizations and consumer groups about these practices. The complaints have multiplied after the purchase of large PBMs by leading drug manufacturers during the past four years.

In 1993, Merck & Co. acquired Medco Containment Services Inc. for \$6.6 billion. The next year, SmithKline Beecham Corp. bought Diversified Pharmaceutical Services Inc., another PBM, for \$2.3 billion, and Eli Lilly & Co. bought PCS Health Systems Inc. in 1994 for \$4 billion. The FDA opened its investigation of PBM marketing in 1994 after the Lilly deal, Ms. Burke said.

While drug switching itself became the focus of several government probes, PBM promotion and advertising of drugs has gone unregulated.

One study by the U.S. General Accounting Office reported that pharmaceutical companies, motivated by profits, "are relying on their PBM partners to help them increase market share for their drugs and develop new programs for treating specific diseases."

Although the Federal Trade Commission reacted to Lilly's acquisition of PCS by ordering the PBM's drug formulary to be less restrictive, no attempt to restrict a PBM's promotional practices had been made until last week.

While most PBMs declined to comment on the FDA proposal because they said they needed more time to study it, one company expressed support.

"We think it's a step in the right direction," said a spokeswoman for Plymouth, Minn.-based ValueRx. "We are really supportive of the goal."

ValueRx is up for sale by Columbia/HCA Healthcare Corp., which bought its parent, Value Health Inc., in a \$1.3 billion stock acquisition last year.

Analysts were uncertain how the new disclosure requirements, if they become law, would affect the savings employers have enjoyed by using PBMs. They said any disruption in the flow of drug

seemed to consider drug switching a major issue, said Richard Sini, New York regional practice leader with Watson Wyatt Worldwide. "When they go into selection of their PBM, they make sure it's not switching without the knowledge of the employee and physician and that there's no coercion of the doctors."

The FDA's action, he said, can be viewed as the first step toward more regulation of the PBM industry—an outgrowth of public resentment toward managed care and the drug industry.

In a certain light, the FDA plan appears helpful to employers, said Michael H. Deskin, president of the Scottsdale, Ariz.-based Pharmacy Benefit Management Insti-

## The FDA's action 'will possibly mean more administrative review, which could mean less savings' for employers, says Buck Consultants' Susan Margolis.

rebates from drug companies to PBMs to employers could lead to instability in drug prices.

"If the PBM has any contractual relationship with (the pharmaceutical company), it will be compelled to share all promotional materials with the FDA. It's those relationships the FDA wants to be kept clean," said Arthur Shinn, a consultant with William M. Mercer Inc. in New York. "That may lead to reduced availability of rebates."

The FDA wants to watch the promotional practices not only of PBMs owned by pharmaceutical companies but any PBM that has a close business relationship to a drug maker. These ties could range from rebate contracts to cooperation between the PBM's and drug company's sales staffs.

"It will possibly mean more administrative review, which could mean less savings," said Susan Margolis, benefit consultant at Buck Consultants Inc. in New York. "Even those that are not subsidiaries have financial relationships with drug companies in the form of rebates."

The draft proposal, open for public comment, was surprising because large companies haven't

tute, an educational organization for buyers of PBM services.

"It will certainly create a lot of headaches for PBMs, (but) I think what this accomplishes is it takes away the burden of evaluating the PBM's program from the plan sponsor," said Mr. Deskin.

Barbara Hawes, a pharmacist and senior consultant at Towers Perrin in Atlanta, agreed.

"The FDA (plan) is probably good for the plan sponsor because there's some policing, because this industry has largely been unregulated for so long," she said. "But I don't think it's the end-all. The plan sponsor will still have to monitor its PBMs to make sure it's not taking too many risks to save pharmacy dollars."

Not all benefit managers may appreciate the plan, though. Harry Spencer, manager of health and welfare plans at Fairfax, Va.-based Mobil Corp., suspects the proposed policy is motivated by bias against PBMs that are subsidiaries of drug companies.

"I question whether it's an over-reaction to concerns about pharmaceutical company ownership of PBMs," he said. "The switch of a drug may not necessarily be a bad decision by a physician." **BI**

# EMLICO

Continued from page 1

Electric Co., EMLICO's sole policyholder, suggested the extent of the turmoil.

A GE spokesman insisted that Massachusetts regulators have no jurisdiction over EMLICO despite the state supreme court ruling and that GE will continue to pursue its claims in Bermuda.

The joint liquidators, meanwhile, pointed to a footnote in the supreme court ruling noting that "EMLICO's status as a Bermuda corporation is, of course, a matter of Bermuda law. . . We simply hold that EMLICO remains a Massachusetts insurer."

"The court's view is that its decision will not affect EMLICO's continued status as a corporate citizen of Bermuda," the liquidators said in a statement. "We will continue to carry out our responsibilities under the laws of Bermuda."

A spokesman for the liquidators declined to comment on the Massachusetts receivership filing or how they plan to address it. A Massachusetts department spokesman also declined to comment on plans for settling jurisdictional disputes.

Reinsurers, meanwhile, cited the GE statement as a reason for aggressively pursuing a Massachusetts liquidation of EMLICO.

"These people have said they are going to snub their nose at the Massachusetts Supreme Court," observed Nick J. DiGiovanni, a lawyer with Lord, Bissell & Brook in Chicago representing Lloyd's.

No hearing date has been set for the receivership petition.

EMLICO, a longtime GE liability insurer, won approval from Massachusetts regulators in 1995 to move to Bermuda after spinning off its non-GE liability business into a former subsidiary. A few months after the move, it declared itself hugely under-reserved for decades of GE pollution and asbestos liability claims and insolvent by more than \$500 million.

The collapse inaugurated an international legal war in which several EMLICO reinsurers—including Lloyd's of London underwriters and Kemper Reinsurance Co.—accused GE and the insurer of conspiring to defraud them by taking advantage of Bermuda liquidation laws that would accelerate reinsurance recoveries and ensure greater GE control of the estate.

Ms. Ruthardt considered reopening the EMLICO redomestication in 1996 but decided instead to investigate the fraud charges as part of an examination of former EMLICO subsidiary Electric Insurance Co.

That investigation ended last year when Massachusetts regulators, the joint liquidators and GE agreed to a settlement that would have continued the Bermuda liquidation while naming Ms. Ruthardt as EMLICO's U.S. receiver.

The deal required court approval, though, and reinsurers contested it on a variety of grounds. After a hearing last May, Supreme Court Justice John

M. Greaney put off ruling on the settlement until the full court could review questions the reinsurers had raised, including whether Massachusetts law allowed EMLICO to redomesticate outside the United States.

The court's answer, delivered last Monday, was not what the department wanted to hear: The four-judge panel found that the department misinterpreted state law in allowing EMLICO's move.

The law permits insurers to redomesticate "to any other state" but does not define "state."

Ms. Ruthardt had cited a dictionary definition of "state" to include foreign countries, the court noted. While not mentioned in the opinion, reinsurers have charged that the department also relied on an opinion from EMLICO's own lawyers on the issue.

The court, however, found the dictionary definition inconclusive and concluded that nothing in the legislative history of the statute supports the Insurance Department's position.

"Had the legislature intended to facilitate redomestication to a foreign country, possibly subjecting policyholders and creditors to the vagaries of foreign law, it would have expressed this intent unambiguously," the court wrote.

The judges also noted that the Massachusetts statute is based on a National Assn. of Insurance Commissioners model law but that nothing in the NAIC proceedings on the model indicate it was ever intended to allow redomestications outside the United States.

Ms. Ruthardt also argued that even if EMLICO's redomestication was invalid, the fact that it is now a Bermuda company undergoing liquidation in Bermuda should be enough to proceed with the ancillary receivership deal.

The court disagreed: The settlement deal "assumes that the proper site for the liquidation of EMLICO is Bermuda rather than Massachusetts. This assumption rests on the premise that (Ms. Ruthardt's) redomestication order was valid. That order, however, was beyond the commissioner's power and authority. . . There was no lawful transfer, and EMLICO never ceased to be a Massachusetts insurer."

In a separate decision, the supreme court also affirmed a lower court order that EMLICO's reinsurers do not have standing to pursue lawsuits they filed against the Massachusetts department in late 1995 to reverse the redomestication.

While the Bermuda liquidators cited this ruling as a victory, reinsurers noted that the supreme court in its main decision gave them virtually everything they sought in their original complaints.

Last Wednesday, the Insurance Department filed a receivership petition against EMLICO, citing the court's ruling that it is still legally a Massachusetts insurer. The petition seeks an order allowing the department to take control of EMLICO's property and assets, along with an injunction barring the insurer from conducting any business without department ap-

proval and barring lawsuits or other actions against the company.

If approved, the petition raises a host of questions, those familiar with the case say, including whether the Insurance Department might also move to take over former EMLICO unit Electric Insurance Co.; whether Massachusetts regulators might sue Coopers & Lybrand partners and other professionals to recover millions of dollars of fees they may have collected from the estate over the past two years; the impact, if any, on commutations the Bermuda liquidators already have negotiated with several reinsurers, including General Re Corp. and Allstate Insurance Co.; and even how the Massachusetts department will pay for the receivership if EMLICO's assets—from which the costs would normally be covered—are in Bermuda.

"This is going to be a fountain of litigation for a decade," one lawyer predicted.

Lawyers also were left to speculate about how the jurisdictional conflict between Massachusetts and Bermuda will play out.

Mr. Spector said he thinks the two sides inevitably will sue each other, each in its own jurisdiction and each for a declaratory judgment that it should control the estate.

"In a situation this bizarre—and the word bizarre barely begins to describe what is going on—they need the protection of a judicial resolution," he said.

Others predicted Massachusetts will go to court in Bermuda to enforce its receivership order.

"It's going to come down ultimately to what Bermuda says," one industry official predicted.

Massachusetts may get a sympathetic hearing from a Bermuda court, the official added, noting that the Bermuda judge who approved EMLICO's liquidation petition cited the practical necessity of dealing with an insolvent Bermuda company and his inability at that time to order it back to Massachusetts.

"From a whole lot of standpoints, it would be in Bermuda's interest to lob this hot potato back to Massachusetts," the official said.

The loser of any Bermuda court ruling also would appeal, a process that would take many months: "Nothing is going to happen fast," he said.

Meanwhile, an unresolved jurisdictional fight will make it tough for the Bermuda liquidators to go on collecting the reinsurance recoveries that are the main asset of the EMLICO estate, some predict.

Mr. Brandes said reinsurers currently arbitrating with the joint liquidators could go to court in Massachusetts for a ruling that the liquidators no longer have authority to seek reinsurance recoveries.

"No reinsurer in his right mind would pay any money to the Bermuda liquidator under these circumstances without the approval of the (Massachusetts) commissioner," another reinsurer lawyer said.

Overall, "it's not a situation that unwinds itself nicely," the industry official observed. **BI**

## Updates

### Tough '98 forecast for Lloyd's

Continued from page 2

reports 1995 underwriting results under its three-year accounting system, the effect of the soft insurance market will start biting at 1996 and 1997 profits, according to Charles Sturge, director of Lloyd's analyst Chatset Ltd. Lloyd's is "looking at a fairly bleak scenario" for 1998 business, Mr. Sturge said.

While the 1995 profits—now estimated at £1.06 billion (\$1.65 billion)—are at a level "we are never going to see again," 1996 results are sliding, Mr. Sturge said. Chatset is predicting a £622 million profit (\$1.06 billion) for 1996, and a £462 million (\$791.2 million) profit on 1997 results.

Although Mr. Sturge would not put a figure on a possible outcome for 1998, he noted that there was "continued pressure on rates" during the reinsurance renewals. "Unless it is another good year for catastrophes and claims frequencies are low, (the 1998 result) will be marginal and could sink into a loss," he said.

Other Lloyd's analysts are equally skeptical about the market's ability to make a meaningful profit for 1998. Figures from Sedgwick Oakwood Lloyd's Underwriting Agents Ltd. predict a profit for the overall market between 1% and 3% of £10.15 billion (\$17.38 billion) in capacity, while analysts at Syndicate Underwriting Research Ltd. are estimating a 2.9% profit, assuming a normal loss year and that no major catastrophes hit the market.

### Cat losses lowest since '87

RAHWAY, N.J.—Last year's \$2.6 billion in catastrophe-related insured property damage was the lowest annual total since 1987, according to the Property Claim Services division of the American Insurance Services Group.

The \$2.6 billion total compares with a \$7.4 billion total in 1996, according to last week's PCS report. The PCS also noted that last year was the first year since 1990 without a \$1 billion catastrophe. The PCS defines catastrophes as events that cause at least \$25 million in insured property damage.

According to PCS, portions of 36 states suffered losses from last year's 25 catastrophes. The most serious catastrophe—which slammed a broad section of the country from Arkansas to West Virginia with winds, hail, tornadoes and flooding last February—caused \$300 million in insured property damage.

Gary Kearney, PCS assistant vp, noted that one of the chief factors in last year's low insured damage amount was the low number and low loss cost of hurricanes. Only one such storm—Hurricane Danny, which caused about \$60 million in insured property loss in July—made landfall in the United States last year.

### Prudential to cover contraceptives

AUSTIN, Texas—Prudential Insurance Co. of America last week reached an agreement with the Texas Department of Insurance to reimburse women denied coverage for birth control pills from 1985 to 1996.

Newark, N.J.-based Prudential also agreed to pay a \$150,000 administrative penalty to the state but did not admit any wrongdoing. The state had investigated the company but had not filed a lawsuit.

Prudential denied benefits to women who wanted coverage for oral contraceptives despite a state rule, enacted in 1978, guaranteeing coverage for the pills when all other prescription drugs are covered. Prudential began paying for the contraceptives in November 1996.

Participants and former participants in Prudential health care plans can submit claims for oral contraceptives bought between 1985 and 1996.

"It's an appropriate settlement based on the issues of the case," said Olga Escobedo, an attorney for the Insurance Department.

Executives at Prudential did not return telephone calls.

### Briefly noted

**ACE Ltd.** completed its purchase of Westchester Specialty Group Inc. for \$338 million, which includes a \$5 million adjustment for interest rate changes since the deal was first announced in September. The holding company will be renamed ACE USA, but subsidiaries will retain the Westchester name. . . **Oxford Health Plans Inc.** will hire a new chief executive officer and has hired Albert A. Koch, a turnaround specialist, as its temporary chief financial officer. The troubled managed care provider has hired an executive search firm to find a CEO to replace existing CEO William Sullivan and a full time CFO to replace Andrew Cassidy, who resigned after Oxford's operating problems were revealed last fall. . . **The U.S. Supreme Court** agreed last Friday to hear arguments in *Dooley vs. Korean Air Lines* to determine whether survivors of people who die in air crashes over international waters are entitled to damages for the victims' pain and suffering. The suit stems from the Sept. 1, 1983, downing of a KAL jetliner by the Soviet Union. In a 1996 decision involving the 1983 incident, the high court ruled that survivors of those who die in crashes over international water cannot win financial damages for loss of companionship. . . The California Department of Corporations has given final approval for two subsidiaries of Woodland Hills, Calif.-based **Foundation Health Systems Inc.**—Health Net and Foundation Health, a California Plan—to merge. The merged company will serve more than 2.1 million members under the Health Net name. Separately, Foundation Health completed its \$271 million acquisition of Shelton, Conn.-based Physicians Health Services Inc. . . R. Alan Eagleson, the former executive director of the **National Hockey League Players Assn.**, pleaded guilty to three counts of mail fraud and agreed to pay a \$700,000 fine, following allegations in 1994 that he defrauded players of pension fund contributions and other funds (*BI*, March 14, 1994). In a plea bargain with prosecutors, Mr. Eagleson received a one-year probation in the United States on condition that he receives an 18-month jail sentence in Canada. . . **Ina Barker** will retire as executive director of the U.K.'s Assn. of Insurance & Risk Managers at the end of April, when her three-year contract concludes. She will be replaced by David Gamble, a director of two print finishing companies within the London-based Fairway Group P.L.C.

## Good year seen for P/C stocks

By JUDY GREENWALD

Commercial property/casualty stocks should continue to perform well on Wall Street this year in light of expectations for continued low interest rates, most insurance analysts say.

The impact of low interest rates should overcome any investor hesitancy caused by continued soft pricing for insurance coverage, analysts say. Ironically, good Wall Street performances could delay insurer efforts to raise coverage rates.

It's going to be tough, though, to



match insurance stock's strong performance in 1997. According to the *Business Insurance Index* of 91 commercial insurers and reinsurers, the stocks as a group advanced 32.21% for the year, which outstripped the Standard & Poor's 500 stock index's

31% rise.

In addition, an insurance industry index compiled by Hartford, Conn.-based Langen McAlenney, a division of Janney Montgomery Scott Inc., which includes personal and commercial property/casualty insurers, reinsurers, multiple lines insurers, life insurers and brokers, indicates that on a weighted average basis, industry stocks advanced 47.4% in 1997.

As the yield on 30-year Treasury notes hit a record low last week, analysts noted insurer stocks respond well to low inter-

See Stocks on next page

# Stocks

Continued from previous page

est rates. Among the theories explaining that pattern are that low interest rates help bolster insurers' substantial bond portfolios and keep claims costs down.

Insurer stocks are also viewed as good defensive buys for investors because their earnings are not considered to be particularly sensitive to general economic conditions.

Many insurer analysts are now including on their recommended stock lists Bermuda companies such as EXEL Ltd. and ACE Ltd., though perennial favorites such as Chubb Corp. and General Re Corp. remain.

"I think it will be very difficult to duplicate the success of 1997," said Jay Cohen, an analyst with Merrill Lynch & Co. in New York. The insurer stocks' performance "partly depends on the economy and the level of interest rates," he added. "For example, if we have what many people believe to be a deflationary environment in 1998, that would be very good for the stocks."

Ronald Frank, an analyst with Smith Barney in New York, observed that, as in 1997, "I would have to say that once again the interest rates may prove to be a dominant factor, if not the dominant factor in how the stocks perform. In that regard, we're off to a good start," he said, pointing to the low interest rates.

However, he added, "I would have to say that even with a favorable interest rate environment, I would be surprised to see the large names in the group do quite as well across the board as they did last year."

Highly capitalized insurers posted gains of anywhere from 35% to nearly 60% last year, said Mr. Frank, "and that's just not something that you're likely to see year in and year out, especially in the absence of favorable fundamentals."

"I think the favorable interest rate environment will have a positive impact on what happens," said Gloria Vogel, senior vp with Advest Inc. in New York. The commercial property/casualty stocks "will outperform the overall stock market," she added.

Despite the competitive market environment and soft pricing, insurers "generating strong operating cash flow are likely to do reasonably well, particularly given what appears to be a declining interest rate environment, and those that are not generating positive cash flow, I think, will do average to poorly," said Weston M. Hicks, an analyst with Sanford Bernstein & Co. in New York.

Low interest rates may not be enough, however, to fully overcome the industry's poor pri-

ing, according to Michael Lewis, senior insurance analyst with Dillon Read & Co. in New York. Mr. Lewis said he anticipates industry stocks "to be modestly negative performers vis-a-vis the S&P 500 this year."

On the positive side, said Mr. Lewis, are low interest rates and the industry's excess capital, which could lead to further consolidation. That in turn would help the stocks, he said.

At the same time, the industry's fundamentals "are getting more difficult," which "should work against them," Mr. Lewis said.

Even if there is consolidation among insurers, major companies are not expected to be acquired, limiting its impact on the stocks, he added.

Analysts say Bermuda insurance stocks have especially bright prospects.

The Bermuda companies, particularly EXEL and ACE, "enjoy the advantage of the Bermuda domiciles in that there are no taxes, and a favorable regulatory environment," said Mr. Frank, who also recommends Partner Re Ltd. as well as Chubb.

"Secondly, they have strong balance sheets, since their balance sheets don't date back past the mid-80s, first of all, and since contraction of their general liability books of business is creating considerable reserve redundancies," he said.

"In the case of EXEL, in particular, they've produced double-digit (returns on equity) in every year, and double-digit earnings in book value growth since going public in '91. And last, but not least, I think EXEL will probably announce a new CFO early this year, and we expect someone with considerable M&A cre-

dentials to facilitate expansion by acquisition," Mr. Frank said.

Gavin Arton, EXEL senior vp, confirmed that a replacement for retiring CFO Brian G. Walford is expected to start about mid-February. Although Mr. Arton did not identify the appointee, he said he has significant experience in insurance mergers and acquisitions, as well as in the development of products that blend insurance, banking and investment.

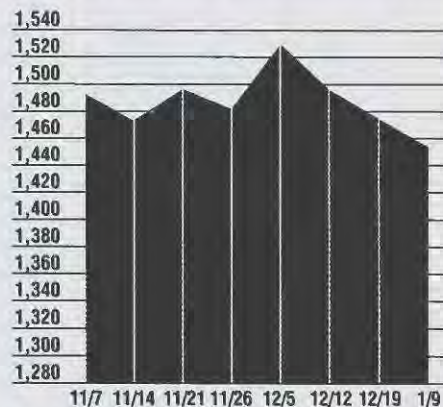
"We still think there's a lot of good values in Bermuda market companies despite the increased competitive environment, because they've been very proactive in terms of diversification and capital management," said Susan Spivak, vp at Donaldson Lufkin & Jenrette Securities Corp. in New York.

"ACE would be our top pick from a diversification and global standpoint," said Ms. Spivak, who also recommends Mid Ocean Reinsurance Co. Ltd., as well as small-cap stocks Penn-America Group Inc. and ESG Re Ltd., which recently completed its initial public offering.

John Keefe, an analyst with Ferris Baker Watts who is based in Richmond, Va., and specializes in small cap stocks, said that while "even the most specialist of the specialty lines" are now experiencing severe price competition, he believes these stocks will continue to outperform the larger insurers' stocks. His top recommendations are Penn-America and RLI Corp.

Other stocks recommended by analysts include CIGNA Corp., General Re Corp., W.R. Berkley Corp., SAFECO Corp., Reliance Group Holdings Inc., Executive Risk Inc. and Bermuda-based Mutual Risk Management Ltd. **BI**

## BI Insurance Index



Base=100 on Dec. 29, 1978  
Source: Nordby International Inc.

## PCS catastrophe options

| As of Jan. 9                    |           |                               |         |
|---------------------------------|-----------|-------------------------------|---------|
| Call spread bid/ask             | Price     | Call spread bid/ask           | Price   |
| <b>National Annual 1997</b>     |           | <b>California Annual 1998</b> |         |
| 30/50                           | —/—       | 40/60                         | 1.4/2.3 |
| 60/80                           | —/—       | <b>Western Annual 1998</b>    |         |
| <b>National Annual 1998</b>     |           | 40/60                         | 1.7/2.5 |
| 40/60                           | 10.0/12.0 | 80/100                        | 1.6/1.8 |
| 60/80                           | 7.0/8.3   | <b>Eastern September 1998</b> |         |
| 80/100                          | 5.0/6.0   | 40/60                         | 2.8/3.5 |
| <b>National December 1997</b>   |           |                               |         |
| 5/15                            | —/—       |                               |         |
| 5/25                            | —/—       |                               |         |
| <b>Southeast September 1998</b> |           |                               |         |
| 40/60                           | 2.2/3.0   |                               |         |
| 60/80                           | 1.4/2.4   |                               |         |

Total volume: 430 Total open interest: 17,799

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

Source: Chicago Board of Trade

## New BI Index calculation

Beginning with this issue, the *Business Insurance Index* will be based on a market capitalization calculation similar to the Standard & Poor's 500.

The index is calculated by comparing the total market capitalization of all the companies included in the *BI Industry Stock Report* to the market capitalization on a given date referred to as the base date. For the *BI Index*, this date will be set at Dec. 31, 1997, and a divisor will be set so that the index does not skew when the change is made.

In the past, the index was calculated by comparing a stock price of a select group of companies in the chart to their price on Dec. 31, 1984. The average of these ratios was multiplied by a factor and then used as the index. This method resulted in a calculation

where the companies that have performed the best since Dec. 31, 1984, weighted the index more heavily, regardless of their size, or how they were currently performing.

The market capitalization-based method results in index movements weighted more heavily by companies with a larger market capitalization, and current price movements. This is the method upon which the S&P 500 is based, and Nordby International Inc., which provides most *BI* stock information, believes it results in index movements more indicative of how the *BI* Industry Stock Report companies are performing as a whole.

Any questions regarding index calculations may be directed to Ryan Reichenbach at Nordby International Inc. (www.nordby.com), 303-938-1877.

## British Issues

| Companies      | pence | P/E  | Div. | Yield % | 52-week high—low |
|----------------|-------|------|------|---------|------------------|
| Comml Union    | 842   | 12.8 | 35.8 | 4.3     | 912—630          |
| Genl Accident  | 1025  | 6.8  | 35.4 | 4.3     | 1158—729         |
| Gdn Royal Exch | 315   | 4.5  | 12.2 | 3.9     | 350—257          |
| Legal & Gen    | 513   | 13.1 | 11.6 | 2.9     | 551—363          |
| Royal & Sun    | 587   | 20.0 | 19.7 | 4.2     | 651—429          |
| <b>Brokers</b> |       |      |      |         |                  |
| Lmbt Fenchurch | 107   | 7.4  | 8.4  | 10.1    | 138—101          |
| Lloyd Thompson | 178   | 14.8 | 10.8 | 7.6     | 206—151          |
| Sedgwick Grp   | 142   | 11.5 | 7.4  | 5.2     | 171—115          |
| Willis Corroon | 143   | 16.5 | 6.6  | 5.7     | 165—116          |

Note: Prices are Jan. 9 closings for all except Lloyd Thompson and Lmbt Fenchurch, which are from Jan. 8. All fundamentals are from Jan. 8.

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

## BI Industry Stock Report DEC. 31, 1997, THROUGH JAN. 9, 1998

| BROKERS                     |       |                 |                       |              |          |           |       |                             |                       |              |        |           |        |        |      |  |
|-----------------------------|-------|-----------------|-----------------------|--------------|----------|-----------|-------|-----------------------------|-----------------------|--------------|--------|-----------|--------|--------|------|--|
|                             | Price | Weekly % change | Year to date % change | Year to date |          |           | Price | Weekly % change             | Year to date % change | Year to date |        |           |        |        |      |  |
|                             |       |                 |                       | High         | Low      | Vol.(000) |       |                             |                       | High         | Low    | Vol.(000) |        |        |      |  |
| Aon Corp.                   | NYS   | 55.00           | -6.18                 | -6.18        | 58.88    | 40.25     | 901   | Enhance Financial Services  | NYS                   | 58.19        | -2.21  | -2.21     | 62.13  | 34.25  | 148  |  |
| E.W. Blanch Holdings Inc.   | NYS   | 33.50           | -2.72                 | -2.72        | 35.75    | 19.75     | 199   | Everest Reinsurance         | NYS                   | 36.56        | -11.36 | -11.36    | 43.00  | 26.00  | 531  |  |
| Gallagher Arthur J. & Co.   | NYS   | 33.88           | -1.63                 | -1.63        | 38.25    | 29.75     | 55    | Executive Risk Inc.         | NYS                   | 67.44        | -3.40  | -3.40     | 72.75  | 35.63  | 149  |  |
| Hibb, Rogal & Hamilton      | NYS   | 17.44           | -9.71                 | -9.71        | 19.63    | 12.50     | 51    | EXEL Ltd.                   | NYS                   | 60.00        | -5.33  | -5.33     | 65.19  | 36.88  | 705  |  |
| Kaye Group Inc.             | NDO   | 6.38            | -3.77                 | -3.77        | 9.00     | 4.38      | 35    | Frontier General Corp.      | NYS                   | 50.69        | -7.42  | -7.42     | 55.50  | 26.38  | 369  |  |
| Marsh & McLennan            | NYS   | 70.94           | -4.85                 | -4.85        | 80.00    | 51.63     | 1067  | Frontier Insurance Group    | NYS                   | 22.63        | -1.09  | -1.09     | 39.25  | 18.38  | 773  |  |
| Poe & Brown                 | NDO   | 44.00           | -1.40                 | -1.40        | 47.00    | 25.50     | 15    | Gainco Inc.                 | NYS                   | 8.50         | 0.00   | 0.00      | 10.19  | 8.00   | 188  |  |
| Sedgwick Group PLC          | NYS   | 11.56           | -6.09                 | -6.09        | 13.25    | 9.38      | 84    | General RE Corp.            | NYS                   | 203.63       | -3.95  | -3.95     | 221.25 | 151.00 | 864  |  |
| Willis Corroon Corp.        | NYS   | 11.50           | -6.60                 | -6.60        | 13.50    | 9.75      | 349   | Gryphon Holdings            | NDO                   | 16.00        | -4.48  | -4.48     | 17.75  | 13.88  | 196  |  |
| BROKERS AVERAGE             |       |                 |                       |              |          |           |       |                             |                       |              |        | -4.60     | -4.60  |        |      |  |
| INSURERS/REINSURERS         |       |                 |                       |              |          |           |       |                             |                       |              |        |           |        |        |      |  |
| ACE Ltd.                    | NYS   | 94.50           | -2.07                 | -2.07        | 101.06   | 56.13     | 870   | ING Group N.V.              | NYS                   | 42.06        | -0.59  | -0.59     | 53.00  | 38.88  | 462  |  |
| Acceptance Insurance Cos.   | NYS   | 24.13           | -0.26                 | -0.26        | 28.63    | 17.75     | 140   | IPC Holdings Ltd.           | NDO                   | 31.38        | -2.52  | -2.52     | 32.88  | 22.38  | 217  |  |
| AEGON N.V.                  | NYS   | 90.25           | 0.70                  | 0.70         | 91.00    | 61.13     | 169   | Harford Financial Services  | NYS                   | 89.50        | -4.34  | -4.34     | 94.56  | 66.63  | 1384 |  |
| Aetna Life & Casualty       | NYS   | 69.63           | -1.33                 | -1.33        | 118.13   | 66.31     | 3286  | LaSalle Re Holdings Ltd.    | NYS                   | 31.13        | -12.01 | -12.01    | 36.13  | 26.00  | 261  |  |
| AFLAC Inc.                  | NYS   | 47.38           | -7.33                 | -7.33        | 57.98    | 37.50     | 1046  | Life Re Corp.               | NYS                   | 61.50        | -5.66  | -5.66     | 65.38  | 37.38  | 71   |  |
| Allied Group Inc.           | NYS   | 27.06           | -5.46                 | -5.46        | 35.75    | 20.69     | 293   | Lincoln National            | NYS                   | 72.88        | -6.72  | -6.72     | 78.88  | 49.00  | 1105 |  |
| Allstate Corp.              | NYS   | 84.50           | -6.63                 | -6.63        | 94.38    | 58.63     | 3801  | MAIC Holdings Inc.          | NYS                   | 25.13        | -10.67 | -10.67    | 29.13  | 14.44  | 59   |  |
| AMBAC Indemnity Corp.       | NYS   | 45.06           | -2.04                 | -2.04        | 48.13    | 31.00     | 888   | Markel Corp.                | NYS                   | 150.19       | -3.80  | -3.80     | 161.13 | 89.00  | 20   |  |
| American Bankers Ins.       | NDO   | 45.81           | -0.27                 | -0.27        | 46.19    | 24.38     | 922   | MBA Insurance Group         | NYS                   | 64.50        | -3.46  | -3.46     | 68.44  | 45.44  | 1404 |  |
| American Financial Group    | NYS   | 39.19           | -2.79                 | -2.79        | 49.25    | 32.38     | 325   | Meadowbrook Insur. Group    | NYS                   | 24.75        | -5.04  | -5.04     | 26.63  | 21.25  | 95   |  |
| American General            | NYS   | 52.63           | -2.66                 | -2.66        | 56.25    | 36.50     | 2686  | Mid Ocean Ltd.              | NYS                   | 57.50        | 5.99   | 5.99      | 66.75  | 44.13  | 570  |  |
| American Heritage Life Ins. | NYS   | 37.61           | 5.03                  | 5.03         | 40.50    | 23.50     | 56    | MMI Cos. Inc.               | NYS                   | 25.00        | -0.50  | -0.50     | 32.38  | 20.75  | 278  |  |
| American Internat'l/Fin'l   | NDO   | 14.00           | 0.90                  | 0.90         | 15.50    | 10.13     | 1     | Mutual Risk Mgmt. Ltd.      | NYS                   | 28.88        | -3.55  | -3.55     | 30.50  | 16.75  | 336  |  |
| American Indemnity          | NYS   | 103.19          | -5.11                 | -5.11        | 112.56   | 73.00     | 5639  | NAC Re Corp.                | NYS                   | 47.50        | -2.69  | -2.69     | 52.88  | 33.25  | 172  |  |
| Argonaut Group              | NDO   | 32.88           | -2.95                 | -2.95        | 38.13    | 26.75     | 192   | Navigator's Group           | NDO                   | 18.50        | -1.50  | -1.50     | 22.50  | 15.75  | 5    |  |
| AXA-UAP Group               | NYS   | 37.38           | -4.17                 | -4.17        | 39.88    | 29.25     | 252   | Nobel Insurance Ltd.        | NDO                   | 13.06        | -0.48  | -0.48     | 15.38  | 11.88  | 42   |  |
| Baldwin & Lyons Inc.        | NDO   | 21.50           | -10.88                | -10.88       | 28.75    | 17.38     | 6     | NYMagic Inc.                | NYS                   | 27.88        | 1.13   | 1.13      | 29.81  | 18.00  | 55   |  |
| Berkley W.R. Corp.          | NDO   | 43.38           | -1.14                 | -1.14        | 46.38    | 28.81     | 373   | Ohio Casualty Corp.         | NDO                   | 42.34        | -5.11  | -5.11     | 51.00  | 34.00  | 188  |  |
| Berkshire Hathaway Inc.     | NYS   | 47000.00        | 2.17                  | 2.17         | 48600.00 | 30000.00  | 1     | Old Republic Int'l          | NYS                   | 36.75        | -1.18  | -1.18     | 40.19  | 24.63  | 907  |  |
| Capital RE Corporation      | NYS   | 58.00           | -6.55                 | -6.55        | 62.88    | 38.75     | 90    | Orion Capital Corp.         | NYS                   | 43.63        | -6.06  | -6.06     | 51.00  | 30.00  | 251  |  |
| Capitol Transamerica Corp.  | NAS   | 20.81           | -2.35                 | -2.35        | 28.13    | 19.25     | 61    | Partner Re Ltd.             | NYS                   | 45.00        | -2.96  | -2.96     | 47.88  | 30.75  | 520  |  |
| CapMac Holdings Ltd.        | NYS   | 34.25           | -1.44                 | -1.44        | 36.00    | 22.50     | 930   | Penn-America Group Inc.     | NDO                   | 20.00        | -2.44  | -2.44     | 21.75  | 10.38  | 105  |  |
| Centris Group Inc.          | NYS   | 22.13           | -0.84                 | -0.84        | 24.00    | 17.88     | 16    | Philadelphia Cons. Holding  | NDO                   | 17.75        | 0.00   | 0.00      | 23.25  | 11.50  | 70   |  |
| Chartwell Re                | NYS   | 33.31           | -1.30                 | -1.30        | 36.25    | 24.50     | 41    | PXRE Corp.                  | NYS                   | 31.56        | -4.90  | -4.90     | 34.00  | 24.75  | 41   |  |
| Chubb Corp.                 | NYS   | 71.00           | -6.12                 | -6.12        | 78.50    | 51.13     | 2226  | Reliance Group Holdings     | NYS                   | 13.25        | -6.19  | -6.19     | 15.13  | 8.88   | 1224 |  |
| CIGNA Corp.                 | NYS   | 170.06          | -1.34                 | -1.34        | 200.75   | 136.94    | 1066  | Reliastar Financial Corp.   | NYS                   | 40.25        | -2.28  | -2.28     | 41.63  | 27.00  | 962  |  |
| CNA Financial Corp.         | NYS   | 127.38          | -0.29                 | -0.29        | 132.44   | 96.38     | 118   | RenaissanceRe Holdings Ltd. | NYS                   | 41.63        | -5.67  | -5.67     | 50.00  | 32.50  | 146  |  |
| CNA Surety                  | NYS   | 14.44           | -6.46                 | -6.46        | 16.50    | 12.88     | 107   | Risk Capital Holdings       | NDO                   | 20.75        | -6.74  | -6.74     | 24.00  | 16.00  | 767  |  |
| EMC Insurance Group Inc.    | NDO   | 13.44           | 1.42                  | 1.42         | 15.00    | 10.75     | 4     | RLI Corp.                   | NYS                   | 46.44        | -6.78  | -6.78     | 50.25  | 30.50  | 59   |  |

Top advancing issues: Mid Ocean Ltd., American Heritage Life Ins., Wellpoint Health Networks. Leading decliners: HCC Insurance Holdings, LaSalle Re Holdings Ltd., Travelers Corp. Most active issue: Travelers Corp. The BI Index fell 4.2%; the Dow Jones 30 Industrials decreased 4.2%; the S&P 500 fell 4.4% and the NYSE Composite decreased 4.6%. Average P/E: Brokers, 26.0; Insurers/reinsurers, 37.9; HMOs, 19.5.

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


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the safest ways to lift packages.  
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