

Business Insurance

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Updates

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EPA fine for multistate oil spills is largest civil pollution penalty

WICHITA, Kan.—Koch Industries Inc. will pay the largest civil fine ever imposed under a federal environmental law as part of a settlement with the U.S. Environmental Protection Agency to resolve claims related to oil spills in six states.

The settlement requires Koch to pay a \$30 million civil penalty and spend \$5 million to conduct a pipeline safety study, buy and preserve wetlands, and enhance water quality and emergency oil spill response systems at Corpus Christi Bay in Texas.

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Comp interests hit ergo standard

By MEG FLETCHER

WASHINGTON—A major battle is brewing over the impact of the Occupational Safety and Health Administration's controversial proposed ergonomics standard on workers compensation programs.



As the Feb. 1 deadline for written comments nears, many representatives of employers, insurers and state officials plan to question OSHA's legal authority to promulgate standards for worker payments, medical assessment and program standards. Critics claim those standards will negatively affect the existing benefit systems and operations of state-based workers compensation programs, although they generally agree with the standard's goal of preventing and quickly treating work-related musculoskeletal injuries.

One of the major complaints is that "the proposed OSHA standard greatly expands the employers' compensation obligation for these injuries," said Eric Oxfeld, president of UWC Inc., a Washington-based business association that lobbies on workers compensation and unemployment issues.

The Risk & Insurance Management Society Inc., which is currently drafting a position paper on the issue, "absolutely opposes imposition of any federal compensation scheme" and maintains that state workers comp laws respond adequately to workers' needs, said Daniel Barry, director of government affairs for the New York-based organization.

RIMS supports companies establishing ergonomic programs on a voluntary basis, which allows each to choose how best to allocate its resources, Mr. Barry said.

OSHA's proposed ergonomic standard would automatically cover about 1.6 million worksites where workers perform manual handling or manufacturing tasks, as well as other general industry worksites where one or more workers experience work-related musculoskeletal disorders after the final standard takes effect. The proposal, however, specifically exempts the construction, maritime and agricultural industries, which OSHA plans to consider in the future (BI, Nov. 29, 1999).

OSHA's proposed standard includes wage and benefit protections that are designed to encourage workers to seek prompt treatment for symptoms of musculoskeletal disorders, such as carpal

See OSHA on page 22

Reliance aims to put Unicover behind it

By GAVIN SOUTER

NEW YORK—Reliance Group Holdings Inc. still has several hurdles to overcome in its attempt to restore its financial strength and market position, despite a tentative \$100 million settlement of its Unicover liabilities, observers say.

The troubled insurer must still raise several hundred million dollars within the next several weeks to restore its capital and pay off its debt, they say.

If those efforts fail, rating agencies may downgrade Reliance to a B grade, which would severely limit the insurer's ability to write business. All three major rating agencies are reviewing Reliance for a possible downgrade.

Meanwhile, details began to emerge last week on how other

entities have suffered in the Unicover debacle.

Aon Corp. announced it will

**Aon takes charge
for Unicover
liabilities
See page 19**

take a \$27 million charge to settle its Unicover liabilities (see story, page 20), and a stock analyst estimated that John Hancock Mutual Life Insurance Co., which reinsured Unicover risks, could face gross liabilities of up to \$1 billion before its own reinsurance.

The collapse of the Unicover Managers Inc. pool, which provided low-priced reinsurance for

workers compensation business, has already affected pricing in the primary market. Workers compensation rates in California, particularly, are already increasing by up to 30%, partly due to the collapse of this source of reinsurance for underwriters of the coverage.

The Reliance settlement, if it is successful, should help Reliance restore its reputation, said Matthew Coyle, a director of Standard & Poor's Corp. in New York. "It's an important first step, but it is the first of many steps that need to be taken."

The \$100 million settlement includes all of Reliance's retrocessionaires, the majority of its cedents and an estimate for settlements with other cedents that

See Unicover on page 19

IRS to relax restraints on safe harbor 401(k)s

By JERRY GEISEL

WASHINGTON—The Internal Revenue Service is removing a major administrative hassle and expense for employers that want to offer generous 401(k) plans that are exempt from non-discrimination tests.

A 1996 federal law that went into effect last year gives employers an incentive to beef up their 401(k) plans. Employers offering plans with rich contribution formulas that meet or exceed one of two "safe harbors" are not required to go through the time and expense of running non-discrimination tests on the plans. Plans meeting those safe harbors are automatically considered non-discriminatory.



To meet the safe harbors, employers must either contribute to the 401(k) plan at least 3% of compensation for each eligible non-highly compensated employee; or match 100% of employees' deferrals, up to at least the first 3% of compensation, and 50% of employees' contributions up to the next 2% of compensation.

A 1998 IRS notice providing guidance on the 401(k) plan safe harbors, however, added new cost and administrative complications to the generous plans (see related story).

Under that notice, employers' matching contributions had to satisfy the safe harbor based on employees' compensation for the entire year. Problems could occur, though,

See 401(k) on page 4

Corporate names to stay put: Taylor

Lloyd's rebuts Chatset claim

By EDWIN UNSWORTH

LONDON—Lloyd's of London is rebutting a recent forecast by syndicate analyst Chatset Ltd. that contends significant losses for the years 1997 through 1999 are likely to jeopardize corporate investment at Lloyd's.

According to the forecast issued last week by Chatset Ltd., the Lloyd's market will lose an estimated £68 million (\$109.8 million) for 1997, £479 million (\$806.2 million) for 1998 and £346 million (\$558.9 million) for 1999. Final results for these years have not yet

been reported under Lloyd's three-year accounting system.

Lloyd's maintains, however, that the forecast does not differ

LLOYD'S

significantly from its own loss estimates for the period, and that the size of projected losses is unlikely to frighten away corporate investors.

Two months ago, Lloyd's forecast a 1997 loss of £94 million

(£151.8 million) and a 1998 loss of £434 million (\$730.4 million). It does not plan to issue any forecasts for 1999 until the end of the summer.

Lloyd's Chairman Max Taylor responded to the Chatset estimates by saying that "following record profits between 1993 and 1996, we anticipated the results for 1997 to 1999 would be poor due to the turn in market conditions."

Mr. Taylor explained the difference between the two sets of forecasts by saying that Lloyd's

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Updates

Pipeline owner to pay EPA fine

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The Wichita, Kan.-based company also has agreed to improve leak prevention in its oil pipelines and facilities, according to the Environmental Protection Agency.

Koch did not return telephone calls regarding the settlement or whether it will be funded by insurance.

The settlement resolves lawsuits filed by the EPA against Koch, charging that the company illegally discharged crude oil and petroleum products in Texas, Oklahoma, Kansas, Missouri, Louisiana and Alabama.

The suits charged that Koch unlawfully allowed the discharge into ponds, lakes, rivers and streams and onto shorelines from 1990 to 1997.

The EPA said Koch will pay \$15 million of the civil penalty into the federal government's Oil Spill Liability Trust Fund, which was created in 1990, after the Exxon Valdez spill in Alaska. The balance of the payment will go to the state of Texas, which joined the litigation.

Aetna realigns operations

HARTFORD, Conn.—Aetna Inc. is realigning its operations into two main business units: global health and global financial services.

Global health will include Aetna U.S. Healthcare's operations and Aetna International's health businesses. Global financial services will include Aetna Financial Services, the life and pension business now in Aetna International, and certain group insurance business that is now part of Aetna U.S. Healthcare. This includes life, disability and long-term care products, as well as large-case pensions.

Michael J. Cardillo, president of Aetna U.S. Healthcare, will oversee the global health business, while Thomas J. McInerney, president of Aetna Financial Services, will oversee the global financial services business.

Richard L. Huber, Aetna's chairman and chief executive officer, said in a statement, "This realignment is a natural next step that reflects Aetna's current strategic positioning and rapid growth as a global health and wealth leader."

An Aetna Inc. spokeswoman said the company expects to make a decision by midyear whether to combine its IntelliHealth World Wide Web site, www.intelihealth.com; a consumer health information service; and other online services into a separate subsidiary and make an initial public offering.

"It's one of the things we are looking at," the spokeswoman said.

Frontier launches Web portal

ROCK HILL, N.Y.—Frontier Insurance Group Inc. is launching "a fairly significant Internet operation" focused on providing specialty commercial insurance products and other services related to its business, its chief executive officer says.

Starting with DentistOneStop.com, the Rock Hill, N.Y.-based company is creating portals through which customers can gain access to a range of information and services.

Not only can customers obtain information related to Frontier's products but they also can gain access to targeted services, such as online office supply retailers, continuing education information and business-related news articles, explained Harry W. Rhulen, president and CEO of Frontier.

"Dental liability, for example, is one of the products provided by Frontier," Mr. Rhulen said. "We will be creating these vertical portals for many of the specialty areas that we do business in."

Mr. Rhulen said the insurer has identified approximately 80 of its insurance programs that lend themselves to OneStop.com's approach.

Over the next six months, Frontier expects to roll out a new portal almost once every two weeks, he said.

Frontier owns the OneStop.com site, and OneStop.com Inc. is being operated as a separate subsidiary within Frontier Insurance Group.

In addition to the possibility of increased insurance sales for Frontier, the online business will generate additional fee income; the insurer will earn a percentage of the revenue other companies realize from business that comes their way through the Frontier portal.

Dentists can't bind liability coverage, however, through the DentistOneStop.com site.

"Of course, there is an underwriting requirement," Mr. Rhulen said.

Dentists can, however, submit and receive information, request quotes and obtain risk management information. In time, customers for some lines with less-complex underwriting requirements will be able to bind, purchase and pay for their policies online, he said.

EBRI health plan study

WASHINGTON—The percentage of the non-elderly U.S. population covered by employment-based health insurance grew throughout much of the last decade, according to a report released last week by the Washington-based Employee Benefit Research Institute.

EBRI, which based its study on the U.S. Census Bureau's March 1998 Current Population Survey, estimates employment-based health insurance covered 64.9% of Americans under the age of 65 in 1998, up from 63.5% of the same group in 1993. EBRI attrib-

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Physician antitrust bill making payers worry

By MARK A. HOFMANN

WASHINGTON—Employers, insurers and even some health care providers hope to block a measure that would give independent health care providers more negotiating clout.

H.R. 1304—the Quality Health Care Coalition Act of 1999—would exempt physicians and other independent providers from federal antitrust restrictions, thus allowing them to act as bargaining units, much like labor unions, when negotiating with managed care plans and health insurers.

Supporters of the measure, including the American Medical

Assn., claim that such an exemption is needed because independent practitioners are at a decided disadvantage when negotiating with managed care plans. But opponents charge that the bill would simply give physicians the ability to increase costs without enhancing the quality of or access to care.

Rep. Tom Campbell, R-Calif., introduced H.R. 1304 nearly 10 months ago. It has since drawn about 170 co-sponsors but has not yet come to a vote by the House Judiciary Committee, let alone the full House.

A spokeswoman for Rep. Campbell said House Speaker J. Dennis

Hastert, R-Ill., had promised the California lawmaker last year that H.R. 1304 would be marked up by the Judiciary Committee shortly after Congress reconvened and would come up for a vote on the floor of the House a week or so later. She said the bill's backers had no reason to believe that schedule had changed.

No companion legislation has been introduced in the Senate, however, significantly reducing the chances that the bill could become law during the current congressional session.

That's just as well, say many employers.

See Physicians on page 23

Hawaii rethinks policy

Risk group fee rescinded

By JERRY GEISEL

HONOLULU—The Hawaii Insurance Division is rescinding a \$406 fee it earlier imposed on risk retention and risk purchasing groups operating in the state.

The division was expected to begin sending out letters last week notifying RRGs and purchasing groups of its decision to rescind the fee. It will return the fee checks it already has received as well as any checks in transit. None of the 90 checks remitted by the groups was cashed while the division was reviewing its earlier decision to impose the fee.

Hawaii Insurance Commissioner Wayne Metcalf was not available for comment last week, but a department official confirmed the decision to drop the fee.

The policy reversal in Hawaii is a victory for RRGs and purchasing groups, which have resisted

the efforts of several states to impose on them a wide array of fees.

The groups contend that the Risk Retention Act, the federal law that created RRGs and purchasing groups, pre-empts the fees. An RRG is a multiple-owner captive that, by meeting the licensing requirements of one state, can operate nationwide. A purchasing group is simply a group of buyers that have banded together to purchase commercial coverage.

Unlike disputes in other states, the controversy in Hawaii was low key and short lived.

"A legal analysis was presented, and the division gave it thoughtful consideration. The discussion occurred in a very non-adversarial fashion," said Jon Harkavy, a member of the National Risk Retention Assn.'s government affairs committee and vp and general counsel in the Arlington, Va., office of Risk Services L.L.C., which manages

See Hawaii on page 22

Review declined in temp case

High court again refuses to address issue of benefits eligibility

By JUDY GREENWALD, AMANDA MILLIGAN and MARK A. HOFMANN

WASHINGTON—The U.S. Supreme Court declined to review several cases last week that employers and insurers watched closely, though it did hand down rulings on other issues relating to labor and insurance.

For the second time in two years, the justices refused to hear an appeal by Mi-

crosoft Corp. in the *Vizcaino* temporary workers case.

In the latest development, the court denied a Microsoft request to hear an appeal of a ruling by the 9th U.S. Circuit Court of Appeals in San Francisco

related to the size of the class of temporary workers who are eligible to participate in Microsoft's employee stock purchase plan.

That May 1999 appellate decision overturned a Seattle district court decision that had restricted

the class to only pre-1990 temporary employees. The appellate court restored the original 1993 definition, which covered past, present and future temporary Microsoft employees.

A spokesman for Microsoft in Redmond, Wash. said, "We are disappointed that the Supreme Court has decided now is not the time to review the issue raised in the latest appeals court review."

The spokesman noted, though, that "the case has been moving forward at the district court level all along" while the Supreme

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Inside

- The latest IRS notice regarding safe harbor 401(k) plans is in keeping with Congress' intentions when it passed the legislation that created the plans—the encouragement of generous retirement benefits, one of this week's editorials says. **PAGE 8**

- The Internet has become a popular way for employers to provide 401(k) plan investment education to employees, a new study shows. **PAGE 6**

- Indian insurance buyers are expected to reap benefits from the long-awaited and controversial liberalization of the insurance sector. **PAGE 15**

- Aon Corp. will take a \$125 million to \$150 million pre-tax charge to cover costs related to Un cover Managers Inc. claims and to increase reserves for other matters, including additional litigation. **PAGE 19**

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Buck stops at Daubert

Testimony standard staves off claims of ink-induced ailments

By MICHAEL BRADFORD

WASHINGTON—Three former employees of the Treasury Department's Bureau of Engraving and Printing are settling claims that their exposure to special ink used to print currency was responsible for a host of ailments.

The case, originally brought against the ink's manufacturer in 1992, is the latest in which claims of multiple chemical sensitivity have failed, partly because of strict guidelines for expert testimony in product liability cases, attorneys say.

Defendants have successfully relied on standards for the admissibility of expert testimony handed down in 1983 by the U.S. Supreme Court in *Daubert vs. Merrell Dow* to quash every MCS case that has been

heard in federal courts, say attorneys.

Before reaching a settlement last week, the plaintiffs had appealed a summary judgment in favor of defendants SICPA Securink Corp. and SICPA Industries of America Inc. The Springfield, Va.-based companies manufacture inks used to print U.S. currency. Last August, U.S. District Judge Royce C. Lamberth in Washington granted their motion for summary judgment.

Terms of the settlement were not released, but sources involved in the case described the amount as "nominal."

David T. Ralston Jr. of Hopkins & Sutter in Washington, who represented the manufacturers, said, "We gave them a little bit of money, in each case less than \$50,000."

Royal Insurance Co., a unit of Royal &

SunAlliance USA Inc., which wrote product liability coverage for the defendants, funded the settlement "for a nominal amount," confirmed Brian Stahl, vp-liability claims for Charlotte, N.C., insurer. The coverage also paid the defendants' legal costs to defend the claims, he added.

Patricia A. Smith, an Alexandria, Va.-based attorney who represented the plaintiffs, refused to comment except to say she believed "the court was wrong" in its decision to grant summary judgment.

Plaintiffs' attorneys in the case attempted to use deposition testimony by four expert witnesses as evidence that the former workers were suffering from maladies caused by a component of the ink used to print currency between 1989 and 1992.

See Ink on page 20

Deterioration forecast

California insurers' comp losses soar

LOS ANGELES—California workers compensation insurers are pushing for substantial rate increases in the state to make up for record-breaking losses.

The San Francisco-based Workers Compensation Insurance Rating Bureau recently found that insurers experienced a 100% loss ratio for workers comp risks in the state in accident year 1998, and even greater losses are expected for 1999.

The 1998 loss ratio is the highest loss ratio the bureau has witnessed since it began collecting such data in 1970, said Dave Bellusci, the WCIRB's chief actuary.

The ratio quantifies losses only. It does not include other insurer expenses. A 100% loss ratio is "well above" the level necessary to fund workers comp benefits, according to the WCIRB.

Despite the level of losses, the rates charged by comp insurers dropped 3% for 1999 compared with their 1998 level, the WCIRB reports. With accident severity costs continuing to increase at a double-digit rate, the WCIRB expects that the 1999 accident-year loss ratio could surpass the 1998 ratio.

Mr. Bellusci and other observers attributed deteriorating insurer ratios to a highly competitive market in which insurers kept slashing their prices to win or retain business.

That appears to have come to an end, brokers say.

Insurers have returned to under-

writing basics rather than continuing to price accounts to beat out the competition, said Richard Boyer, a vp for Aon Risk Services in Los Angeles.

Approximately 30 accounts that renewed in January saw rate increases averaging between 25% to 30% compared with their expiring coverage from the same or other insurers, Mr. Boyer said.

"A lot of carriers I'm dealing with now are trying to make up for past sins," he said.

On one renewing risk management account, the insurer sought what would have been a 170% increase in premium, according to Mr. Boyer. The account eventually renewed at a 77% increase.

Guaranteed cost programs are also disappearing from the California market, Mr. Boyer and other observers report (BI, Jan. 10, 2000). Insurers are back to looking for more customer participation in controlling their exposure, he said.

"I think we are going to start seeing a lot more loss-sensitive programs, deductible programs and retro programs," he said.

Recently renewed accounts with marginal claims histories and increased experience modifications saw their premiums rise by 20% to 100%, said Stephen B. Paulin, senior vp for broker Sullivan Curtis Monroe in Irvine, Calif. Accounts that have good loss histories saw 10% to 15% increases.

—By Roberto Cenicerros

PHOTOS: HIGHTECHCAMPUS.COM

Training starting to click

Broker using Internet to educate clients on risks

By SALLY ROBERTS

DALLAS—A new Internet company, backed by one of the largest brokers in the country, aims to make training more cost efficient for employers.

HighTechCampus.com, the brainchild of Gary R. Griffith, chairman and chief executive officer of Dallas-based broker Summit Global Partners Inc., is the culmination of efforts and capital from SGP, U.S. Learning Systems L.L.C., a Houston-based developer of corporate training materials; and Vaultnet Inc., a Dallas-based Internet content developer.

Launched Jan. 1, HighTechCampus.com currently offers online training courses on the topics of sexual harassment, age and sex discrimination, drug and substance abuse, workplace violence and business ethics. Ninety

other courses are under development.

"The first five products were very deliberately steered toward the corporate buyer with exposures on a variety of different fronts," said Mr. Griffith, who serves as chairman of HighTechCampus.com. "Training reduces exposure to certain risks," he said. It also makes buyers better able to obtain insurance coverage and preferred pricing, he added.

The first five modules all fall under HighTechCampus.com's Legal Compliance and Law track. Other educational tracks in development include Human Resource Management, Marketing and Sales, the Occupational Safety and Health Administration and Customer Service.

"The training and education of Corporate America is a \$62 billion market," Mr. Griffith said. "Although a good portion has historically been delivered in written

See Online on page 21

Psychology analyzing job risks

By AMANDA MILLIGAN

An emerging area of psychology is putting behavioral concepts to work.

Occupational health psychologists aim to unravel the tangle of psychological issues that corporations may inadvertently engender by failing to effectively manage the human side of productivity.

Organizational stress, such as that created when a company downsizes its operations, can have a significant psychological impact on all workers, said Steven Sauter, chief of the applied psychology and ergonomics branch of the National Institute for Occupational Safety and Health in Cincinnati.

In 1992, NIOSH and the American Psychological Assn. teamed up to define

and promote the fledgling field of occupational health psychology. Although a similar field, called industrial organizational psychology, already existed, Mr. Sauter said there still was insufficient training regarding organizational safety and health practices.

NIOSH has proposed defining the field as applying psychology to improving the quality of work life and focusing on worker safety, health and well-being.

Managing an organization's bottom line includes more than just thinking in terms of reducing expenses, increasing revenues and optimizing cash flow, said Stacey Moran, industrial organizational psychologist for The St. Paul Cos., who consults with the risk management departments of the insurer's clients.

Ms. Moran, based in Ocean Springs,

Miss., advocates broadening that focus to include consideration of safety measures and risk control, which fall under the umbrella of occupational health psychology.

One topic that is especially timely and of interest to occupational health psychologists is the causes of workplace violence and harassment.

"There's much less understanding on the organizational factors that may contribute to various types of violence in the workplace," said Mr. Sauter. "Stressful work environments may increase the hostility in the workplace."

One area of concern is downsizing, which, in addition to affecting those dismissed, has implications for remaining employees, occupational health psy-

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PHOTO: BLACK STAR

Stress in the workplace, which can lead to tragedies such as this 1999 shooting at a Xerox office, has prompted the growth of occupational health psychology.

401(k)

Continued from page 1
when employees during a part of the year deferred more than what was needed to get a full employer match and, at other times, deferred less than was needed for the full match.

In such a situation, employers' matching contributions for the full year could fall short of the percentage needed to satisfy the safe harbor. The result: Employers would have to kick in an additional contribution.

"It was a real mess and certainly discouraged some companies from offering the plans," said Dennis Coleman, a principal at PwC Kwasha in Teaneck, N.J.

But IRS Notice 2000-3, released this month, eliminates that complication, known as "true-up."

Simply put, employers can sat-

isfy the safe harbor by matching employees' salary deferrals on the basis of employees' compensation for a payroll period such as every two weeks or every month. No additional calculations or contributions would be required.

For example, if an employer agrees to match for every payroll period 100% of employees' salary deferrals, up to the first 4% of employees' compensation, an employer would not need to make additional contributions at the end of the year for employees, who, for instance, defer 6% of pay during the first half of the year and nothing during the second half.

"If you match on the basis of payroll periods, you don't have to true up. That was a real concern from a cost and administrative perspective," Mr. Coleman said.

When the plans were authorized in 1996, legislators reasoned that

the trade-off they set for having a safe-harbor plan—mandating generous employer contributions but exempting employers making

employers, the cost of qualifying for the safe harbors is too high. In addition to the rich contribution requirements, employer contribu-

To date, only a small percentage of employers with 401(k) plans—perhaps 5%, according to benefit consultants—have upgraded their plans to meet the safe harbors.

those contributions from running non-discrimination tests—would appeal to companies.

To date, though, only a small percentage of employers with 401(k) plans—perhaps 5%, according to benefit consultants—have upgraded their plans to meet the safe harbors.

That is because for most em-

ployers, the cost of qualifying for the safe harbors is too high.

Few 401(k) plans, however, are that generous. The most common matching feature, according to a Hewitt Associates L.L.C. survey, is one in which employers match 50% of employees' deferrals, up to 6% of pay.

In addition, it is rare for matching contributions to vest immedi-

ately, with three- or five-year schedules more common.

Still, for employers already providing generous 401(k) plans, offering a plan that met the safe harbors did not add to costs and removed the expense and hassles of running non-discrimination tests.

The requirements laid down by the 1998 notice, chiefly the potential need to true-up matching contributions, may have deterred some employers, however, from using the safe harbors.

"There was an additional financial and administrative cost" attached to true-ups, said Frank Roque, a Hewitt consultant in Lincolnshire, Ill.

Eliminating "true-up" is just one of several other changes in the 401(k) safe-harbor plan arena the IRS has made in the new notice. Other changes include:

- Giving employers more time to make a final decision during a plan year on whether or not they will offer a safe-harbor plan.
- Allowing employers with safe-harbor plans to require employees' salary deferrals to be made in whole dollar amounts or whole percentages of pay.
- Permitting employers to provide 401(k) safe-harbor notices electronically to employees.

In addition, in an issue not related to safe-harbor plans, the IRS said it would like public comment on ways of simplifying non-discriminating testing in plans that have both pretax and after-tax contribution options.

In all, the changes made by the IRS "provide much welcome relief and flexibility for plan sponsors," said Pam Scott, a technical consultant with Towers Perrin in Valhalla, N.Y.

"The IRS has gotten rid of some picky, little traps. The general tone of the guidance is very helpful," concurred Michael Weddell, a consultant in the Southfield, Mich., office of Watson Wyatt Worldwide. **BI**

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Net helping educate 401(k) plan participants

By JERRY GEISEL

The Internet has become a popular way for employers to provide 401(k) plan investment education to employees, a new survey shows.

Nearly two-thirds, or 62%, of employers surveyed by benefit consultant Hewitt Associates L.L.C. said they used the Internet for 401(k) plan employee investment education in 1999, up from just 20% in 1997.

"Employers are finding that the

self-service mode works well. Participants are really making use of the Internet, finding it a user-friendly way to get answers," said Lori Lucas, a Hewitt consultant in Lincolnshire, Ill.

The vast majority of surveyed employers say the Net is nearly as effective as traditional approaches for communicating investment concepts. Ninety-two percent of employers rated the Net as "very effective" or "somewhat effective" in communicating investment concepts. That per-

centage was just behind seminars/workshops, rated as very or somewhat effective by 96%, and written materials, rated as very effective or somewhat effective by 95% of employers.

The Internet's effectiveness ranked higher than financial help lines, judged very effective or somewhat effective by 86% of employers, and videotapes, ranked very or somewhat effective by 84% of respondents.

The growing use of the Net is one of dozens of findings reported in the new

Hewitt 401(k) survey, which is based on the responses of 491 employers.

According to that survey, more employers are providing investment education to employees. Last year, 86% of employers said they provided investment education to 401(k) plan participants, up sharply from the 59% Hewitt found in a 1997 survey.

One possible reason for the increase in investment education is employees have a greater number of investment options from which to choose. Employers, on average, offered 11 investment options last year, up from an average of eight options in 1997.

"As the number of options increases, the level of participant questions also increases," Ms. Lucas said.

At the same time, investment education has become more important as 401(k) plans replace traditional defined benefit plans. In 401(k) plans, employees' investment decisions can be crucial to the ultimate size of the benefit, whereas defined benefit plans typically base benefits on employees' years of service and salary.

In fact, 41% of surveyed employers last year reported that a 401(k) plan was their primary retirement plan, up from 35% in 1995.

While more employers are offering investment education, many still are not measuring the success of those programs. Forty-six percent of employers said they have not tried to measure the success of the programs, while 33% have, and 21% plan to do so in the next year. Among employers that have attempted to do so, 87% used an increase in plan participation as a measure of success, 75% used an increase in employee contribution rates, and 69% used greater diversification of employee assets.

Surveyed employers said employees' most common mistake is investing too conservatively, though fewer employers believe this is a problem than did before. Thirty-one percent last year said participants invest contributions too conservatively, down from 40% in 1997 and 53% in 1995.

On the other hand, 20% of employers said employees are not adequately diversifying investments, up from 17% in 1997 and 11% in 1995.

Perhaps because of the strong economy, employees are contributing

more of their pay. On average, rank-and-file employees in 1998 deferred 4.9% of pay to their 401(k) plans, compared with an average of 4.5% in 1995. Highly compensated employees in 1998 deferred 6% of pay to 401(k) plans, up from an average of 5.7%.

Because lower-paid employees are deferring more, fewer 401(k) plans are having trouble passing the chief non-discrimination test—the actual average deferral percentage test, or ADP. Under federal law, average deferrals by higher-paid employees generally cannot be greater than average deferrals by lower-paid employees by 20% or two percentage points, whichever is less.

Sixty-two percent of employers expected their plans to pass the ADP test without any adjustment to the contribution elections of higher-paid employees, up from 52% in 1997.

Other survey findings include:

- On average, 78% of eligible employees participate in 401(k) plans, about the same as in 1997.

- Ninety-two percent of employers match employees' salary deferrals. The most common employer match is 50%, up to 6% of pay.

- Daily valuations are used by 89% of plans, up from 71% in 1997.

- Ninety-two percent of 401(k) plans allow participants to take loans against their accounts, with 42% of plans permitting only one outstanding loan at any one time.

On average, 22% of plan participants had outstanding loans, a percentage that has remained nearly constant throughout the 1990s.

- Among employers using an outside provider to perform recordkeeping services, 36% use a mutual fund/investment firm—up from 26% in 1997—and 22% use a benefit consulting firm, up from 17% in 1997.

On the other hand, in a indication of the growth of outsourcing, just 3% of employers said they used internal staff last year for plan recordkeeping, down from 19% in 1997. Fourteen percent said they shared recordkeeping responsibilities with an outside provider, down from 21% in 1997.

Copies of the 1999 "Survey Findings: Trends and Experience in 401(k) Plans," are available for \$200 from Hewitt Associates L.L.C., Publications Desk, 100 Half Day Road, Lincolnshire, Ill. 60069; 847-295-5000.

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Opinions

Hawaii bids aloha to fees

STATE INSURANCE REGULATORS take note: the state of Hawaii has quickly eliminated a short-lived risk retention and risk purchasing group fee, without stubbornly requiring groups to resort to lengthy and expensive litigation to preserve their rights under federal law.

Sadly, such a fair and sensible approach has not been adopted by many other states that attempt to impose fees and charges on such groups in clear violation of the federal Risk Retention Act.

As we report this week, Hawaii insurance regulators have recently rescinded a decision to impose a new \$406 fee on the groups to support a new insurance regulation fund. Regulators last October sent out notices to RRGs and RPGs operating in the state notifying them of the new assessment.

The groups promptly informed the Insurance Division that the Risk Retention Act pre-empts states from imposing fees or other forms of regulation on them. After reviewing the group's position, Hawaii regulators agreed.

The Risk Retention Act allows risk retention groups to operate nationwide after meeting the licensing requirements of one state. An RRG, which is a type of multiple-owner captive, does not have to meet requirements set by other states, except for those set by federal law, such as the payment of applicable premium taxes.

In the case of risk purchasing groups, which are organizations of buyers that have joined together to buy commercial insurance on a group basis, RPG representatives said Congress made clear that any state law or rule that discriminates against the groups is pre-empted by federal law.

Consequently, they argued that an assessment like Hawaii's \$406 fee, which is imposed on purchasing groups but not on other insurance buyers, is inherently discriminatory and thus is pre-empted.

Presented with these arguments, Hawaii Insurance Commissioner Wayne Metcalf, to his credit, promised a swift and non-adversarial review of the issue.

The commissioner was as good as his word. The review



took a little more than a month, and the division now is notifying the groups that it is reversing course and is dropping the fee. Any fees paid by the groups while the assessment was challenged are being returned.

Hawaii's decision should not come as a surprise—as regulators there have aggressively worked to develop the state's image as a leader in the alternative risk financing market. Taking a position so clearly at odds with federal law and so against the interests of the alternative risk financing market certainly would have tarnished that image.

The decision is welcome because too many other states have attempted to slap illegal fees on the risk groups and few recognize the error of their ways. We hope Hawaii's example of prompt and fair action not only encourages states to withdraw improper fees but also causes them to reconsider introducing such assessments in the first place.

IRS loosens safe harbor rules

BACK IN 1996, Congress came up with a great idea to encourage retirement savings: Employers willing to offer very generous 401(k) plans would be exempt from the hassle of running non-discrimination tests on those plans.

Everyone would win—Employees would receive better retirement benefits and employers would cut their administrative costs.

To be sure, the safe harbor 401(k) plans, as the plans often are called, never were envisioned to capture more than a small part of the 401(k) plan universe. Beefing up 401(k) plans to meet the requirements set by Congress costs more than most companies are willing to spend on 401(k) benefits. For some employers, however, the plans were very attractive.

Until now, however, rules set by the Internal Revenue Service for the plans stymied their adoption by employers.

A notice the IRS published in 1998—just before the change was to go into effect—added administrative complexity and costs to these safe-harbor plans, in spite of a

congressional goal to make them virtually hassle-free.

The IRS interpretation of the law had the effect of requiring employers in some cases to make additional contributions to 401(k) accounts, even if they had properly matched employees' salary deferrals during the year, if they were to avoid the non-discrimination tests. This is on top of already offering an extremely generous match to employee contributions.

The IRS apparently is now willing to acknowledge that it was wrong. The agency now says that if employers properly match salary deferrals during, for example, each pay period, there is no additional contribution liability to avoid the non-discrimination tests.

The IRS also is revamping its earlier notice in other helpful ways. Employers will have more time to make a final decision during a year on whether they want to offer a safe harbor plan, and plan notices can be sent to employees electronically.

In all, the latest IRS notice does what Congress intended when it passed the 401(k) safe harbor plan legislation: encourage employers to offer the plans.

Letters

To end surcharge, pay patients directly

To the editor: The solution to ending the health plan surcharge by New York (BI, Dec. 13, 1999) and other states is for employers to amend their health plans to provide that benefits are not assignable, and then pay hospital benefits directly to the patient in those states

that levy the surcharge. The hospital lobby would quickly end their state's tax on health care plans.

Ron Jones
President
Mutual Medical Plans Inc.
Peoria, Ill.

■ **Editor's note:** New York governor George Pataki signed into law legislation extending—with minor modifications—through June 30, 2003, the 1996 law that imposes surcharges on bills incurred in New York hospitals (BI, Jan. 3).

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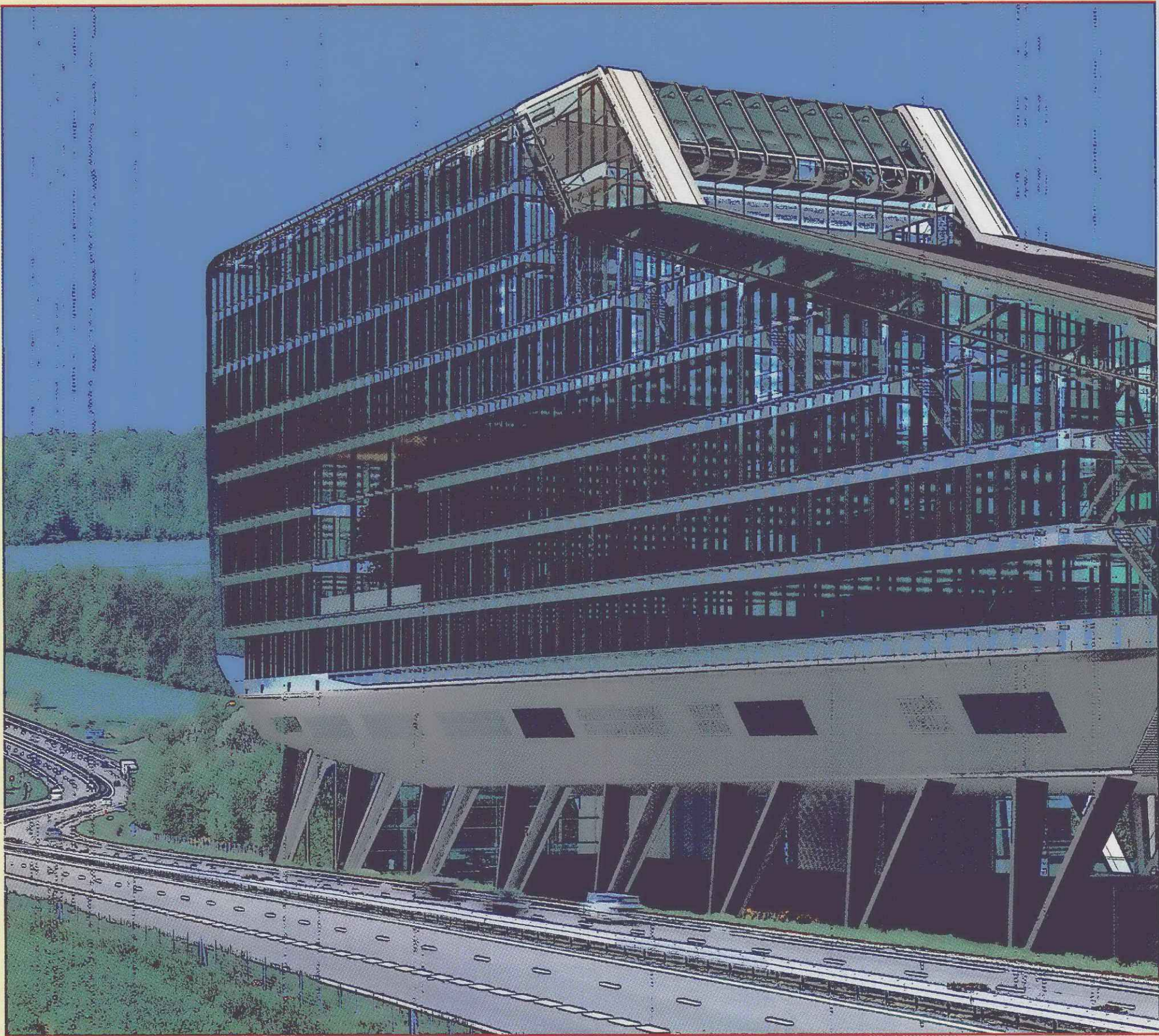
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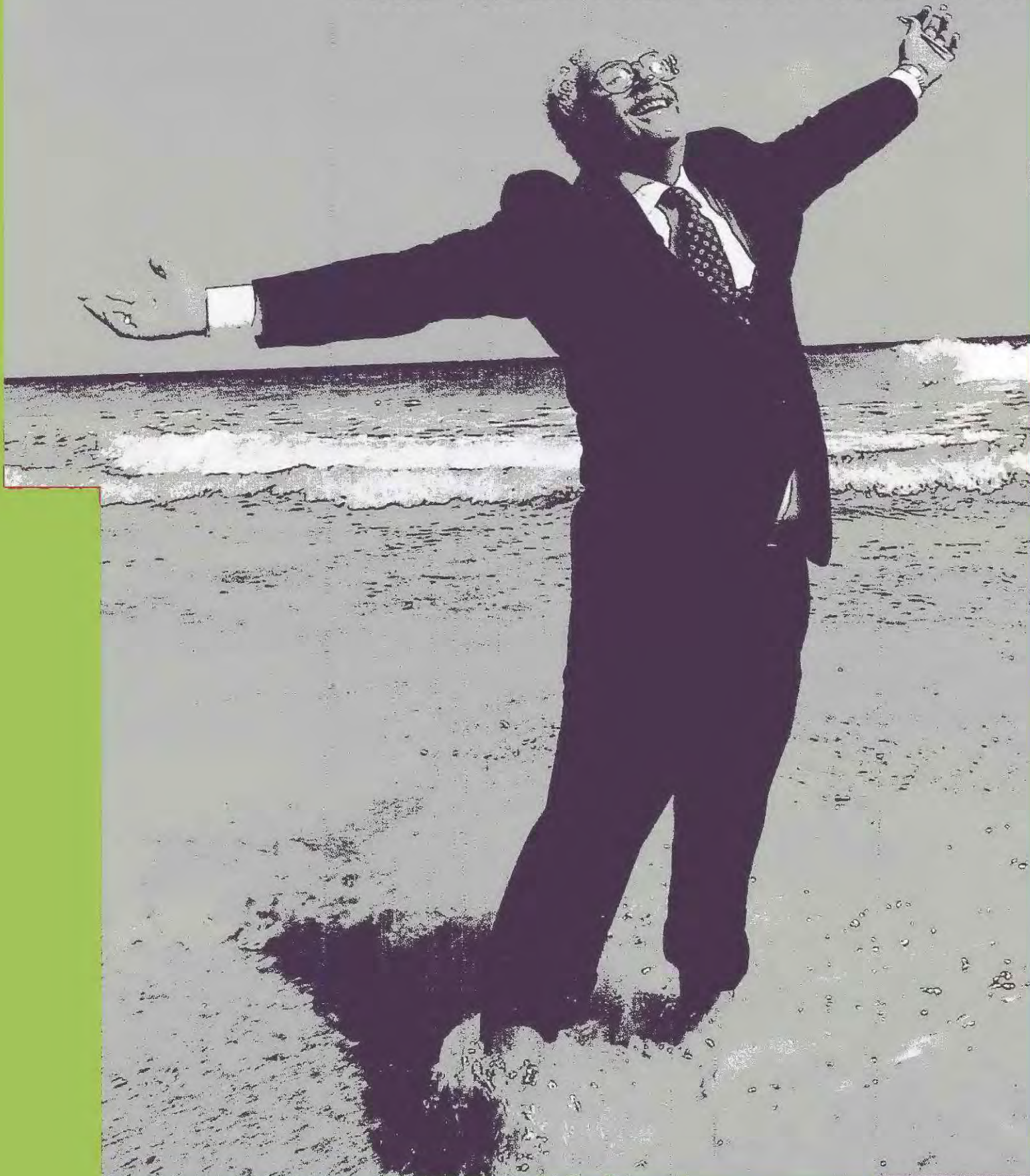
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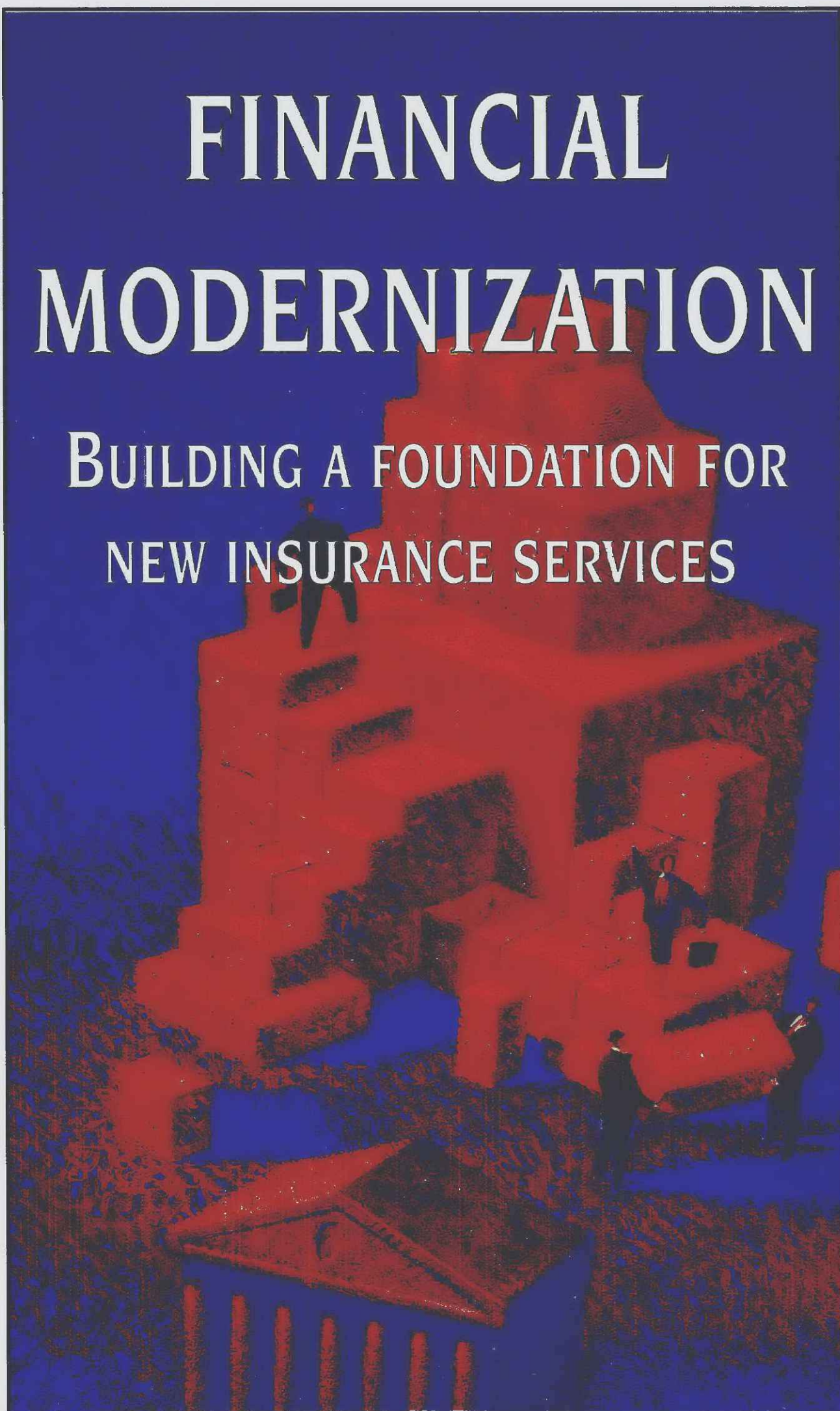
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FINANCIAL MODERNIZATION

**BUILDING A FOUNDATION FOR
NEW INSURANCE SERVICES**



New law not expected to prompt drastic convergence

By SALLY ROBERTS
and RODD ZOLKOS

Although those in the insurance industry view last year's passage of the Gramm-Leach-Bliley Financial Services Modernization Act as a positive development, they generally don't view it as a harbinger of dramatic convergence between banks and commercial insurance.

In addition, insurance brokers largely maintain that they do not foresee significant consolidation between banks and intermediaries.

Signed into law by President Clinton in November, S. 900 removes many of the barriers that have prevented banks, insurers and securities firms from affiliating with one another and being involved in each other's business (*BI*, Nov. 1, 1999).

Many insurance company executives say that banks' initial involvement in insurance will be primarily in personal lines, with any ventures into commercial coverages, particularly more complex lines, some years off.

"Where you have the banks coming into the insurance market, they probably will target auto and home and life," said Ray Bustamante, an assistant vp at Zurich U.S. in New York.

"I think the specialty lines are a few years from being targeted by the banks," Mr. Bustamante said. "And for good reason—the product lines that we deal with are volatile."

"The business that we're doing requires substantial capacity," he said. "And if you don't know what you're doing on an accountant policy, you could have a \$50 million loss today."

That prompts an additional complication: reinsurers' unwillingness to do business with newcomers they feel aren't experienced at underwriting such volatile lines. "That will be another hindrance," Mr. Bustamante suggested.

Expertise also will remain an important concern of commercial lines buyers, and that is one more reason that, despite the change in federal law, banks aren't likely to emerge as a one-stop shop for all of businesses' banking and risk financing needs, some say.

"I'm not sure that one-stop shopping is the right solution at the large end of the market," said David Long, executive vp and manager-National Market at Liberty Mutual Insurance Co. in Boston. "Expertise certainly is."

"I think you could get just as good a result by buying a financial hedge from a Wall Street firm and buying your property coverage from a Liberty Mutual," Mr. Long said, agreeing that the personal lines segment and perhaps the small business market might be more affected by the financial modernization law.

"Certainly we at Travelers believe that there will continue to be consolidation in the marketplace, and that's the marketplace globally," said John B. Stites, vp-national accounts at Travelers Property Casualty Corp. in Hartford, Conn. "Will there be integration? Certainly there will be. Will it happen in 2000? Probably not. In 2000 it may just confuse the market."

Changes in the financial services landscape from the new law might provide new or expanded opportunities for insurers in the way they do business with banks, some insurance company executives say.

Terry Van Gilder, president and chief executive officer of Reliance National Insurance Co. in New York, sees potential for an expanded market for a Reliance operation that works with lenders to craft branded credit and credit-related insurance products those financial institutions can then offer their customers.

"The fact that lenders now have a broader scope of opportunity available to them in the insurance area has created a lot of opportunity," Mr. Van Gilder said. "There is great potential in this particular area where the lines of demarcation are falling."

Among agents and brokers, the view is that consolidation prompted by the new law is more likely to occur between banks and insurance companies.

The culture clashes between banks and insurance intermediaries is preventing large-scale consolidation between the entities, some agents and brokers say. At the same time, they do see opportunities for agents and brokers to take advantage of the law and affiliate with banks to distribute a variety of financial products and services.

In addition to removing barriers to financial services integration, the new law also promotes uniformity in insurance agent and broker state licensing through the creation of the National Assn. of Registered Agents and Brokers. NARAB, which would serve as a federal clearinghouse for multistate licensing, will be created if not enough U.S. jurisdictions act to bring uniformity or reciprocity to their licensing laws within three years.

Intermediaries view the formation of NARAB as one of the bill's strongest elements.

"One of the big issues for brokers has been a national platform for agent and broker licensing, and one of the big benefits of that bill was to come up with some consistency with statutory licensing regulations," said Gary Griffith, chairman and CEO of Summit Global Partners Inc. in Dallas.

Bill Caplice, managing director at Aon Risk Services Inc. in Chicago, agreed that NARAB will benefit brokers by creating reciprocal arrangements.

"Anything that better manages the licensing process will reduce costs and increase quality," he said. "Those are good things for the business."

In terms of convergence, however, "I'm not sure a lot will change for us in the insurance brokerage and consulting world," Mr. Caplice said. "We need to continue to be solution providers, effectively helping our clients analyze their business risks and im-

plement solutions to meet their needs.

"I see the banks more likely to take advantage of the coming reforms and entering the life insurance business, rather than the property/casualty or broker/consulting side of the business."

Other brokers agree.

"I think (the law) will create a pathway for major financial service companies to enter the insurance market," Mr. Griffith said. "My feeling is that their primary interest is in underwriting and less in distribution. This will lead to further consolidation among the large bank holding companies and insurers."

"I think it gives us the option to team up with banks to create the ability for them to distribute our products, but I don't see an immediate ground swell of interest from banks wanting to enter the insurance sales arena," Mr. Griffith said.

Bernard H. Mizel, chairman and CEO of USI Insurance Services Corp. in San Francisco, said that banks are not entering the insurance distribution arena because they have not figured out how to manage effectively the process of insurance sales.

"It's very hard culturally, because banks are bureaucratic, autocratic and have a very difficult time dealing with entrepreneurial organizations," Mr. Mizel said.

Although financial modernization creates great opportunities for insurance brokers, "there has to be a decision made at the senior level of a bank to really commit to offering a fully integrated financial services program to their clients."

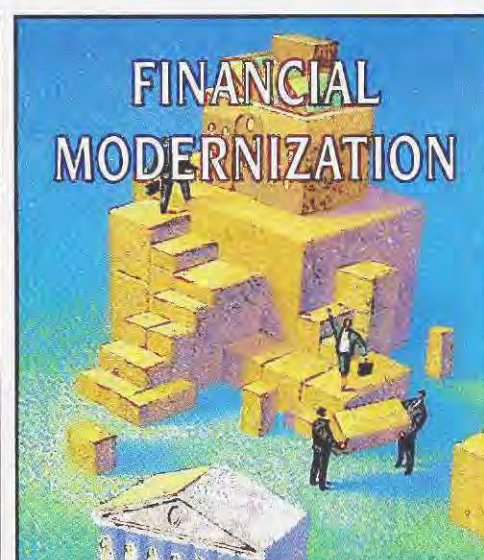
"Whoever can put together the right model will reap the harvest," he said.

USI currently has an affiliation within Chase Manhattan Corp., in which the firms cross-sell each other's products. Mr. Mizel said that the affiliation has been successful so far because it targets a very limited market, adding that the arrangement is "insignificant in terms of the overall capital structure and cash flow."

"Banks must have significant cash flow to justify their efforts" in purchasing an insurance agent or broker, Mr. Mizel noted.

For Daytona Beach, Fla.-based Brown & Brown Inc., affiliating with a bank does not make financial sense, according to the broker's chairman and CEO.

There is "some good stuff" in the new law, but "it will not change the way we do business," said J. Hyatt Brown. "We're not interested in partnering with a bank. It's very difficult for one to achieve a 25% pretax margin today and try to partner with a bank that



wants 20% to 25% of your commissions. How do we make (the agency) grow on that?"

In addition, banks historically have found buying insurance agencies a bad investment, Mr. Brown said. The banks "didn't like running agencies and dealing with the street mentality of a salesperson. They found that repugnant."

Some do see the passage of the modernization act as having a larger impact on the insurance industry.

Andrew L. Rogal, chairman and CEO of Hilb, Rogal & Hamilton Cos. in Glen Allen, Va., said that he expects to see "a burst of more players and a lot of consolidation" in the upcoming year as a result of the passage of S. 900.

Citing the hybrid Citigroup, formed in the 1998 merger of Citicorp and Travelers Group, Mr. Rogal noted "the industry sort of blew by Congress."

Very aggressive banks in some geographic regions, such as BB&T Insurance Services in the Southeast and several banks pursuing insurance business in Michigan, will continue to purchase small regional agencies, Mr. Rogal predicted.

"Citigroup is kind of being highlighted as the model," agreed Travelers' Mr. Stites. "Whether it's a model that's going to be replicated in the first six or nine months of the year remains to be seen."

"It all comes down to value," said Kevin Smith, director of brokerage operations for Palmer & Cay Inc. in Savannah, Ga. "We've got to be nimble and quick and change with the industry."

Amanda Milligan contributed to this report.

Insurers part of push for uniformity

By MARK A. HOFMANN

Agents and brokers aren't the only parties pushing for greater uniformity and reciprocity in state producer licensing laws.

Although the Washington-based Council of Insurance Agents and Brokers took the lead in promoting the National Assn. of Registered Agents and Brokers provision of S. 900, the federal financial services modernization act, insurers also have an interest in the realization of greater uniformity. The CIAB and many insurers have long maintained that the current patchwork of state licensing

laws needs to be streamlined to eliminate unjustified expense and paperwork, thus reducing costs to both producers and consumers.

Some critics of NARAB, though, view the measure as a back-door route to federal pre-emption of state insurance regulation. They say that the existing state system can be reformed to meet the goals of NARAB without the creation of a federal role.

In fact, the NARAB provision can be rendered moot, but only if a sufficient number of U.S. jurisdictions act to bring uniformity or reciprocity to their licensing laws within three years.

The National Assn. of Insurance Com-

missioners wants to head off NARAB by getting enough states to adopt licensing laws in compliance with S. 900's requirements (*BI*, Dec. 20). But many observers point out that achieving that goal by the Nov. 12, 2002, deadline will be very difficult, if not impossible.

Under S. 900, NARAB would be blocked if at least 29 states and territories achieve either reciprocity or uniformity within three years of the measure's enactment. Reciprocity means that states would permit reciprocal non-resident licensing, subject to a few qualifications, somewhat similar to the way states treat legally licensed out-of-state drivers. Uniformity,

See NARAB on page 12D

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NARAB

Continued from page 12B

however, would mean that resident and non-resident agents would be subject to all the same requirements, such as continuing education rules.

If the states fail in their efforts, then NARAB would be created to function as a clearinghouse for multistate licensing. NARAB would set licensing and professional qualification standards, and it would have the authority to reduce duplicative requirements on agents and brokers whose clients require them to do multistate business, thus pre-empting state licensing laws.

Joel Wood, the CIAB's senior vpgovernment affairs, said he believes NARAB could actually promote state regulation, even though the idea could give "heartburn" to commissioners and state legislatures.

"We think that the platform of NARAB may be just what is ultimately needed to save state insurance regulation," Mr. Wood said.

"To the extent that there is pre-emptory authority in NARAB, it is specifically limited under S. 900 to laws that discourage competition, not laws that foster competition. A state regulatory regime going in 50 different directions isn't the answer to international competition and cooperation. The rifle-shot pre-emptory authority given to the NAIC through NARAB may actually help state insurance commissioners survive the battles surrounding regulatory turf" in the wake of the new law, he said.

The CIAB is far from alone in its support of lowering the barriers hindering multistate business, and insurers are among the brokers' major allies in this effort, al-

though there is some disagreement as to how its goals should be achieved.

"We certainly did support NARAB. Uniformity is something we've been working with; we've endorsed the NAIC model law as well. Basically, this is going to facilitate multistate policies, and that helps the customer who's doing business in more than one place," said Leigh Ann Pusey, senior vp of the American Insurance Assn. in Washington.

"Now NARAB is a fact, and it's kind of set the agency licensing debate on its ear. There are very specific things that states have to do to satisfy NARAB," said Larry Kibbee, vp-public affairs and head of the marketing committee of the Downers Grove, Ill.-based Alliance of American Insurers.

The Alliance is interested in NARAB because "our companies—and we have both direct writers and agency companies—are going to have to comply with agency licensing laws," he said. "The fact is that NARAB has come along and forced reciprocal arrangements" that will lead to efficiencies, he said.

The National Assn. of Mutual Insurance Cos. in Indianapolis also supports NARAB, to a point.

"We're in favor of NARAB because it promotes uniformity. (Uniformity) is very important to us," said Roger Schmelzer, NAMIC's vp-regulatory affairs.

"Do we want to see NARAB go into effect? No. But we're in favor of the incentive that it creates to create more uniformity."

The Des Plaines, Ill.-based National Assn. of Independent Insurers has consistently opposed NARAB while supporting the idea of uniformity.

"We look at NARAB as setting a precedent that we don't want

Congress to duplicate in other legislation," said Robert Dibblee, senior vp in NAI's Washington office.

"We prefer that, now that the strong arm has been flexed by the federal government," such a move is not duplicated in the future, Mr. Dibblee said.

Mike Koziol, senior director and counsel in the NAI's headquarters, said that the group's primary concern is federal pre-emption of state law.

"It's extremely important the NAIC act, because some state legislatures meet every other year, and legislative sessions start early next year, so the time is now," Mr. Koziol said.

"We believe there's a good chance it can be done in time," he added.

"Our goal is to do whatever we can to make sure that things will go on as they need to make deadlines," said the NAI's Mr. Dibblee. "Our folks are optimistic that we can work with the NAIC."

Congress could add an extension to the deadline, said Mr. Koziol, "but you cannot presume

that."

"I think that the NAI has a point, which is, if states fail to meet this federal requirement, there is going to be significant pre-emption of state law. We differ over whether or not that pre-emption is justified," said the CIAB's Mr. Wood.

Currently, no two states are truly reciprocal or uniform, noted Mr. Wood. Getting 29 states to achieve either status in less than three years "is going to be an extremely difficult hurdle to overcome," he said.

In addition, "the collective forces of parochialism are the greatest enemy, be that from state insurance departments, state legislatures and, probably most importantly, state insurance agent associations," said Mr. Wood. He noted, for example, that some state insurance agent groups are skeptical of changes that would open their members to competition from out-of-state producers.

It's "too early to tell whether they can do this in the three-year time period or not," said AIA's Ms. Pusey.

"There's truly a big job that needs to be done," said the Alliance's Mr. Kibbee. He said he's optimistic that it can be done, but the insurance industry will need help from regulators, who must make the effort part of their legislative packages. "It's probably going to be more efficient" to have recommendation for passage come from the regulators, said Mr. Kibbee.

Mr. Wood said he is "extremely encouraged" by the response of state insurance commissioners at the recent NAIC meeting in San Francisco (BI, Dec. 20). The commissioners agreed to amend the NAIC's model agency law to bring it into compliance with NARAB's mandates.

NAMIC's Mr. Schmelzer said he thinks that attempting reciprocity—rather than uniformity—"makes it a little easier" to get 29 jurisdictions to enact legislation.

But if a sufficient number of states fail to act, "it truly is the proverbial camel's nose under the tent in terms of moving toward a national regulatory scheme," he warned. **BI**

Privacy mandates are likely to prove challenging: Survey

By RODD ZOLKOS

Beyond its impact on the business environment, the new federal financial modernization law's privacy provisions will likely pose significant challenges for insurers and banks alike, a recent survey suggests.

The privacy mandates of the Gramm-Leach-Bliley Act take effect on Nov. 12. According to KPMG L.L.P., which surveyed insurance and banking professionals on the subject late last year, the two industries have plenty of work to do in the months to come to meet the new law's requirements.

"The survey tells us that both industries have a lot to do to implement the new Gramm-Leach law," said JoAnn Barefoot, a partner in KPMG's financial services consulting practice in New York. This "isn't surprising, because this is a very rapidly evolving issue."

Improvements in information technology continue to make it easier for businesses to collect and use customer information, Ms. Barefoot noted.

Though consumers' recognition of that growing ease of information gathering has lagged behind that of business, they are becoming aware of the extent to which the companies they deal with are collecting and using that information.

Fifty-three percent of the questioned bank professionals reported that their institutions had companywide privacy policies in

place, while 42.5% of the insurance professionals surveyed reported similar policies at their companies.

Meanwhile, 17.5% of the insurance professionals questioned said that their companies have no privacy policies, compared with 9% of the bank professionals whose institutions lacked privacy policies.

"I think, in general, the survey suggests that the banking industry is farther along in readiness," Ms. Barefoot said. "Our guess is that the banks have had more regulatory pressure (in 1999)."

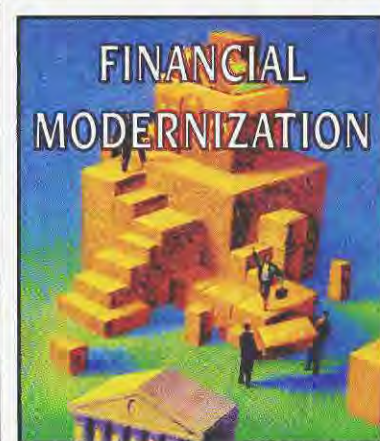
Half the bank professionals questioned reported that their institutions "are usually out front" in developing policies and will create their own appropriate privacy policies, while only 20% of the insurance professionals surveyed offered a similar view of their companies.

Instead, on the insurance side, 62.5% of those questioned said they expect their companies to take a "wait-and-see approach" toward developing subsequent privacy policies, indicating their companies likely will adopt policies reflecting industry best practices.

On the bank side, 40% of those surveyed said they expect their companies to take the wait-and-see stance.

The majority of those questioned in both industries said that meeting the new law's privacy requirements will not be an easy matter.

In each industry, 10% of those surveyed said they expected the implementation of the necessary



privacy measures to be "very difficult." And 45% of those at insurance companies said they expected it to be "somewhat difficult," a view held by 52% of those at banks.

"I think the main take-away from the survey is that there's going to be a steep curve to climb," Ms. Barefoot said. "Beyond that, I was very surprised by the number of companies in both industries that are going to take a wait-and-see stance. We think that is a mistake."

The possibility that individual states might impose even stricter requirements than those set under the new federal law, as well as companies' exposure to litigation and reputational damage, make a wait-and-see approach unwise, Ms. Barefoot contends.

The new law's privacy provisions are aimed at protecting personally identifiable financial information, such as that provided by a consumer on an insurance application.

See **Privacy** on page 12F

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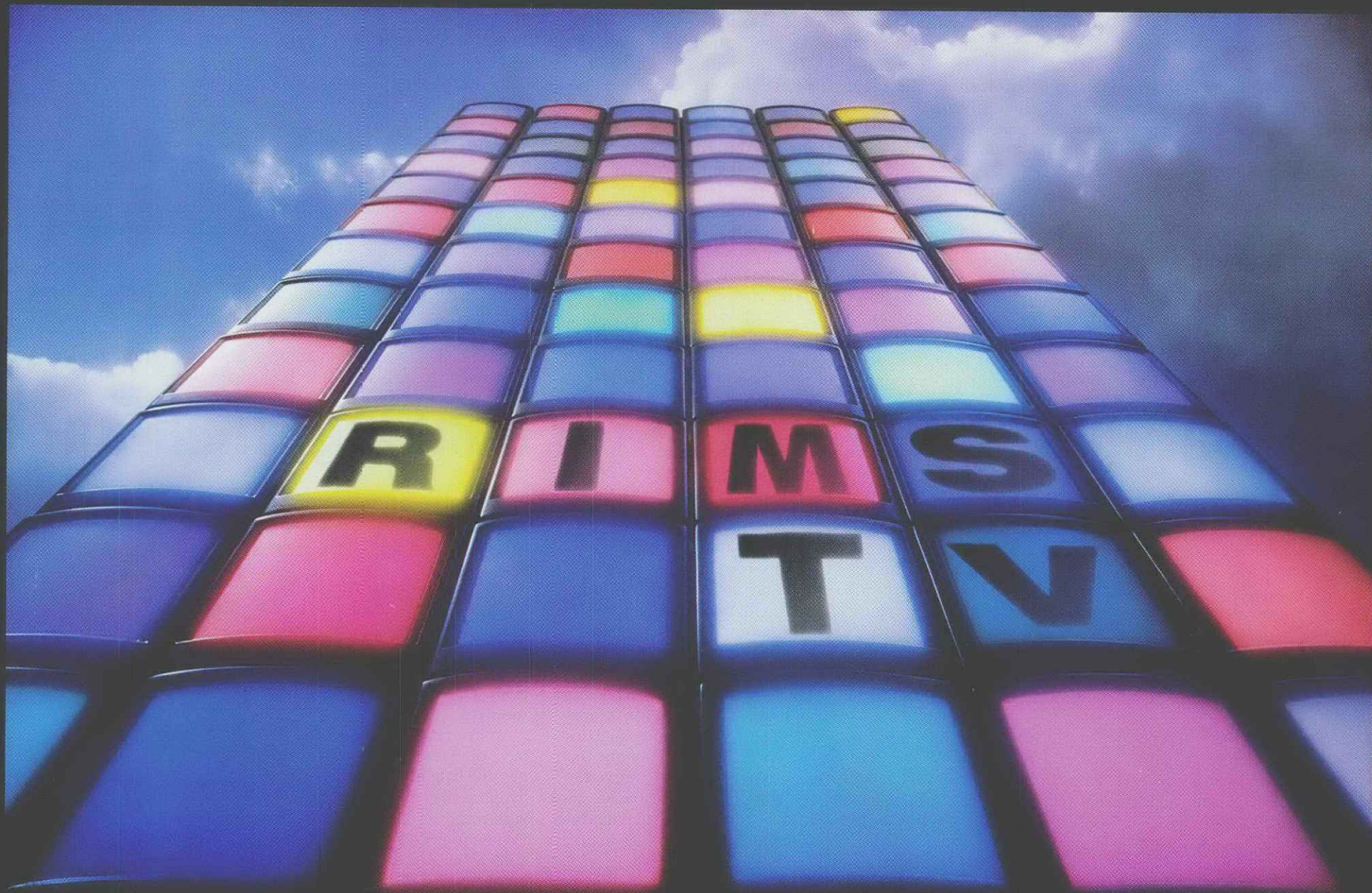
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Privacy

Continued from page 12D

The new law prohibits financial institutions from disclosing such information to unaffiliated third parties, unless consumers are given the opportunity to opt out of that disclosure.

Financial institutions also are barred from disclosing customer credit card account number or access code information, except to consumer reporting agencies, or deposit or transaction account information to non-affiliated third parties for use in telemarketing, direct mail or e-mail marketing to consumers.

A related consideration is that Gramm-Leach-Bliley not only requires each company to have a privacy policy, but also to disclose that policy to customers,

the KPMG partner said.

While the new law does not restrict the use of customer information, the requirement that companies disclose how the information is used could provoke negative responses from consumers, Ms. Barefoot cautioned.

Consequently, she said, it's critical that companies give careful thought to how they collect and use consumer information—and that they take pains to explain how that activity benefits consumers.

"It's a very strategic issue," she said. "How do we want to use data, and how do we make the case to customers that it's benefiting them?"

"It's important for the industry to be sure that we don't bring down a chilling effect on the innovative use of data, because I think that would be harmful to

everyone," Ms. Barefoot said.

Insurance company professionals surveyed said that they saw credit and financial records privacy, health records privacy and the development of company-wide awareness of privacy issues as the most pressing privacy issues before their companies.

On the bank side, Internet accountability, the implementation of privacy policies and consumer education were cited as the top privacy concerns.

Among the perceived risks their companies face, 40% of insurance company professionals named litigation as their companies' most-significant privacy-related risk, while 30% cited adverse customer relations, and 17.5% chose customer acquisition and retention.

Among bankers, 46% cited adverse customer relations as the

top privacy risk, while 22% chose brand damage, and 14% named litigation as top privacy concerns.

Ms. Barefoot said she interpreted the differences in the perceived risks as "a sign that the banks have spent more time thinking of it."

"My view is that brand name and reputation risk is huge," she said, noting that companies in both industries "are in the business of selling trust." Consequently, she said, the implications of losing consumer trust are enormous.

"And there's a particular concern on the bank-insurance combination with the extent of health and life information being shared with the financial side," she said.

Ms. Barefoot said she thinks consumer awareness of and concern over the privacy issue has

just begun to develop. "You can see it in the news coverage," she said. "A year ago, there was very little talk about privacy."

Given that, Ms. Barefoot said she expects to see more privacy-related legislative activity at both the state and federal levels.

"Privacy is not just an online issue at all. Very importantly, the offline collection and use of data is a huge part of it," Ms. Barefoot said. "But I do think the e-commerce area is bringing it to the top. It's just exploding into people's consciousness."

In the meantime, for both insurance companies and banks trying to meet the requirements of the new federal law, "I think the most important message may be that the policy issues are tough but the implementation issues are infinitely harder," she said. **BI**

Slow integration expected for banking, insurance

By RODD ZOLKOS

Although the new federal Financial Services Modernization Act will undoubtedly spur bank and insurer acquisitions, it's likely to be a slowly developing trend, observers say.

Largely unfamiliar with the insurance business, banks will probably want to gradually acquaint themselves with the industry by venturing first into insurance distribution, those observers say.

Meanwhile, they say, any insurer moves to acquire banks might be limited by the fact that, in many cases, insurers stand to gain little from such transactions.

What's more, the relative weakness of insurance company stock prices in general vs. that of banks might make it difficult for insurers to execute such deals.

"I see a convergence between the two. I don't know if it will be immediate or dramatic by any means," said Steven Bolland, a senior vp at intermediary Gill & Roeser Inc. in New York. "There are a lot of issues that have to be considered."

"What we've seen the banks doing over the past 10 or 15 years is trying to move away from risk and get more into fee for service," Mr. Bolland said. "So taking that to its logical conclusion, I would see banks' major investment in insurance would be in the area of production: agents and brokers."

"Whether or not banks would look to buy insurance companies—it's a difficult business; there's a lot of risk, there's a lot of regulation," he said.

Mr. Bolland said in the wake of last year's Gramm-Leach-Bliley Act, he expects banks to "test the waters" of insurance by getting involved through agencies and brokerages. If they have some success there, he said, perhaps then some would be interested in acquiring insurers.

"Whenever we talk to (banks), that's what they're basically saying," Mr. Bolland said. "To be honest, most bankers don't understand the insurance industry, and I don't think they're going to jump in with both feet."

For a bank, the agency fee-for-service approach makes sense, he said. "The bank has an asset there. They have client lists."

Joyce Kraeger, a staff attorney with the Alliance of American Insurers in Downers Grove, Ill., who has tracked the issue, said she expects acquisition activity, while limited, to occur.

"I think we will see more acquisition activity. Certainly the Citibank-Travelers is kind of the big one that everybody's looking at, but I don't think that's going to be the rule, necessarily," she said.

She noted the considerable pace of acquisition activity already occurring among insurance companies. "The ability now to acquire a bank is just going to be another piece of the pie they might consider," Ms. Kraeger said. "But I don't think it's going to be every insurance company trying to acquire a bank."

"Insurance companies are probably going to look at it the way they now do at any other acquisitions," she said.

"Also, a lot of companies might want to go the partnership route," Ms. Kraeger said, in which they would partner with a bank as a distribution channel for their insurance products, rather than trying to "bring everything under one roof" through an acquisition.

"Generally, our feeling is that there has been a lot of activity in this area since the Barnett Bank decision," Ms. Kraeger said. Under the U.S. Supreme Court's 1996 Barnett Bank decision, state chartered banks could sell insurance if allowed to do so by state law.

Douglas J. Elliott, a managing director and head of the insurance practice at Sandler O'Neill & Partners L.P. in New York sees distribu-

tion as a key factor behind any bank/insurance combinations.

"What banks really bring to insurance is a client base and an alternative method of distribution, and there are clear benefits to both parties from that," he said. Mr. Elliott added that he thinks that "virtually every bank and thrift" will at least become involved in some sort of distribution arrangement with an insurance company.

"People like banks more than they like insurance companies," Mr. Elliott said. "So banks start with a customer base that tends to like them, trust them, see them as a sort of utility."

'We just see the legislation as the next step in the evolution of the financial services marketplace.'

—Joyce Kraeger

Banks also have the advantages of established "bricks and mortar," Mr. Elliott said, as well as a wealth of customer information. "Property/casualty insurers have figured out that credit ratings have significant predictive power," he said.

And, many activities, such as buying a car or starting a business, "require some type of bank transaction, which is a natural time to try to sell property/casualty products and some life products," Mr. Elliott said.

With that in mind, it's easy to make a case for a bank to acquire an agent or broker, Mr. Elliott suggested. "It's harder to make a compelling case for a bank to buy an insurer, and even harder to make a case for an insurer to buy a bank."

In some cases, Mr. Elliott said, a bank might find that its business provides it a superior customer base and determine that insurance companies wouldn't be willing to pay an adequate price for access to that asset.

"The bank may simply feel that

they can do better monetarily to simply control that insurer and control all that profitability," he said.

"For an insurance company, I don't see where owning a bank would do them much good," agreed Gill & Roeser's Mr. Bolland. "There might be some benefits from a premium financing perspective."

An insurance company doesn't have the same sorts of opportunities to expand its business into banking that a bank might have with regard to insurance, he said. "When somebody comes in to buy auto insurance, you don't try to sell them a car loan, do you?" And, with insurance companies trading below book value, "it's difficult to go out and acquire someone else," he said.

So for insurance companies, beyond the question of "why would they want to do it in the first place... the timing's bad," Mr. Bolland said.

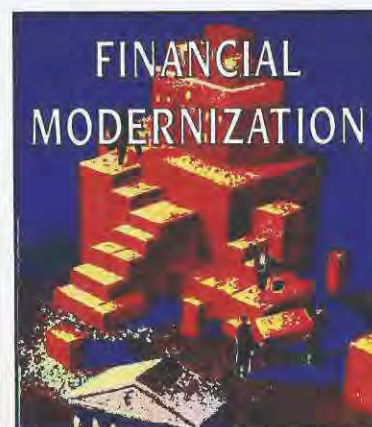
Mr. Elliott offered a similar view. Some acquisitions might occur because companies' stock value provides them a strong currency, "and they may look across that old divide and may see some very attractively priced financial institutions."

Given the current business climate, where banks' stocks generally are stronger than insurers', "I think what you'll see is more banks buying insurance companies," he said.

A truly compelling reason for bank/insurance company combinations, whatever form they might take, would be the rise of hybrid products combining both insurance and banking characteristics, Mr. Elliott suggested.

If such products should become commonplace, "then I think you're going to see a real wave of these combinations," he said.

Mr. Elliott said he does think there are some companies that have been waiting for the opportunity to engage in bank/insurer



mergers.

"My theory has been that there is some pent-up demand," he said. "There are some financial institutions who have wanted to cross the line, and they haven't been able to."

While that represents a "relatively small number" of institutions, they probably will engage in such acquisitions early on, Mr. Elliott said. After that initial wave, the trend will move more slowly.

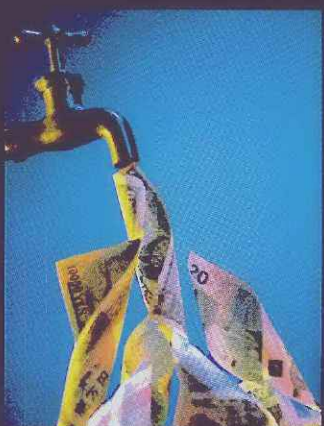
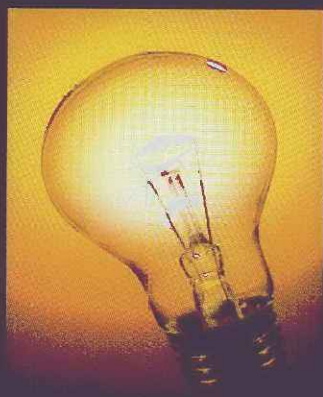
"So I see sort of a mini burst, relative quiet and then steadily increasing activity in consolidation between the two industries," he said.

Ms. Kraeger said she doesn't expect to see any such activity leading to small insurance companies getting forced out of business by newly formed large conglomerates.

"The smaller niche insurance companies have been able to survive and thrive in an environment where there already are a lot of large insurance companies," she said.

And, she noted, some insurers have been creating their own banking institutions. "We've seen insurance companies forming thrifts," she said.

"We just see the legislation as the next step in the evolution of the financial services marketplace, and it provides more opportunities for both sides," Ms. Kraeger said. "It's more evolutionary than revolutionary." **BI**



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Feb 14			Feb 2
Feb 21	Self-Insurance: Property/Casualty & Employee Benefits <i>Directory: Third-Party Administrators</i>	IT Global Strategies	Feb 9
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Mar 13	<i>Distribution: NAIC</i>		Mar 1
Mar 20	Risk Financing Options <i>Directory: Risk Securitization Specialists</i> <i>Distribution: IAIS</i>	IT Consolidation	Mar 8
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IT Briefs

MOUNT VERNON, N.Y.—The newly formed American Society of Workers Comp Professionals attracted more than 125 workers compensation industry practitioners from around the country to its first membership meeting and conference, held Dec. 2-3 in Singer Island, Fla.

Founded in June 1999, AMCOMP has over 200 members and continues to receive membership applications. The organization is currently developing a curriculum that will lead to certification for those seeking an official designa-

tion in the workers comp profession.

The group is currently planning other programs and workshops, the next being a half-day workshop that will be held in New York on May 3.

For more information about AMCOMP or to apply for membership, contact Maria Sclafani at 914-699-2020.

Web site honored

CHICAGO—Coregis Insurance Co.'s Web site has won a Standard of Excellence award in the 1999 WebAward corporate Web site competition, sponsored by the

Web Marketing Assn. Inc.

The site, www.coregis.com, was recognized for its ability to improve the quality of service the insurer provides to agents, brokers and its public-sector insurance customers.

Among other services, the site offers electronic claims reporting capabilities and loss-run ordering. Agents and brokers also have the ability, via private access, to augment their sales and marketing efforts by downloading resource materials from the site.

New IIF chairman

WASHINGTON—Donald J.

Greene, of counsel to the LeBoeuf, Lamb, Greene & MacRae L.L.P. law firm in New York, has been elected chairman of the International Insurance Foundation. Mr. Greene succeeds Edward B. Jobe, who has retired after four years as the IIF's chairman.

A non-profit educational organization based in Washington, the IIF was formed by members of the International Insurance Council to promote economic development through technical assistance and professional education for emerging insurance markets around the world.

For more information about the IIF, call 202-296-2424.

Growth at NAMIC

INDIANAPOLIS—The National Assn. of Mutual Insurance Cos. added nine new member companies during the second half of 1999.

The eight companies admitted as regular NAMIC members are: Colonial Cooperative Insurance Co., Kingston, N.Y.; Dexter Farm Mutual Insurance Co., Brandt, S.D.; Friends Cove Mutual Insurance Co., Bedford, Pa.; Gillespie County Farmers Mutual Fire Assn., Fredericksburg, Texas.; Hastings Mutual Insurance Co., Hastings, Mich.; Home Mutual Fire Insurance Co., Conway, Ark.; Lumber Mutual Insurance Co., Framingham, Mass.; and Mutual Insurance Corp. of America, East Lansing, Mich.

Admitted as a European member was Walbaum International, based in Paris.

NAMIC has more than 1,200 member companies, representing over 34% of all property/casualty premiums in the United States.

At the beginning of the year, the association unveiled its completely redesigned and upgraded Web site, www.namic.org. The upgrade includes an improved search function, channels to help users better focus their visits, daily news related to the property/casualty insurance industry, federal and state government news and viewpoints, and simplified interactive functions and site navigation.

ISC moves offices

CHICAGO—The Insurance School of Chicago has relocated its Chicago Loop offices to 330 S. Wells St., Suite 300, Chicago, Ill. 60604.

The ISC offers insurance and risk management courses to anyone involved in the insurance industry. For additional information, contact the school at 312-427-2520 or visit its Web site, www.insuranceschoolchicago.com.

Alliance adds 41

DOWNERS GROVE, Ill.—The Alliance of American Insurers added 41 property/casualty insurance companies to its membership in 1999, bringing its total count of member companies to 317.

The new membership made 1999 one of the best membership development years ever for the Downers Grove, Ill.-based Alliance, according to the group's president, Rodger S. Lawson. **BI**

BI's 1999/2000 Directory of U.S.-based Corporate Buyers of Insurance, Benefit Plans and Risk Management Services, is now available in electronic format for IBM-PC and compatible computer users.

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Risk management information resources listing

The Risk Management Information Resource section is an editorial compilation of current informational and educational materials on topics of interest to risk management, financial and insurance executives.

The listings are published as an editorial service by *Business Insurance*; there is no charge to list materials in the section. All of the materials are free to *BI* readers. To receive any of the materials listed, please write the key numbers of those items on the reader service coupon printed in the section. Fill out the remainder of the coupon and mail it to:

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◆ The Risk Retention Reporter provides an overview of the **1986 Liability Risk Retention Act**. Request item 303

◆ SIGMA's Captives and the Middle Market explores factors in the **development of captives** regardless of the market cycle. Request item 304

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◆ The American Institute for CPCU and the Insurance Institute of America offer a flier on the **Program in General Insurance**. Request item 402

◆ The American Institute for CPCU and the Insurance Institute of America offer a catalog describing all of their **property and casualty insurance courses and programs**. Request item 403

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◆ Casualty Risk Publishing offers state-by-state information on laws regarding **punitive damages**. Request item 407

◆ Casualty Risk Publishing provides a **practical guide to insurance terms**, including the legal significance of Y2K. Request item 408

◆ A Clausen Miller report summarizes **litigation developments** on fidelity and surety, insurance coverage, liability insurance coverage, medical malpractice and the like. Request item 409

◆ Duff & Phelps Credit Rating Co. reports its outlook for U.S. **property/casualty companies' claims-paying ability ratings**. Request item 410

◆ Globe Midwest Risk Management L.L.C. offers suggestions on **customizing insurance coverage**. Request item 411

◆ The International Risk Management Institute offers statistics, commentary and advice from human resource, insurance and legal professionals on **employment practices and related insurance coverage issues**. Request item 412

FIDELITY AND SURETY

◆ The Insurance Institute of America gives an overview of its **Associate in Fidelity and Surety Bonding** designation program. Request item 701

FINANCIAL SERVICES

◆ The American Institute for CPCU offers information on its **Associate in Insurance Ac-**

counting and Finance designation program. Request item 804

INTERNATIONAL

◆ Environmental Coverage Case Law, a booklet by American Re, provides an overview of **insurance coverage and environmental tort cases**. Request item 905

◆ Crawford & Co. lists 50 questions to ask while **shopping for a risk and claims management firm**. Request item 906

◆ Deloitte & Touche provides a discussion of the **obstacles and advantages of handling international claims**. Request item 907

◆ Deloitte & Touche offers an article on **managing multinational exposures**. Request item 908

◆ EQE International offers advice on how losses from the 1999 **Taiwan quake** could have been minimized. Request item 909

◆ EQE explains how some of the **effects of a Turkish quake** could have been avoided. Request item 910

◆ Globex International Group offers an update on international issues and events from a **general insurance and risk management perspective**. Request item 911

◆ The Insurance Institute of America has a course called **Global Environment of Insurance**. Request item 912

LOSS CONTROL-PEOPLE

◆ DriverCheck Inc. offers some **quick safety tips for drivers and their employers**. Request item 1001

◆ J.J. Keller & Associates Inc.'s catalog describes the company's many **ergonomic devices**. Request item 1002

◆ Marsh Risk Consulting offers a flier on **appealing OSHA citations**, which includes review procedures. Request item 1003

◆ A pamphlet by Marsh Risk Consulting features **ergonomic injuries and often-overlooked environmental factors in the workplace**. Request item 1004

◆ Marsh Risk Consulting's office ergonomics handbook explains **basic steps in properly adjusting workstations**. Request item 1005

◆ Marsh Risk Consulting offers a flier to help risk managers decide if an **Integrated Disability management** program would work for them. Request item 1006

◆ A pamphlet by Marsh Risk Consulting highlights the **psychosocial factors and their role in upper extremity musculoskeletal disorders**, such as carpal tunnel syndrome. Request item 1007

◆ **Silica Dust Exposure in the Construction Industry**, by Marsh Risk Consulting, describes ways to control environmental hazards caused by abrasive blasting, sawing, drilling and grinding. Request item 1008

◆ Marsh Risk Consulting's flier, **Terrorist Violence in the Workplace**, maps out how to prepare a company's emergency response plan for acts of terrorism. Request item 1009

◆ **Understanding OSHA Violation Distinctions and Penalty Consequences**, a paper by Marsh Risk Consulting, describes the eight OSHA violation types and the ways OSHA classifies citations and corresponding penalties. Request item 1010

LOSS CONTROL-PROPERTY

◆ BMS Catastrophe Inc. offers a workbook that helps in **preparing a disaster recovery plan**. Request item 1101

◆ Crawford & Co. provides a practical guide to **handling trucking industry liability claims**. Request item 1102

◆ An article by Deloitte & Touche sums up a step-by-step method to **proceeding after a loss**. Request item 1103

◆ An article by Deloitte & Touche discusses **high-tech business interruption claims**. Request item 1104

◆ Deloitte & Touche gives some tips on **managing the risks of product recall**. Request item 1105

◆ EQE sums up the results of the **tornado that hit Oklahoma City** last May and how insurers were affected. Request item 1106

◆ EQE International Inc. looks at the effects of **Washington state's earthquake in July 1999**, and how risk managers can learn from the losses incurred. Request item 1107

◆ Information on the Insurance Institute of America's three-course **Associate in Risk Management designation** program is described in a flier. Request item 1108

◆ The Insurance Institute of America offers a course in **risk management for public entities**. Request item 1109

◆ Marsh Risk Consulting gives pointers on **crisis management, pre-incident planning, plan development and incident response**. Request item 1110

◆ Marsh Risk Consulting lists the criteria for **compliance with the Environmental Protection Agency's Risk Management Program**. Request item 1111

◆ **Environmental Exposures in Higher Education** maps out ways to protect against violations in colleges and universities through assessing environmental compliance status. Request item 1112

◆ Marsh Risk Consulting reports about the deaths, injuries and property damage caused by power plant explosions and fires, featuring a list of methods to building effective safety practices. Request item 1113

◆ A **Self-Evaluation for Workplace Violence** from Marsh Risk Consulting helps organizations prepare for such risks. Request item 1114

◆ Reliance Insurance Co. offers a brochure that spells out **guidelines for preparation of natural disasters**. Request item 1115

MARINE

◆ Information on the Insurance Institute of America's six-course **Associate in Marine Insurance Management** designation program describes the contents of the class. Request item 1201

REINSURANCE

◆ Gill & Roeser Inc.'s **Glossary of Selected Reinsurance Terms** covers the life/health and property/casualty insurance industries. Request item 1301

◆ A flier provided by the Insurance Institute of America describes its **Associate in Reinsurance** designation program. Request item 1302

RISK MANAGEMENT

◆ Chubb Executive Risk's newsletter Checkpoint contains articles on **risk management and employment**, covering topics such as discrimination claims, protected class, and inter-office dating. Request item 1401

◆ STAT Risk Management Program, a quarterly newsletter published by Chubb Executive Risk Health Care Division, contains **current information for acute care facilities, physician groups, managed care organizations,**

and long-term care facilities covering topics such as case management, liability and the advantages and disadvantages of managed care. Request item 1402

◆ A Deloitte & Touche L.L.P. newsletter offers strategies for linking risk management information systems to **enterprise resource planning software**. Request item 1403

◆ A Duff & Phelps report looks at **short-term funding agreements**. Request item 1404

◆ Duff & Phelps offers a brief history of the **development of the medical malpractice market** and what it believes should be expected in the 21st century. Request item 1405

◆ Billing Notes outlines ICALM's criteria for understandable bills, serving as an example of **cost-effective litigation management**. Request item 1406

◆ ICALM Claim Audits lists questions one would ask when evaluating when and where to conduct **claim audits**. Request item 1407

◆ Claim and Litigation Questionnaire, by ICALM, acts as a practical checklist to aid in **evaluating claims and litigation management procedures**. Request item 1408

◆ In Claims, Litigation & Preparedness Guide, ICALM highlights **operational and contingency planning, litigation coordination and legal expense audits**. Request item 1409

◆ ICALM offers a handbook for **financial exposure containment** through practical management of liability problems and transactional costs. Request item 1410

◆ ICALM's Cost-Effective Communication is a list of tips on **reducing legal costs in an employee benefits package**. Request item 1411

◆ ICALM offers a paper on **Enhancing Disaster Preparation and Response**, presented to the International Symposium on Family and Victim Assistance for Transportation Disasters. Request item 1412

◆ ICALM offers an **example of group billing and reporting procedures**. Request item 1413

◆ ICALM's Hotel Disaster Response provides a preliminary checklist of **action items for hotel management and personnel** with legal, financial, risk management and catastrophe planning responsibilities. Request item 1414

◆ ICALM's "News and Notes" sums up the results of a recent **survey and suggestions for targeted claims handling**. Request item 1415

◆ In Reviewing Legal Bills, ICALM explains what to look for and what to ask when **reviewing legal bills**. Request item 1416

◆ Successful Client/Counsel Relationships, a paper published by ICALM, explains ways to **enhance relationships with defense counsel**, whether they are local, national or global. Request item 1417

◆ ICALM offers **10 steps to successful and cost-effective litigation management**. Request item 1418

◆ International Risk Management Institute Inc. publishes a monthly newsletter, **The Risk Report**, that covers important **trends in loss exposures, insurance pricing and coverages, and risk management in general**. Request item 1503

quest item 1419

◆ Liberty Directions is a quarterly magazine published by Liberty Mutual Group for risk managers, covering issues such as safety training and **risk factors on an insurance company's financial statement**. Request item 1420

◆ Liberty Mutual's Strategist Newsletter breaks the risk management industry into four groups: **food, construction, manufacturing and transportation**, offering insight and updates on trends in each group. Request item 1421

◆ Marsh Inc. offers results and analysis of a poll asking more than 2,100 companies about their **catastrophic limits, purchasing decisions and loss experience**. Request item 1422

◆ O'Brien & Hennessy offers Subro Shorts, postcards with **brief articles related to subrogation**. Request item 1423

◆ The ABCs of IBNR by SIGMA provides an overview of **calculating IBNR**, including a description of the methodology and a listing of the data required. Request item 1424

◆ SIGMA Actuarial Consulting Group Inc. offers a simplified guide to **loss portfolio transfers**, where one transfers claims already incurred to a new insurance company for a fixed fee. Request item 1425

◆ Mergers & Acquisitions is an article available from SIGMA that deals with insurance program's **due diligence** from a risk manager's perspective of corporate mergers. Request item 1426

◆ A Risk Manager's Overview of Insurance Program Accounting, an article by SIGMA, reviews the **key accounting implications** of an insurance program for risk managers of corporations, pools and public entities. Request item 1427

◆ Creating & Managing Strategic Alliances, a pamphlet from insurance wholesaler Victor O. Schinnerer & Co. Inc., serves as a guide for the **formation and management of partnerships** aiding to achieve business goals in a defined period of time. Request item 1428

◆ In Managing Risk in the Delivery of Environmental Services, a booklet published by Schinnerer, **methods to create preparation plans for environmental hazards** are laid out for risk managers. Request item 1429

◆ PRM Consultants offers an article that describes how to create an effective **risk management department Web site** that saves time and money. Request item 1430

RISK MANAGEMENT INFORMATION SYSTEMS

◆ Deloitte & Touche L.L.P.'s Lab Links touches on the implementation of risk management information systems with an **enterprise-wide viewpoint**. Request item 1501

◆ DORN Technology Group provides a pamphlet on networking and how both **risk and claims managers can use the Internet and the intranet** to their advantage. Request item 1502

◆ An article available from Pandion, **Using Decision Support Systems to Manage Risk**, covers the importance of obtaining and providing good information in risk management while not relying on technology. Request item 1503

Business Insurance

Information Resource

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E ☐ Educational Inst J ☐ Actry/Attorney
2. Number of employees:
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2 ☐ 151-499 4 ☐ 1,000-4,999
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INTERNATIONAL

Global Briefs

Brockbank Insurance Services, a London-based unit of XL Capital Ltd. of Bermuda, is acquiring the Kentucky thoroughbred insurance business of Markel Insurance Co., effective March 1. The acquisition is part of a move to broaden Brockbank's business beyond space and U.S. aviation insurance. The acquired book will be underwritten by Intercargo Corp., owned by XL America Inc. . . . Lord Pearson of Rannoch, chairman of London-based reinsurance broker **PWS Holdings P.L.C.**, said the company is considering further expansion abroad this year after opening offices in Mexico, Malaysia and the Philippines last year. He was commenting as PWS unveiled a 13% increase in revenues for the year ended Sept. 30, 1999, to £12.4 million (\$20.4 million), though pretax profits slipped by 2.5% to £1.2 million (\$2 million) after £153 million (\$252.1 million) of provisions related to pension misselling. . . . **Zurich Financial Services Group** has expanded its environmental risk capabilities. Through its new Zurich Specialties London unit, ZFS will develop and distribute environmental insurance products worldwide. Kathleen Dwyer, who helped set up the environmental specialties group at Zurich U.S., will head the London unit. . . . **All Net**, Allianz A.G. Holding's international network for worldwide employee benefits, said that new business introduced to its partners by its multinational clients grew almost sevenfold in 1999. It also said eight new insurers joined the network last year. Chairman Michael Junker said expansion to 75 offices in more than 60 countries enables All Net to offer truly global employee benefit solutions. . . . Lloyd's of London Chairman **Max Taylor** has become the first Briton to be elected to the board of the New York-based Insurance Information Institute. His election is in recognition of Lloyd's commitment to the U.S. market and its desire to forge closer links with customers there. . . . **The London Market Fund P.L.C.** has become the newest corporate fund at Lloyd's to enable existing corporate investors to pool their investment in the market. The fund's main objective will be to take an active role in managing corporate investors' portfolios on the best-performing syndicates and take advantage of the market's anticipated consolidation, said Caroline Chandler, Lloyd's adviser at Aberdeen Asset Managers Ltd. . . . The European Commission last week approved Assicurazioni Generali S.p.A.'s takeover of rival Italian insurer **Istituto Nazionale delle Assicurazioni S.p.A.** Approval is contingent, however, on Generali selling its controlling interest in insurer La Fondiaria Assicurazioni S.p.A., and INA must sell its interest in life insurer BNL Vita and Banco di Napoli S.p.A. . . . Standard & Poor's has assigned its AA long-term counterparty credit and insurer financial strength ratings to **Aachener und Muenchener Lebensversicherung AG**. It said the rating reflects AML's core strategic and operational role within the Aachener und Muenchener Group, which, in turn, is viewed as core to parent insurer Assicurazioni Generali S.p.A. Other factors include AML's "very strong business position in the German life insurance sector, its strong capitalization and its satisfactory operating performance," said S&P.

India reform to benefit buyers

By KAUMUDI MARATHE

BOMBAY, India—Indian insurance buyers are expected to reap benefits from the long-awaited and controversial liberalization of the country's insurance sector.

In early January, Indian President K.R. Narayanan approved the Insurance and Regulatory Development Authority Act of 1999, which Parliament had passed late last year.

The new law, which amends the Life Insurance Corporation Act of 1956 and the General Insurance Business (Nationalization) Act of 1972, opens the Indian insurance sector to private investment. The IRDA Act also permits foreign participation in the Indian insurance market, albeit on a limited basis at this point.

Buyers will be the real beneficia-

ries of the insurance sector's liberalization, market observers say.

J. Rajagopal is managing director of consulting at KPMG India Private Ltd. in Bombay. He said that, with foreign investment in the



PHOTO: AFP

President K.R. Narayanan

market, "service levels will improve, decision making will be much faster, and systems will become far more transparent."

"We will see all the changes that occur when you have more players coming into the market, offering better products and services," Mr. Rajagopal said.

Steve Fuller, Washington-based interim India manager for Chubb Corp., said: "The immediate beneficiaries will, naturally, be Indian corporate and private consumers. With time, the inevitable expansion of the market will generate sorely needed surplus capital for the overall Indian economy."

According to R. Vaidyanathan, professor of finance at the Indian Institute of Management in Bangalore, "There will be a lot more products offered, liberalization will help reduce prices in the medi-

um term, and it will enhance savings opportunities and deepen capital markets."

Mr. Vaidyanathan was recently appointed chairman of the new Center for Insurance Research & Education at the IIM in Bangalore. The center has signed a memorandum of understanding with the IRDA, India's insurance regulatory body, to "enhance research, bring out publications and conduct training and education," Mr. Vaidyanathan said.

Despite their push for private-sector participation, Indian policymakers continue to have reservations about the sector's future.

The government hopes to control growth by giving the IRDA teeth as a regulator, and the IRDA has set stringent standards for prospective investors.

See India on next page

Rogue trader costs Electrolux \$29.1 million

By MARIA KIELMAS

STOCKHOLM, Sweden—Electrical appliance manufacturer Electrolux A.B. will review its treasury risk management procedures after losing 55 million deutsche marks (\$29.1 million) from unauthorized currency trading at its internal bank in Germany.

Electrolux carries fidelity coverage as part of its global insurance program, but the company would not divulge any further details.

Electrolux

"We have to keep that type of information confidential. If it becomes known that we have (fidelity) cover, then you cannot tell what will happen," said Max Ekman, chief financial officer at the Electrolux corporate headquarters in Stockholm. Mr. Ekman would not identify the company's main insurer or broker.

The internal bank, the German division of the company's financial services subsidiary, Electrolux Financial Services, is a cash pool administrator that manages liquidity, short-term borrowing and foreign exchange transactions for the company's imports to its German group of companies.

Electrolux's German internal bank is the largest division within Electrolux Financial Services.

The internal bank, however, is not authorized to conduct foreign exchange trading.

"We have four units within the group where foreign exchange trading is permitted. These are in Italy, Singapore, Stockholm and Copenhagen," said Mr. Ekman. "The internal bank has a smaller function. This could be short-term borrowing, overdraft facilities and an internal netting system. But there is no spot dealing. The only foreign exchange is for small imports," he said.

The losses first came to light on Dec. 29, when the employee in question confessed to his superiors.

The employee appears to have begun his unauthorized trading in early 1999, though there are some indications that he could have started in late 1998, Mr. Ekman explained. The losses accrued as a result of more than 1,000 currency forward contracts. The onset of the trading coincided with the advent of the European single currency, the euro, on Jan. 2, 1999.

The use of the euro has sharply cut down on the foreign exchange transactions of Electrolux's 20 German subsidiaries.

Mr. Ekman said that, about five years ago, these transactions

amounted to about 400 million deutsche marks (\$211.6 million) annually, falling to an estimated 50 million deutsche marks (\$26.5 million) in 1999. "After the euro came in, this sum was mainly for imports from the U.K. and U.S.," he said.

The transactions at Electrolux were hidden within the German accounts and eluded even an annual external audit in September of last year. The employee was able to manipulate the unauthorized transactions through the accounts because of some ambiguity in German accountancy regulations, Mr. Ekman said. Under German rules, forward contracts may be rolled over upon expiration without having to record a net profit or loss in the company accounts at the end of the contract period.

"So, the losses increased," Mr. Ekman said. This type of rollover is not permitted in Anglo-Saxon countries or in Sweden, where profits and losses at the end of each contract period must be recorded in the accounts, he said.

But the employee had to settle his trading accounts before year-end. Mr. Ekman said that, evidently, one or more bank counterparties in Germany had demanded written authorization from Electrolux before extending its existing credit lines. Since such authorization was not available, the employee had no option but to confess.

See Trader on next page

U.K. pondering comp changes

Costs may shift to employers

By CAROLYN ALDRED

LONDON—An ongoing review by the U.K. government of state-funded benefits for people with work-related injuries may result in employers picking up the cost of the payments.

Currently, a state-funded no-fault benefit of up to £100 (\$165) per week is paid to each former employee unable to work due to an injury sustained during employment. The so-called "industrial injury benefit" began in 1948, when the British welfare system first was developed. It allowed an incapacitated worker to receive a stipend without needing to establish that the injury resulted from employer negligence. Industrial injury benefits now cost the government approximately £700 million (\$1.15 billion) a year, officials say.

Discussion among officials from the Department of Social Security and the Assn. of British Insurers, the Confederation of British Industry and the Trades Union Congress about transferring the benefit costs to employers were in progress for most of 1999.

Although no change in the law is expected this year, many expect funding for the system will change eventually.

"The workplace has changed significantly since the system began," said a DSS spokesman, noting that "it needed updating."

Many of the current recipients of industrial injury benefits formerly worked for companies that previously were owned by the government in heavy engineering sectors, such as mining and shipbuilding. There are now very few state-owned companies in the United Kingdom.

"We have been having ongoing contact with the DSS for the last year about the possibility of changes to the system,"

See Injuries on next page

Stricter on safety
Union seeking higher penalties

By CAROLYN ALDRED

LONDON—The British Safety Council and the Trades Union Council last month launched a campaign to increase the penalties imposed on employers that break health and safety legislation.

"The British Safety Council strongly believes punishments for breaches of health and safety laws are inadequate," said Sir Neville Purvis, director general of the independent safety organization of professional members, in a joint report titled "Fine Times: Penalties for Breaking Health and Safety Law."

"Failure to exercise a proper duty of care often results not only from gross negligence but also from willful disregard by management," Sir Neville said in the report.

"The TUC believes that stiffer penalties can affect corpo-

See Safety on next page

INTERNATIONAL

India

Continued from previous page

The act requires direct insurers to:

- Have a minimum paid-up capital of approximately 1 billion rupees (\$23 million).

- Restrict international companies to a minority equity holding of 26% in any new company.

- Invest policyholder funds only in India.

- Invest in the social and infrastructure sectors, including government and government-approved securities.

In addition, any individual Indian partner with an equity holding in an insurer of more than 26% will be required to divest to that level of ownership over a 10-year period. The act also requires that direct insurers "conduct mandatory business in the rural segment," although this provision has not yet been clarified by the act or by the IRDA.

In December, the regulatory authority announced a tentative licensing schedule.

IRDA Chairman N. Rangachary has said that regulations should be in place by March 2000, and applications will be invited from mid-April through the end of June 2000. Processing of the applications should be complete by the end of September, he said.

The applications will require each company to specify its area of operations and provide information about its detailed business plan and its expected volume of business. In addition, every applicant will have to describe a "social obligation plan," although the exact nature of such plans has not yet been detailed.

Mr. Rangachary has estimated that the first private companies might even "begin full-fledged operations" by the end of this year, though KPMG's Mr. Rajagopal considers that timetable unlikely.

"I see the IRDA schedule moving forward (smoothly). Many of these plans have been progressing for the last five years. They have had the opportunity to think through a lot of the issues, and they've had consultations with their international counterparts," Mr. Rajagopal said. "But I do believe that the first policy is unlikely to be issued before the first calendar quarter of 2001, because there are some companies who are struggling to get off the block."

While deregulation may mean newer and better products and increased choice for buyers, prospective investors—domestic and foreign alike—face an daunting task.

The large Indian market could become a pitfall for some foreign participants, some say.

KPMG's Mr. Rajagopal's concern is that insurers are going to view India the same way that the international manufacturers of consumer goods, telecom companies and others have in recent years.

Multinational corporations "discovered that India seems tantalizing—a big market and fairly easy to access, particularly because the elite speaks English. We wear Western clothes and seem very Westernized, but, deep down, India is very different," Mr. Rajagopal said.

"Many insurance companies will fall into the same trap," he said.

Nevertheless, players such as Allianz A.G. India say they are prepared to meet the challenge.

"We go to great lengths to understand the local culture, social environment and the individual insurance requirements, so as to better cater to our customers' varied needs," said Kamesh Goyal, the company's Bombay-based senior manager. The company has signed an agreement with Bombay-based Alp Finance to enter the general market.

Mr. Goyal said that, in terms of numbers, "the Indian market has tremendous potential. Only 20% of the population is covered," and even that portion is underinsured. But, he added, "while the scope for growth is unlimited, Allianz feels that unit-linked products, pure-term assurance products in life, personal insurance and health in general should witness more growth."

Chubb also sees "many Indias within India, and the needs of the different sections of the society are diverse," Mr. Fuller explained that the insurance products Chubb will provide "range from the most sophisticated, high-tech property and casualty products to straightforward life and personal accident insurance coverages for individual consumers."

According to Mr. Rajagopal of KPMG, newcomers to the market should avoid taking too broad an approach, as well as the tendency to target "the business of existing companies." Instead, he recommends they pursue "specific niches which are currently poorly served" or not

served at all, and attempt to stimulate demand in currently unserved areas. According to a report published by KPMG in December, life insurance products, pensions, health insurance and non-life insurance in the retail segment offer significant potential.

Mr. Fuller said that Chubb hopes to enhance "the Indian insurance marketplace by focusing on those areas in which (it) possesses global expertise, and that will truly add to, rather than just compete with, current product offerings."

"We intend to introduce products that complement India's own focus in the high-technology/electronics and infrastructure sectors. . . . In addition, (we will offer) coverages for financial institutions, which drive both domestic and foreign investment, and programs for group and personal accident insurance," Mr. Fuller said.

In Mr. Vaidyanathan's view, one huge, untapped segment is the self-employed market.

"Although the market's current fo-

cus is on government and organized groups," he said, "40% percent of our national income comes from partnership-proprietorship organizations. These non-corporate, often family-run, small businesses would be a huge target group for insurance products."

Good service, said Mr. Vaidyanathan, will be a factor for success. "In the next three to four years, success will depend on sales and post-sales service more than on products."

Historically, the nationalized companies have been dilatory in settling claims, he noted. "How fast your company can settle claims and respond to customers will be critical. If companies can do this, they may wean clients away from the monopolies on the general side. Where life insurance is concerned, however, they may have to acquire new groups."

The KPMG India report suggests that the real new entrants in the market will likely be private Indian companies, given the restrictions on foreign investment. For those domestic insurers that do join with foreign

partners, alliances related to "distribution, rather than to products or technology, will prove most valuable in the long run," the report says.

Mr. Vaidyanathan said he thinks both sides stand to gain from foreign participation.

"Foreign companies will benefit Indian counterparts with their experience and learning curve, since they are so far ahead in the global market. They will also provide funding, and they will bring their risk management models and practices to India," he said. Conversely, domestic insurers will provide market information, statistical data about local conditions and established distribution networks.

The liberalization may have other results as well, observers note.

Mr. Vaidyanathan foresees great potential for the field of risk management in India. "With our information technology talent, there is the capability of statistical filtered information," he said. "Data mining will be a key area, especially in general insurance."

BI

Trader

Continued from previous page

Mr. Ekman said he believes that the Electrolux employee may have had one or more associates in the counterparty banks.

As yet, no criminal charges have been filed against the employee, but the German police are conducting an investigation into the matter and Electrolux is cooperating fully with them, Mr. Ekman said. He noted that if any court case were to result, it would be held in Germany.

The task for Electrolux now is to review the entire financial control system within the company and its foreign subsidiaries. In a way, it was fortunate that the unauthorized trading took place in the internal bank and not in the foreign exchange trading units, Mr. Ekman said.

"If it had happened in a major trading room, it would have been a disaster," he said.

The four authorized foreign exchange trading units already have

sophisticated risk management procedures in place. Each dealing room has a trading mandate to a specified ultimate exposure. But this exposure is measured in a variety of ways, such as interest rates, cash flow and equity exposure, and exposures are checked at random on a daily basis, Mr. Ekman explained.

As a result of the employee's actions, Electrolux has decided to consolidate all trading in forward contracts in its treasury department in Stockholm. In addition, the company has instituted new written procedures that include the authorization of each forward contract by the chief financial officer.

There could be a further consolidation. "What we may do is centralize the foreign exchange dealing side to Stockholm. But we will keep the money market dealing locally," Mr. Ekman said.

Mr. Ekman added that it is unfortunate that Electrolux has to be included in the infamous list of corporations hit by rogue traders over the last few years.

Coverage for unauthorized trad-

ing is available, however, noted Rupert Villers, managing director of Lloyd's of London underwriting agency SVB Syndicates Ltd., which introduced such a policy in 1997 after the collapse of London-based Barings P.L.C. The U.K. financial services company lost more than \$1 billion from unauthorized trading by a Singapore-based employee.

So far, SVB has sold five or six such policies to electricity utilities that have major trading operations, and demand from such utilities is rising, said Mr. Villers.

Such policies can be tailored to each company's requirements, both by product limit and by counterparty, and they will cover unauthorized trading. But the policyholder must have written procedures for trading and the underwriters must conduct due diligence prior to selling the policy.

Mr. Villers said that, so far, there have been no large losses on these policies. "That's probably because (the insurance industry) has sold just three dozen such policies around the world," he said.

BI

Injuries

Continued from previous page

confirmed Graeme Pykett, senior policy adviser to the CBI, which represents British industry.

"We are content to participate in the review but would be loathe to see the transfer of costs onto employers. It is pretty serious money," Mr. Pykett said. He called the state benefit a "complement" to compensation that can be won by injured workers under the fault-based system of liability compensation. That compensation is

provided by employers and their insurers to injured employees who can prove that their injuries or illnesses were caused by employer negligence.

A spokesman from the Assn. of Insurance & Risk Managers said he believes that the transfer of costs to the private sector would "put undue pressure on smaller companies" by increasing their insurance costs significantly.

The TUC, the principal body representing trade unions in the United Kingdom, wants to see "industrial injury benefits integrated into a more preventative approach by making

employers responsible for new payments," said a spokesman. He pointed out, however, that having employers fund no-fault compensation alongside the current system of fault-based employers liability compensation would have to be carefully thought out.

The costs to employers would not be crippling, the TUC spokesman said, as the new system would apply only to future payments and not to historic claims. "We estimate that it would cost employers about £30 million to £40 million (\$49.4 million to \$65.9 million) per year," he said.

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Safety

Continued from previous page

rate image in such a way that they would bring home to negligent employers that letting their workers get ill or injured is unacceptable—morally, financially and legally," said John Monks, general secretary of the trade union organization in the report.

Higher fines would "act as a more-effective deterrent for employers, by having a more-telling impact on their business than the current level," according to the report.

They would also "more accurately reflect public disquiet at

the level of injuries and illness at work and obtain a higher profile in legal and media circles for health and safety," the report concludes.

Penalties could be increased by removing the current limit of £20,000 (\$32,252) on many health and safety fines, by allowing courts to impose unlimited fines and by revising sentencing guidelines, the groups suggest.

"Every year, nearly 300 workers are killed at work, over 2 million suffer a work-related illness, and nearly 2 million suffer a workplace injury," costing the British economy up to £18 billion (\$29.03 billion), according to the report.

British health and safety law is

based on the 1974 Health and Safety at Work Act, which also established a system of inspectors employed by the government-funded Health and Safety Executive and local authorities to enforce the legislation.

But the report points out that prosecutions by the HSE have dropped from 2,312 in 1990/91 to 1,797 in 1998/99. The HSE, however, stands by its record, maintaining that its primary role is to prevent accidents rather than to prosecute violations.

A full copy of the report is available at the World Wide Web site of the British Safety Council, at www.britishsafetycouncil.co.

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If interested in receiving a copy of the RFP, please contact:

KANSAS DEPARTMENT OF ADMINISTRATION
Division of Purchases — Attn: Fran Welch
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Topeka, Kansas 66612-1251
Phone: 785-296-2376
Fax: 785-296-7240

REQUEST FOR INFORMATION STATE BOARD OF ADMINISTRATION OF FLORIDA

The State Board of Administration (SBA) is soliciting competitive responses from firms offering reinsurance-related administrative services in support of the legal obligations of the SBA in administering the Florida Hurricane Catastrophe Fund (FHCF). The Request For Information (RFI) will be available on February 1, 2000, and may be obtained by contacting: Anne T. Bert, State Board of Administration, Florida Hurricane Catastrophe Fund, 1801 Hermitage Boulevard, Suite 100, Tallahassee, Florida 32308, Telephone (850)413-1349. The deadline for submitting responses is 5 PM EST on March 3, 2000.

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Email: gibson@netset.com

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

IN THE PETITION OF
ANTHONY JAMES MCMAHON AND
PHILIP WEDGWOOD WALLACE,
AS JOINT PROVISIONAL LIQUIDATORS OF
ANGLO AMERICAN INSURANCE
COMPANY LIMITED,

Case No. 97-B-41556 (PCB)

NOTICE IS HERBY GIVEN that on January 5, 2000, the Bankruptcy Court entered an order (the "Order") continuing the Preliminary Injunction Order pursuant to 11 U.S.C. §§ 105 and 304(b) originally entered in this case on March 19, 1997. The Order shall remain in effect pending a hearing scheduled for July 6, 2000 at 2:30 p.m. before the Honorable Prudence Carter Beatty, in the Alexander Hamilton Custom House, One Bowling Green, New York, New York. Any person wishing to obtain a copy of the Order should contact Theresa D'Agostino at (212) 504-6528.

CADWALADER, WICKERSHAM & TAFT
100 Maiden Lane
New York, New York 10038
Tel: (212) 504-6000
Fax: (212) 504-6666
Attention: Kenneth P. Coleman, Esq.
Stephen Doody, Esq.

In the Matter of the Conservation of the Trust Funds in the State of New York of
NJORD INSURANCE COMPANY, LIMITED
New York County Supreme Court
Index Number 4230/92
To all American Policyholders of
NJORD INSURANCE COMPANY, LIMITED;

NOTICE

Neil D. Levin, Superintendent of Insurance of the State of New York, as Conservator ("the Conservator") of the Trust Fund deposited by NJORD Insurance Company, Limited ("NJORD") in New York hereby gives notice that all claims, as defined below, must be presented to him in a manner set forth below by MAY 6, 2000. Any claims not presented in this proceeding and will not share in the distribution of the Trust Fund Assets.

NJORD was declared bankrupt by the Local Court of Stockholm, Sweden on September 4, 1991. NJORD was not licensed to do business in the United States. NJORD deposited a Trust Fund in the amount of \$2,500,000 for the benefit of U.S. policyholders with Manufacturers' Hanover Trust Co., as trustee. The purpose of the Trust Fund was to protect U.S. policyholders with respect to policies issued on an excess and surplus lines basis. The Trust Fund was maintained as security for the payment of claims or losses under insurance contracts issued on an excess and surplus lines basis and, upon payment of all claims for losses, for the payment of claims for unearned premium. As a result of NJORD's insolvency, the Supreme Court of the State of New York, on July 7, 1992, entered an order placing the Trust Fund into Conservation.

A "claim" for the purposes of this proceeding means a liquidated claim or a reported outstanding claim. Incurred but not reported claims will not be considered.

Claims shall be presented to the Conservator by mailing all relevant documentation concerning the claim, including a copy of the NJORD policy or policies to:

New York State Insurance Department
Liquidation Bureau
123 William Street
New York, NY 10038-3689
Attention: Nicholas Cremonese

Each timely filed claim shall be examined to determine if it is a valid obligation of the Security Fund.

If you have any questions, please call Mr. Cremonese at (212) 341-6706.

Dated: New York, New York JAN 6, 2000

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American Honda offers competitive salaries and comprehensive benefits. Please send your resume including salary history to: American Honda Motor Co., Inc., 1919 Torrance Blvd., MS 100-1C-3A, Job Code: HFC5802/CW, Torrance, CA 90501-2746. EOE/AA. Women and minorities are encouraged to apply.

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Unicover

Continued from page 1

have not yet agreed to settle, said Albert A. Benchimol, senior vp and treasurer of Reliance Group Holdings in New York.

The retrocessionaires are: Sun Life Assurance Co. of Canada; Phoenix Home Life Mutual Insurance Co.; American Phoenix Life & Reassurance Co.; and Cologne Life Reinsurance Co.

Under the agreement, Reliance will return everything it received from the Unicover business and will make a contribution to the ceding companies, Mr. Benchimol said.

Through the third quarter of 1999, Reliance has received \$600 million in business relating to the Unicover pool, and it reinsured most of the risk, he said.

"We think we have valid reinsurance, but it has created a lot of uncertainty around Reliance. We needed to put Unicover behind us," Mr. Benchimol said.

The Unicover settlement is one part of a major overhaul at Reliance. Since last June, when the insurer announced it was increasing its loss reserves by \$227 million, Reliance has been scrambling to retain its A grade ratings from the major rating agencies. In other efforts to revive its position in loss-making business and hired a corporate turnaround specialist as president (BI, Nov. 29, 1999).

Two major issues the rating agencies have cited are Reliance's Unicover liabilities and its need to raise

money to increase its capital and repay \$500 million in debt due this year.

The Unicover issues appear to have been settled, "but it is not over until there is a definitive announcement," said Eric Simpson, senior vp-property/casualty at A.M. Best Co. in Oldwick, N.J.

If the settlement is secured as expected, though, Reliance must next focus on raising money to restore surplus, he said.

"It's important that it restore surplus to levels it enjoyed in the prior year," he said.

At the beginning of 1999, Reliance had a statutory surplus of \$1.7 billion, but that had diminished to \$1.1 billion by the end of the third quarter.

The two capital-raising efforts that Reliance has announced so far are making an initial public offering for 20% of its surety operations and spinning off to shareholders 10% of its e-commerce business.

The e-commerce spinoff is unlikely to raise substantial levels of capital and while the IPO could significantly increase Reliance's capital, as it creates a public valuation of that business, it will not raise sufficient funds to pay the debt that is due in March and November, according to Mr. Simpson.

Other options, he said, include raising more public capital, which would be expensive, due to the continued uncertainty surrounding Reliance; seeking private investors that like Reliance's book of business; or selling some assets.

Whatever the company does, it needs to have a clear plan in place by

the middle of the first quarter to satisfy rating agencies, analysts at the agencies say.

Technically, the insurer has to pay \$500 million of debt this year, but it could lower that amount by refinancing all or part of the debt, said William M. Wilt, vp and senior analyst at Moody's Investors Service Inc. in New York.

"Paying \$500 million would be extreme, and we would assume that they would be able to refinance at least part of it," he said.

The minimum that Reliance needs to do is refinance that debt, agreed S&P's Mr. Coyle. The company also needs to focus on raising capital, he said.

A rating downgrade could severely hinder Reliance's ability to write business, because many policyholders are restricted from placing their coverage with companies that have less than an A rating by financial contracts they have with other parties, such as lien holders, said Charles Ruoff, senior vp and chief marketing officer at broker Acordia Inc. in Indianapolis.

Also, the "jewel" in Reliance's book of business is its surety business, and that is particularly sensitive to rating downgrades, he said. In 1998, surety business amounted to about 8% of Reliance's net written premiums.

So far, Reliance has been successful in retaining most of its book of business despite its well-publicized problems, said Mr. Benchimol of Reliance. At year-end renewals, it retained 90% to 95% of its business, he said.

Reliance did successfully renew

much of its business, agreed Mr. Ruoff. But, he added, it wrote little new business. "Continuity is one reason to stay with Reliance, but if a client is new, it's hard to sell Reliance to them," Mr. Ruoff said.

In another development stemming from the Unicover debacle, Alice Schroeder, an analyst at Paine Webber in New York, said last week that John Hancock Mutual Life Insurance Co.'s exposure to Unicover losses could range between \$650 million and \$1 billion before reinsurance.

The ultimate loss to Hancock, though, could be substantially lower for several reasons, she said.

Settlements involving other insurers and reinsurers could lower the losses; the amount of reinsurance it will be able to collect still is not clear; and, if it wished, Hancock could buy reinsurance to cover potentially uncollectible reinsurance, which would be expensive but would reduce its ultimate loss, Ms. Schroeder said.

Also, the liabilities will be paid out over several years, she added.

Ms. Schroeder calculated the liabilities from Hancock's statutory filings. The analysis comes less than three weeks before Hancock is expected to demutualize and raise more than \$1 billion through an IPO.

A John Hancock spokesman said 95% of its Unicover liability "is reinsured with reputable reinsurers, and we are confident that they will stand behind their obligations."

Lincoln National Corp. also has significant Unicover liabilities. The insurer was a fronting company, a member of the pool and a retrocessionaire. S&P put Lincoln National's

AA- rating under review last summer but soon confirmed its rating, said Neil Strauss, a director at S&P.

"Everybody in Unicover is going to take a hit, but we feel that Lincoln National could take a hit and it would not affect their rating," he said.

Brokers, too, are involved in Unicover settlements. Aon announced its \$27 million charge last week (see related story). Marsh Inc., which also placed Unicover-related business, has agreed to return the commissions it earned from the placements, which it termed "de minimis."

E.W. Blanch Holdings Inc., which placed about eight contracts with fronting insurers, is "in conversations with our customers and their reinsurers, but nothing has happened at this time," said Christopher L. Walker, president and chief operating officer of Blanch in Minneapolis.

The unraveling of the Unicover pool already has had a significant effect on the workers comp market, said Acordia's Mr. Ruoff.

Workers comp rates in California have jumped 20% to 30%, he said.

Primary insurers in California, which in some cases were retaining only \$10,000 on multimillion-dollar contracts, are having to increase their retentions, and that is contributing to the sharp increase in primary rates, Mr. Ruoff said.

California, which has traditionally had a volatile workers comp market, is seeing stiff rate increases, agreed Ms. Schroeder of Paine Webber.

This increase will likely encourage policyholders to look for alternative risk transfer solutions, she said. **BI**

Aon stock takes hit after charge announced

By SALLY ROBERTS

CHICAGO—Aon Corp. will take a \$125 million to \$150 million pretax charge to cover costs related to settling Unicover Managers Inc. claims and to increase reserves for other matters, including litigation.

The special charge against fourth-quarter earnings comes on the heels of the Chicago-based insurance giant's \$163 million pretax charge taken in the first quarter of 1999 relating to expenses from European restructuring and other items (BI, May 10, 1999).

Aon's stock went into a tailspin last Monday, the day the special charge was announced, dropping nearly 30% to close at \$30.13 per share. On Friday, Aon's stock was down even further, trading at \$29.94, close to its 52-week low of \$26.06.

In addition to the special charge, Aon said that fourth-quarter results also will be negatively affected by additional costs related to its 1999 acquisitions, weaker-than-expected income from its U.K. and Northern European brokerage operations, and lower income from private equity investments.

Aon will announce its fourth-quarter and full 1999 results on Feb. 8.

There are four main components associated with the \$125 million to \$150 million charge:

- Aon will pay \$27 million as part of a settlement agreement by Reliance Group Holdings Inc. relating to Aon's dealings with the failed Unicover workers compensation pool. That amount reflects fees and commissions Aon Re Worldwide received for placing Reliance-related Unicover business with retrocessionaires.

- According to Aon's third-quarter 10-Q filing with the Securities and Exchange Commission, the broker earned \$16.5 million in revenues related to retrocession placements obtained by Unicover for its pool members and facilities for the first nine months of 1999. Although Aon said at the time that it expected fourth-quarter Unicover revenues to be "significantly less" than the \$7 million in revenues recorded in the third quarter, Aon recorded no Unicover-related revenues in the fourth quarter, which will contribute to depressed fourth-quarter results, the company said. An Aon spokesman declined to comment further.

- Reserves will be increased in the fourth quarter for potential Unicover exposures separate from the Reliance settlement.

Although Aon was not specific about what the reserves would be used for, during the second quarter of 1999, Allianz Life Insurance Co. of North America sued Aon Re, alleging fraudulent, negligent and innocent misrepresentation (BI, Nov. 1, 1999). Aon placed retrocession business with Allianz on behalf of Centaur Underwriting Management Ltd., a manag-

ing general agency working on behalf of American Phoenix Life & Reassurance Co., Phoenix Home Life Mutual Insurance Co. and Sun Life Assurance Co. of Canada, collectively referred to as the APS Insurers. The APS Insurers provided certain reinsurance coverages to a pool of insurers and to certain facilities managed by Unicover. Aon declined to comment about the Allianz suit. The broker's 10-Q indicates that the suit is the only Unicover-related lawsuit or arbitration in which any Aon-related entity is involved.

- Aon additionally increased reserves related to other litigation matters. The Aon spokesman said that he did not know the particular litigation related to the reserve increases. In December, a jury ruled that Aon must pay a former Alexander & Alexander Services Inc. employee \$10 million for alleged deceptions by A&A's former chairman and CEO (BI, Dec. 20, 1999). Aon is contesting that award.

Aon also was named in a suit filed in November by customers of United Parcel Service of America Inc. The customers allege UPS acted illegally as an unlicensed insurer in its insurance program for packages with declared values of greater than \$100. Aon provided brokerage and captive management services to UPS (BI, Nov. 29, 1999).

- Aon also boosted existing reserves for payments to U.K. customers who purchased private pension plans based on allegedly improper sales advice in the late 1980s.

As part of Aon's first-quarter \$163 million charge, \$43 million was attributed to costs associated with the pension sales scandal. New regulations governing benefit calculations announced by the U.K. government in December, however, are forcing Aon to strengthen its reserves for this matter, the broker said.

In addition to recording no Unicover revenues in the fourth quarter, Aon also expects quarterly results to be negatively affected by additional costs associated with the integration

of Aon's global acquisition strategy. Specifically, costs are earmarked for systems development and investments in e-commerce, Aon said.

Lower than expected new business growth and higher attrition rates in its U.K. and Northern European brokerage operations also will have a negative impact on quarterly results, the spokesman said.

Income from private equity investments also is significantly below 1998's fourth-quarter returns. The spokesman said that while Aon "still feels very good about the quality of our portfolio," the investment payouts are more long term than short term.

In a statement, Patrick G. Ryan, chairman and CEO, said that he is pleased that Aon removed "a large piece of the Unicover cloud," though he is "very disappointed with the lower income from our U.K. and Northern European brokerage businesses." He said that he expects those operations to recover their past level of profitability later in 2000. Mr. Ryan said that he also is "confident in our ability to expand organic growth and believe that our insurance brokerage and reinsurance brokerage revenues will more than offset the loss of Unicover revenues in 2000."

Analysts had mixed reactions to the fourth-quarter charges.

"Some of the charge was pretty much anticipated," said Michael A. Smith, managing director of Bear, Sterns & Co. Inc. in New York, an Aon equity analyst. "The U.K. pension charges have been lurking in their backyard for a long time."

The charge, however, is "not what drove (Aon's) stock down," Mr. Smith said. "Rather, it was the sharp cut-back in their forward outlook for earnings in the fourth quarter and 2000," he said. "Wall Street doesn't take kindly to lower earnings provisions."

Mr. Smith said that the cost of developing technology, which Aon said would negatively affect earnings into 2000, "took some people by surprise."

The fact that Aon's integration cost

is higher than expected "is an admission that, no matter how low the price was for the acquisition, it was too high," he said.

Mr. Smith said that he doesn't think these issues will be ongoing. "The company has been good in the past at clearing out issues when they come up," he said.

Cathy Seifert, an equity analyst for Standard & Poor's equity group in New York, said that she is concerned that "there's more going on than meets the eye."

Of the total charge, "only 20% to 25% of it had to do with Unicover," Ms. Seifert said. "Taking a charge for Unicover resolves one issue, and the market likes resolution. The problem is, Aon failed to really pinpoint adequately what the other charges were for specifically."

"The market is concerned that this may not be the end of it. There may be other issues," she said.

Ms. Seifert added that while there was some foreshadowing of a charge in the fourth quarter, "no one fully anticipated the magnitude of the charge or the scope of the charge."

Upon news of the charge, S&P affirmed its AA- counterparty credit rating on Aon but revised its outlook to negative from stable.

S&P also affirmed Aon's AA- senior unsecured debt rating; its A-1 plus commercial paper rating; and its A preferred stock rating on Aon Capital A, which is guaranteed by Aon.

Chicago-based Duff & Phelps Credit Rating Co. affirmed Aon's AA- senior debt rating and its D-1+ commercial paper rating last week. Aon's outlook is stable, according to the rating agency. Duff & Phelps attributed its rating rationale to Aon's continued strong fundamentals, including a leading market share in targeted markets; a low cost structure; diverse operations; and strong management.

"While the recent charge is viewed as a negative event by DCR, the circumstances causing the charge are considered to be one-time items," the agency said in a statement. **BI**

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Daubert

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The lead plaintiff, Tami S. Beals, alleged that exposure to the ink caused more than 45 symptoms, ranging from difficulty in breathing, hallucinations and increased blood pressure, to less serious complaints such as sneezing and black circles under her eyes. The other plaintiffs had similar but shorter lists of complaints.

Judge Lamberth decided that under the *Daubert* standards he would not allow the proposed testimony of Dr. Laura S. Welch, an occupational health specialist, and Yen Wei, a chemist whom plaintiffs attorneys wanted to testify on the ink component that they charged contributed to health problems.

The *Daubert* decision calls for trial judges to serve a "gatekeeper" function and determine whether expert testimony meets standards of admissibility. Judge Lamberth decided after reviewing the expert witnesses' proposed testimony that it did not meet standards of reliability and relevance.

The judge did consider testimony by Alan Todd, an industrial hygienist, and Arthur Zahalsky, an immunologist who often testifies in chemical sensitivity cases.

Ironically, Mr. Zahalsky's testimony helped seal the defense's case, said Mr. Ralston.

Plaintiffs had "tried to run like hell" from their earlier assertions of multiple chemical sensitivity when they began to fear that such claims could not be proved, he said.

While one plaintiff had "explicitly claimed an MCS condition and received

treatment for it," another "essentially testified to MCS kinds of complaints," Mr. Ralston noted. The third plaintiff alleged that asthma symptoms were caused by the ink.

The attorney noted, however, that "Zahalsky testified that they all had MCS."

The MCS claim was a problem for the plaintiffs because it has been rejected as a cause of action under the *Daubert* standard by every federal court that has considered it, Mr. Ralston said.

Judge Lamberth ruled that testimony from Dr. Welch and Mr. Wei claimed sensitivity to ingredients in the ink caused the plaintiffs' illnesses but that their arguments failed the standards for admissibility under *Daubert*.

The claim was further hindered by the results of testing at the Allergy & Respiratory Institute in Denver conducted by Dr. Howard M. Sandler, president of Sandler Occupational Medicine Associates in Melville, N.Y. Each of the plaintiffs was examined, along with their medical histories, to determine whether they suffered from MCS and if components of the ink could have contributed to their alleged ailments.

Dr. Sandler, who conducted the tests at the defendants' request, concluded that the former employees could not demonstrate that they suffered from MCS or that the ink made them ill.

Instead, the doctor wrote in his conclusion, it was his opinion "that there are other alternative etiological explanations for the plaintiffs' diseases and complaints including pre-existing conditions, psychological problems and life-style factors, such as cigarette smoking and alcoholism." **BI**

Lloyd's

Continued from page 1

estimates represent a midpoint between syndicates' best- and worst-case estimates. With regard to the greater difference between the estimates for 1998, Mr. Taylor said, "It's still early days, in terms of accurate predictions," though he acknowledged that results are expected to deteriorate further.

'Over recent months, signs of the market hardening are becoming all the more apparent, particularly in reinsurance and motor,' says Max Taylor.

But Charles Sturge, editor of Chatset's "Lloyd's League Tables Review, January 2000," claims that the much-heralded security of corporate capital at Lloyd's has received a nasty jolt in the last six months.

He said that £385 million (\$621.9 million) of capacity has been lost at Lloyd's because of the seven syndicates that have ceased underwriting as of the end of 1999, and that 91% of this capacity was supplied by corporate investors.

The report referred to the withdrawal of support for five Lloyd's syndicates in November by UNUMProvident Corp., which withdrew £174 million (\$281.1 million) of capacity. The Portland, Maine-based insurer had cited both a desire to concentrate on its

core disability business and the deterioration in projected results of the syndicates as factors behind its decision (*BI*, Nov. 29, 1999).

"Not only does such a late withdrawal of capacity by a corporate backer destabilize the market," but when syndicates such as 490 and 957 also produce aggregate losses over three years of more than 50%—greater than their funds at Lloyd's—"the threat to a call on the Central Fund is obvious," said the Chatset report.

Lloyd's, however, called Chatset's statement misleading. A spokesman noted that if a syndicate cannot meet claims from its premium trust fund, it can call on its investors' funds deposited at Lloyd's to make up the difference. Only when these two sources are depleted can a syndicate tap Lloyd's Central Fund, he said.

The Lloyd's spokesman also stressed that there is little evidence of capacity depletion. He pointed out that underwriting capacity this year is £9.9 billion (\$15.99 billion), compared with £9.87 billion (\$16.61 billion) in 1999.

Commenting on Chatset's forecasts, Mr. Sturge said Hurricane Georges was a significant factor in the 1998 loss estimate. Chatset forecast that Lloyd's non-marine sector will show a 1998 loss of £170 million (\$274.6 million), largely from Hurricane Georges-related claims, compared with expectations a year ago that the sector would make a profit of £54 million (\$87.2 million).

Mr. Taylor said that Lloyd's is still confident for the future. "Over recent months, signs of the market hardening are becoming all the more apparent—particularly in reinsurance and motor," he said. **BI**

FTR FOR THE RECORD

IIA's Head retiring

MALVERN, Pa.—George L. Head, vp of the Insurance Institute of America and the American Institute for CPCU, is retiring from full-time work with the institutes after a career of more than 30 years.



Mr. Head, 58, has been named director emeritus of the institutes and is cutting back his involvement with the organizations because of health problems related to cerebral palsy.

"I can effectively work only three to four hours a day," Mr. Head said last week. "My endurance, my eyesight and my pain threshold are getting to the point where I can't do the job the institute hired me to do."

Mr. Head is well known for his work with the IIA's Associate in Risk Management program, authoring textbooks used by professionals to earn the ARM designation. He has written three books on insurance and risk management and is a frequent contributor to insurance publications.

Mr. Head won the prestigious Goodell Award in 1987, the highest honor bestowed annually by the Risk & Insurance Management Society Inc. for contributions to the risk management profession.

Michael Elliott, formerly assistant vp at the institutes, has been named ARM program director and takes over Mr. Head's responsibilities.

"I am by no means quitting my interest in risk management and my activities in risk management," Mr. Head remarked. He said he wants to spend his remaining time with the institutes to help shape the broadening model of strategic risk management.

Mr. Head said he plans to work as director emeritus at least until 2007. "I don't know if I'll still be able to work after 2007, but if I am, I will."

APIW seeks award nominations

NEW YORK—The Assn. of Professional Insurance Women is looking for a few good women to be nominated for its 2000 APIW Insurance Woman of the Year Award.



The APIW is seeking candidates who have: a high level of personal achievement within their careers; demonstrated a strong commitment to APIW's core values of leadership, mentoring and helping women advance their careers and professional education; and

made substantial contributions to the insurance industry and to women within the industry.

Instructions and nomination forms can be downloaded from the APIW's World Wide Web site, at www.apiw.org. All nomination forms, which are due Feb. 20, will be forwarded to an independent nomination committee appointed by the APIW board. The APIW board will then select the award winner from among the three highest-scoring candidates. The winner

will be honored at a reception during the APIW's annual meeting in June.

For further information, call Diane Askwyth, president of the APIW, at 973-236-5632.

OSHA called to testify

WASHINGTON—The head of the Occupational Safety and Health Administration is scheduled to testify later this month before a Senate subcommittee concerning the agency's aborted safety advisory for telecommuters.



The Jan. 25 hearing before the Senate Health, Education, Labor and Pensions Committee's Subcommittee on Employment, Safety and Training was called by the subcommittee's chairman after Secretary of Labor Alexis Herman rescinded the controversial advisory (*BI*, Jan. 10). The advisory—which came two years after a Texas company initially requested guidance about its obligations to employees who worked from home—indicated that OSHA would hold employers liable for safety violations at home offices. The advisory brought a firestorm of criticism upon OSHA from employers and members of Congress, and Secretary Herman withdrew it within 48 hours after it became public, calling for a "national dialogue" on the issue.

The chairman of the Employment, Safety and Training Subcommittee, Sen. Michael Enzi, R-Wyo., said that simply rescinding the advisory was not enough to end the controversy, and he asked Charles Jeffress, the assistant labor secretary, to testify before the committee.

A spokesman for the senator said that Mr. Jeffress has agreed to appear.

Disaster planning weak: Survey

A majority of corporations see value in having a "pre-disaster plan" to address operational failures that could hinder productivity, but most still rely on a business continuity approach that would kick in only after a disaster occurs, a recent survey found.

Sixty-one percent of respondents from rapidly growing U.S. companies favored an approach that would especially examine calamities not covered by insurance, but only 33% of those responding companies have implemented such a plan.

About one of every 10 businesses experienced a "serious operational breakdown" in the past year, according to the survey, which was conducted, in part, by PricewaterhouseCoopers L.L.P. in New York.

Service-oriented businesses were plagued with breakdowns slightly more often than product-sector businesses, with the most frequent causes being computer system failure and power or telecommunication system failure. Product-oriented businesses experienced similar causes for operational breakdown but had almost 50% fewer problems stemming from computer systems.

Market and technical risk topped both sectors' overall concerns for their respective businesses, according to the survey.

The survey, released earlier this month, polled more than 450 companies with annual gross revenues between \$1 million and \$50 million.

A free copy of the most recent "Trendsetter Barometer" is available at www.barometersurveys.com, or by calling Tina Prestia at 212-259-5973.

XL to repurchase shares

HAMILTON, Bermuda—XL Capital Ltd. plans to repurchase up to \$500 million of its shares due to soft market conditions and revised rating agency capital requirements for the insurer group.

XL currently has \$5.4 billion in shareholders equity and, after a review of the reorganized company by Standard & Poor's Corp., the rating agency told XL that it would retain its AA rating with reduced capital, an XL spokesman said.

The Bermuda-based insurer was unable to repurchase its shares earlier, because accounting rules prevented it from doing so for six months following the closure of the merger with NAC Re Corp., the spokesman said. The NAC Re merger was completed in June.

Information in brief

Stamford, Conn.-based **Tosco Corp.** agreed to pay \$1 million toward a new health clinic in Pittsburg, Calif., \$945,000 in fines, and up to \$100,000 in investigation costs after pleading no contest to criminal charges, the Contra Costa County district attorney's office in California announced earlier this month. The charges stem from a refinery fire last year that killed four workers. . . . Moody's Investors Service Inc. said it has placed **ratings of the Chubb Corp.** under review for possible downgrade, including its Aaa insurance financial strength ratings. Chubb Senior Vp Gail Devlin said Chubb will be working with the rating agency over the next few weeks "to convince Moody's that we think we should retain the Aaa ratings." . . . Woodland Hills, Calif.-based **Foundation Health Systems Inc.** said it has completed the sale of its Washington health maintenance organization subsidiary, QualMed Washington Health Plan, to Long Beach, Calif.-based American Family Care Inc. Financial terms of the transaction, which closed Dec. 31, were not disclosed.

Comings & Goings: Industry

Hamilton, Bermuda-based Overseas Partners Ltd. has named **Michael J. Cascio** chief underwriting officer. He previously was with Stockton Reinsurance, also in Bermuda. . . . **Sandra S. Wijnberg** has been named senior vp and chief financial officer of New York-based Marsh & McLennan Cos. Inc. Previously, Ms. Wijnberg was senior vp and treasurer for Tricon Global Restaurants. . . . Atlanta-based claims specialist Carson-Brooks Inc. has appointed **Craig P. Johns** executive vp and chief financial officer. Mr. Johns, who previously was with Johns Kemper Mills Group, also has been named a board member of Carson-Brooks. The company also named **David J. Merkel** controller. **BI**

Cheesy lawyer ads diminish profession

Lawyers can continue to advertise on radio and television and call themselves just about anything they want under a recent ruling by the Florida Supreme Court.

Advertising and marketing pros can have a field day with this. "Ticket Clinic" is nothing special. But consider a law firm that calls itself: "About the Best Counselors," or ABC for short, improving their chances that they will be first in the phone book. Or how about "Divorce Defenders Triumphant," or DDT for the Ex. Then again, "Beat the Rap" is pretty catchy, too, as is "Put It to the Lousy Employer," or "PILE it on the one who never appreciated you anyway."

As a journalist and publisher who believes strongly in free speech, my gut reaction is that lawyers should be allowed to advertise, on television and radio as well as in newspapers and the Yellow Pages. I do wish, however, that those who go on the air exhibit more class. All the ads for law firms I've ever seen or heard are outrageous. They are unprofessional and demean the judicial system.

"Get Yours" is the basic message.

Think about the injured employee sitting at home watching television and being asked, "Have you been injured at work? Call us. We'll get you the best settlement." Or how about: "In an auto accident? You deserve to be compensated."

One has to ask how much these commercials fuel litigation in the United States and legal representation in workers compensation cases that should be settled without a lawyer getting a cut of the worker's award.

Interestingly, however, some defense attorneys contend that many of these advertising lawyers are known to settle legitimate cases for far less than the claim is actually worth. So if the goal is to contain claim costs, perhaps risk managers should champion these ads and the plaintiffs who use these advertising-happy law firms, the theory goes.

The Florida Supreme Court had been asked to rule on amendments to the Florida Bar's advertising rules. The Florida Bar did not ask for a ban on television and radio advertising by lawyers, despite the recommendation for such a ban by the Florida Bar's Joint Presidential Advertising Task Force. So the task force asked the court to enforce such a ban, arguing that "lawyer advertising, particularly television and radio advertising, is not providing the public with useful information... and is lowering the public's regard for the administration of justice in our state."

The task force had commissioned a survey of Florida judges that showed 88% of the judges believe that lawyer advertising has adversely affected the public's confidence in the administration of justice, and virtually all of those judges (95%) believe lawyer advertising had a negative effect, as noted by a dissenting justice.

It appears the court would have agreed to the ban, if it thought the ban would have withstood the inevitable constitutional challenge. The majority opinion states: "We have considered a proposed complete ban and disagree with the Task Force's suggestion that there is good reason to believe that such a prohibition would withstand constitutional challenge. As recently stressed by the United States Supreme Court, 'it is now well established that lawyer advertising is commercial speech and, as such, is accorded a measure of First Amendment protection.'"

One of the rules that the Florida Bar did request and which the court rejected, would have banned lawyers from using trade names.

I find myself agreeing with the Florida justice who dissented from the majority: "There should simply be no place for the use of names designed to give the impression that the lawyer can 'fix' a traffic ticket, as do some names presently, or which are used merely to obtain the first listing in the telephone yellow pages... Commercial free speech is a valuable right, but it should be limited so that the courts receive the public respect which the functioning of the court system requires."

Is it any wonder that everyone laughs at lawyer-bashing jokes?

I wonder if any law firm in Florida will use its right to use a trade name and hang up the shingle: "Dewey Cheatem & Howe."

But seriously, those who wanted to ban lawyers from electronic media advertising and using trade names do have a point. Cheesy advertising by lawyers does tend to diminish whatever remaining respect the public has for the once-noble profession and its often overlooked commitment to pro bono representation of the indigent and worthy causes.

Publisher and Editorial Director Kathryn J. McIntyre's commentary appears fortnightly. She can be reached at kmcintyr@crair.com



Kathryn J. McIntyre

Online

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form or in the classroom... the ability to deliver training via the Internet has grown dramatically," he said.

According to statistics from Training Magazine's 1999 Industry Report, 14% of all formal training in 1999 was delivered via computers. The overwhelming majority of training, 73%, was conducted in the classroom with live instructors. While CD-ROMs represent the largest segment of computer-driven training methods in 1999 at 37%, Internet training was up five percentage points in 1999 to 13% of computer-driven training.

"Every forecast predicts that companies are committed to increasing their online portion of training dollars," said Jack Ivancevich, a director and managing director of content development for HighTechCampus.com, which has offices in Dallas and Houston. By 2003, online training dollars conservatively should be about 16% to 17% of the training budget, said Mr. Ivancevich, noting that early estimates of the prevalence of online training since the mid-1990s have been exceeded by 20% annually.

Mr. Griffith said that online sexual harassment training came right to the top of the list in developing HighTech Campus.com's training tracks.

"Typically, what organizations have done is attempted to protect themselves from legal and liability exposures by doing stand-up workshops or circulating written materials," explained Mr. Ivancevich. "From an effectiveness standpoint and from judicial benches that have made rulings, this is an inadequate way of ensuring employees are receiving the kind of knowledge, information, support and help needed to minimize sexual harassment in the workplace," he said.

Interactive, Web-enabled training keeps individuals engaged in the learning process, because they have the ability to take in information at

their convenience and in an amount they are comfortable with, Mr. Ivancevich said. He noted that adult attention spans, in general, are not long enough to comprehend fully all the information presented at long corporate training seminars or during extended computer-based training sessions.

Another benefit of HighTechCampus.com's technology is that it can track which employees have taken which courses and when they took them. It also tracks employees' comprehension of the information through a series of tests and quizzes, Mr. Ivancevich explained.

With an electronic record that shows employees have been provided an understanding of sexual harassment, how to prevent it and how to complain and investigate allegations, employers have a "good first defense in a court" when allegations of sexual harassment arise, Mr. Griffith said.

He added that the electronic records also provide employers information on what specific areas of training are not fully understood by employees.

The online sexual harassment training has caught the attention of some employers.

"It's a very appealing thing," said David Franklin, chairman and CEO of Texas Land & Cattle Steakhouse in Dallas, who is interested in exploring HighTechCampus.com's sexual harassment training course.

With 17 restaurants and 1,000 employees, sexual harassment "is a real issue," he said. "We need to get all of our managers and trainers oriented to sexual harassment and potential pitfalls," he said. "In the past, we've had HR people hold meetings at every restaurant. This is cumbersome, time consuming and expensive. As we continue to spread out, it becomes even more so."

"If this works, it would be significant," Mr. Franklin said of HighTechCampus.com.

Shiek Shah, co-CEO of Akili Sys-

tems Inc., a Dallas-based Internet integrator, said that all of his nearly 170 employees will soon be taking the sexual harassment course offered through HighTechCampus.com.

He said that as a fast growing high tech company with flexible work schedules, Akili needs a quick and easy way to train all employees about sexual harassment and to bring the company into compliance with the law.

"It's a pretty cool concept. It's what we were looking for," said Mr. Shah, who oversees the risk management of the 7-year-old company. "It makes very, very convenient for everyone to take a class and for the company to start complying with labor laws," he said.

While HighTechCampus.com has developed generic training courses written by qualified "subject matter experts," employers have the option to customize the program with their specific logos and policies, Mr. Griffith said. The courses are available in 40 different languages and are intended to be a supplement to other live training within the company.

Employers pay a fee per course that is based upon the number of users and the level of customization, Mr. Griffith said. On the highest end, the cost ranges from \$10 to \$50 per employee per course, he said.

While SGP has incorporated the online training into its risk management and brokerage services for its clients, HighTechCampus.com is available to any employer.

In addition, the company is in discussions with several global insurers that are interested in forming partnerships with HighTechCampus.com to distribute the training services as part of offering turn-key insurance products to clients.

Mr. Griffith said that employment practices liability insurance is one of the areas that insurance companies are likely to offer in conjunction with HighTechCampus.com's sexual harassment training course.

Docket

Continued from page 2

Court's action was awaited, so "there really is not much impact from a practical standpoint."

The Microsoft spokesman added that the issue of whether these same workers are eligible to participate in Microsoft's retirement plan remains unresolved.

Plaintiff attorney Brian Waid, of Bendich, Stobaugh & Strong in Seattle, said the litigation is not likely to be affected by any effort by the U.S. Justice Department to break up Microsoft into several separate companies amid possible monopoly concerns.

In another case, the high court last week without comment declined to review a decision that permitted Mutual of Omaha Insurance Co. to impose caps on medical coverage for AIDS and AIDS-related conditions.

In doing so, the court confirmed that the Americans with Disabilities Act does not regulate the content of insurance policies (BI, June 7, 1999).

In June 1999, the 7th U.S. Circuit Court of Appeals in Chicago ruled against two plaintiffs—both of whom

had HIV, the virus that causes AIDS—who argued that their insurance policies offered lower benefits to people with AIDS than were offered to others afflicted with uncapped, expensive-to-treat diseases (BI, June 14, 1999).

The plaintiffs' policies, issued by Mutual of Omaha, had caps of \$25,000 and \$100,000, despite offering a lifetime limit of \$1 million for other afflictions.

Heather Sawyer, a staff attorney for Lambda Legal Defense and Education Fund, said in a statement that the organization is disappointed that the Supreme Court "will not provide much-needed guidance to the lower courts." Lambda is a legal advocacy organization for the gay community and for individuals with HIV and AIDS.

"The court did not, however, give a green light to this practice. In declining review, the justices merely indicated they are not ready to rule at this time," she stated.

In other matters of interest to risk managers and benefit managers, the high court last week:

- Without comment declined to review rulings by three federal appeals courts that denied labor unions and

the health plans they sponsor the right to sue tobacco companies to recover costs associated with members' smoking-related illnesses. The union groups had sought to recover damages under the federal Racketeer Influenced and Corrupt Organizations Act, claiming that tobacco companies had conspired to cover up health risks associated with smoking.

- Ruled 5-4 in *Kimel vs. Florida Board of Regents* that state employees can't sue their employers over age bias in federal courts. The majority held that congressional amendments to the Age Discrimination in Employment Act to permit such age discrimination suits violated state immunity against being sued in federal court provided by the 11th Amendment.

- Ruled 7-2 in *Friends of the Earth vs. Laidlaw Environmental Services* that citizen groups can sue alleged polluters under the federal Clean Water Act in an effort to enforce the law even though the federal government—rather than private plaintiffs—would be entitled to damages. The case arose from a 1992 suit brought against Laidlaw by Friends of the Earth and other groups over wastewater discharged at an incinerator in South Carolina.

TPA directory deadline extended

Business Insurance will publish its annual Directory of Third Party Administrators in the Feb. 21 issue, which will also feature a Spotlight Report on self-insurance.

The directory is published as an editorial service; there is no charge to be included. Compa-

nies must simply submit a completed questionnaire by the extended deadline of Jan. 21.

To be included, a company must generate at least \$500,000 in gross revenues from handling claims on a direct, unbundled basis for self-insured clients. Gross revenues must be report-

ed.

If you meet the criteria and have not received a questionnaire, please request one by calling Assistant Directory Editor Michel Schwartz at 312-649-5313, or download a questionnaire at www.businessinsurance.com.

OSHA

Continued from page 1

tunnel syndrome and lower-back aches, explained Jim Ellenberger, assistant director of the AFL-CIO's department of occupational safety and health.

OSHA estimates that a \$4 billion annual program encouraging early intervention and treatment should help save about \$9 billion annually by preventing more-serious injuries and improving productivity, said Gary Orr, the OSHA ergonomist who led the agency's team to draft the proposal.

Some critics, however, say the \$4 billion cost estimate is low.

Currently, compensation for such ailments in the United States costs about \$20 billion, or one-third of the \$60 billion spent annually to compensate workers for all job-related ailments, according to OSHA statistics.

UWC's Mr. Oxfeld identified several specific concerns about OSHA's ergonomics proposal. First, he said, it would create a new entitlement to compensation, for up to six months after an incident, that greatly exceeds current workers comp cash benefits.

Under the proposed "work restriction protection" plan, an employer would have to pay a worker on modified duty at least 100% of his or her pre-injury, after-tax earnings, while the worker unable to do any job would receive at least 90% of pre-injury, after-tax earnings.

OSHA estimates that costs for that part of the plan will account for about \$800 million of the program's \$4 billion annual price tag, OSHA's Mr. Orr said.

Under typical state-based workers comp programs, workers comp cash benefits replace two-thirds of pre-injury gross wages, up to a weekly cap. A worker on modified duty receives temporary partial disability benefits that are generally equal to two-thirds of the difference between his or her pre- and post-injury earnings.

In addition, the proposed OSHA requirements require the maintenance of all fringe benefits, such as seniority and health insurance, which most state workers comp systems do not require.

Mr. Oxfeld also said the standard would create a new worker right to "MSD management,"

which requires an employer to provide prompt access to a health care professional for evaluation, management and follow-up.

He also expressed concerns that it would expand the instances in which an employer must compensate a work-related injury to include those cases in which work may be a minor—rather than a major—factor.

The American Insurance Assn. also opposes the expansion of injury compensation cases and questions OSHA's legal authority to do so, according to Bruce Wood, assistant general counsel of the organization in Washington.

These mandates directly conflict with workers comp laws in all U.S. jurisdictions, "where compensability determinations, physician selection and indemnity payment periods are a function of each state's statutes and jurisprudence," Mr. Wood explained.

OSHA contends it has sufficient legal authority to establish a "work restriction program" for workers diagnosed with musculoskeletal disorders, because the concept is an extension of a "medical removal protection" provision in earlier OSHA health standards. A District of Columbia appeals court upheld that provision about 10 years ago, Mr. Orr said. Those earlier health standards require the removal of workers exposed to toxic chemicals, such as lead, based on data on personal exposure limits collected through objective analyses of workers' blood content or through work space tests.

OSHA also cites additional legal authority through its general-duty clause, Mr. Orr said. That clause requires that employers maintain a safe and healthy workplace.

The American Insurance Assn., however, considers OSHA's reliance on court rulings related to medical-removal provisions to be "flimsy precedent" for its current proposals, and it plans to point that out in its comments, Mr. Wood said.

Other legal bases for challenging the OSHA ergonomics proposal may rest on the Constitution's 10th Amendment—which holds that all powers not delegated to the federal government by the Constitution are reserved to the states or citizenry—as well as other federal laws, said Robert M. Aurbach, general counsel for the New Mexico Workers' Compensation

Administration.

"One need look no further than the certainty of coverage disputes—and the potential for conflicts of interests between an employer and their insurer created by the proposed standard—to grasp the magnitude and pervasiveness of the problem," Mr. Aurbach said.

There also is great potential for additional litigation from conflicts between the proposal's demands and the provisions of typical workers comp policies, several observers noted.

For example, the proposed standard raises questions about work-related causality, due to the wide range of musculoskeletal disorders to which it could apply, said Keith Bateman, vp and director of workers compensation for the Alliance of American Insurers in Downers Grove, Ill. Under OSHA's proposal, a musculoskeletal injury would be considered work-related if it were exacerbated by work to almost any extent, OSHA's Mr. Orr said.

Other litigation could stem from conflicts between employer and insurer defense interests, as well as the multiple roles the standards require of health care providers. These potential conflicts were cited in a resolution passed last month by the Western Governors' Assn.

Complicating the situation is the fact that "the standard workers compensation policy excludes payment for OSHA obligations, but insured employers may expect their insurance to cover this cost through the employer's liability (Part B) section of the policy," Mr. Oxfeld said.

Despite numerous requests for an extension of the comment period, another OSHA spokesman said late last week that the agency intends to adhere to the Feb. 1 deadline for written comments. The agency has been discussing proposed drafts of the standard for months and formally published its proposal on Nov. 23, 1999, allowing 40 days of comment beyond the 30 required by law, the OSHA spokesman noted.

Following the deadline for written comment, public hearings will then be held in Washington, Chicago and Portland, Ore.

OSHA plans to issue a final rule by the end of the year; that final rule would take effect 60 days after its publication. **BI**

on RRGs and purchasing groups. RRG and purchasing group advocates disagreed, however, arguing that the Risk Retention Act pre-empts such assessments.

While non-domiciliary states can impose premium taxes on RRGs and require them to file financial reports, they cannot directly regulate them, RRG advocates earlier noted. And a fee or assessment, they say, is a form of regulation.

Purchasing group representatives raised two objections to the fee. First, they said, the federal Risk Retention Act pre-empts state laws or statutes that discriminate against the groups. Because the Hawaii assessment is not imposed on other consumers, it is discriminatory, they argued.

Advocates also noted that the Hawaii law gives the division the authority to assess fees on "regulated entities." Purchasing groups, as mandated under the Risk Retention Act, are not regulated by the state and thus are not subject to the assessment, advocates said.

In the face of these arguments, the division decided to review its position.

Shortly after the assessments

were sent out, Insurance Commissioner Metcalf said that the division's legal staff would analyze whether Hawaii in fact had the authority to impose the \$406 fee on RRGs and purchasing group (BI, Nov. 22, 1999).

"We take a very conservative approach. If we are pre-empted by federal law, we will not impose any assessments. We do not intend to act out of variance with federal law," Mr. Metcalf said at the time.

Hawaii's action marks the second time an insurance department, facing protests from buyers, has rescinded fees on RRGs and purchasing groups.

In 1997, the Maryland Insurance Administration, after protests from NRRA, rescinded a \$1,000 fee it had initially tried to impose on RRGs to support its efforts to fight insurance fraud.

But battles continue in other states. RRGs are protesting a \$500 fee imposed in Oklahoma to fight insurance fraud, while purchasing groups have resisted a \$650 fee the Indiana Insurance Division has demanded they pay for participating in a Year 2000 computer readiness survey. **BI**

Updates

EBRI health plan study

Continued from page 2

uted much of the gain to more children being covered by employment-based health plans.

According to EBRI estimates, 81.6% of the non-elderly U.S. population—or about 194.7 million people—had some sort of health insurance coverage in 1998. The majority of those with insurance not covered by employer plans were covered by public programs such as Medicaid.

E.U. scrutinizes food safety

BRUSSELS, Belgium—Food producers and retailers in Europe could face more safety regulations and greater safety scrutiny in the future, following the European Commission's adoption of a food safety white paper last week.

The paper recommends an overhaul of European safety legislation embracing farming and food processing, packaging and retailing, as well as the creation of a European Food Authority to monitor food safety issues.

It proposes a plan "with a wide range of measures to improve and bring coherence to the community's legislation covering all aspects of food products from 'farm to table.'"

The new legal framework will cover animal feed, animal health and welfare, hygiene, contaminants and residues, new food types, additives, flavorings, packaging and irradiation. It also includes a proposal on general food law, "which will embody the principles of food safety, (including) proper risk analysis through risk assessment, risk management and risk communication."

The white paper also proposes the establishment of a European Food Authority. The authority's tasks would "essentially concentrate on risk assessment (through scientific advice) and risk communication." It would look at all matters that have a direct or indirect impact on consumer health and safety arising from the consumption of food, including primary food production, industrial processes, storage, distribution and retailing, according to the document.

The European Union has suffered several food scares in the past few years, including incidents of dioxin in soft drinks, the "mad cow disease" beef scare, and salmonella and E. coli outbreaks. Genetically modified food is also a source of public concern in Europe.

Bollinger acquires agency

SHORT HILLS, N.J.—Bollinger Inc., the 37th-largest broker of U.S. business, at the beginning of this month acquired Spalding Associates, a Princeton, N.J.-based agency specializing in group insurance, pensions and employee benefits.

The acquisition makes Bollinger the 30th largest insurance agency in the country based on more than \$34 million in revenues and the 15th-largest privately held agency, according to Bollinger.

Spalding President Barbara M. Spalding has been named senior vp of Bollinger and will continue in her capacity as manager of the Princeton office. Spalding will operate as a separate profit center and division of Bollinger.

Terms of the transaction were not disclosed.

Briefly noted

The Alliance of American Insurers and the National Assn. of Independent Insurers have ended merger discussions begun last fall. Both the Des Plaines, Ill.-based NAI and the Downers Grove, Ill.-based Alliance said negotiators were unable to agree on terms acceptable to both groups' members. The two organizations pledged to continue working together on public policy issues the insurance industry faced, agreeing that such collaboration is in the industry's interests. . . . American Insurance Assn. President **Robert E. Vagley's** 1998 salary of \$925,018 was the fifth-highest salary of any trade association head, according to an annual survey published this month by The National Journal. **Frank Zarb**, former chairman of Alexander & Alexander Services Inc. and now chairman of the National Assn. of Securities Dealers, ranked second on the list, at \$1,547,564. . . . Woodland Hills, Calif.-based **Foundation Health Systems Inc.** has consolidated its commercial health plan operations into two new divisions. FHS' western division, which serves more than 2.6 million members, includes: Health Net, its California health plan; QualMed of Oregon; Intergroup of Arizona; and FHS Life & Health operations. FHS' eastern division includes health plan operations that serve more than 1.1 million members in Connecticut, Florida, New Jersey, New York and Pennsylvania. . . . The federal Occupational Safety and Health Administration has fined construction companies Danny's Construction, Neil F. Lampson Inc. and Mitsubishi Heavy Industries a total of more than \$500,000 following the 1999 collapse of a crane at a Milwaukee baseball stadium. Three workers were killed when the crane lifting a 400-ton section of the ballpark's retractable roof collapsed. . . . **Liberty Mutual Group** Chairman Gary L. Countryman will take on the additional titles of interim president and CEO of asset management unit Liberty Financial Cos. Inc. after the resignation of Kenneth R. Leibler. Liberty Financial has about \$61.4 billion of assets under management. Earlier, Liberty Mutual named Scott R. Isaacson senior vp in Boston, where he will manage the eastern region of its national markets division and its national brokerage relationships. Mr. Isaacson previously was an executive vp in Wausau's commercial insurance group. . . . **Commercial lines deregulation bills** have been filed in Colorado, Kentucky and Vermont, according to the Alliance of American Insurers. Nebraska and South Carolina similarly are expected to introduce deregulation measures soon.

Hawaii

Continued from page 2

RRGs and captives. The controversy in Hawaii arose after the division last October began sending out invoices for \$406, due Dec. 30, 1999, to about 20 RRGs domiciled outside the state and about 140 purchasing groups that have policyholders in Hawaii (BI, Nov. 8, 1999).

The assessments were being charged to support a new "insurance regulation fund." That fund, created under legislation passed last year, is used to defray the administrative costs of the Hawaii Insurance Division and to make the division self-sufficient.

The assessment was not imposed on Hawaii-domiciled captives, which pay fees that are set under the state's captive statute. Commercial insurers in the state, however, must pay the fund assessment. For those insurers, the fee is based on a number of factors, including market share.

Hawaii insurance regulators initially said state law gave them the authority to impose the assessment

NIOSH

Continued from page 3

chologists say. Those who keep their jobs could be affected emotionally by the dismissals, and they also could burn out from assuming the work of their former colleagues.

"These are decisions (made) because of bottom-line asset management, and we pay little attention to the impact on the workforce," said Ms. Moran.

Occupational health psychologists also study the work/life balance, which, if properly managed, can reduce worker stress in some cases.

For example, Mr. Sauter said, such flexible initiatives as telecommuting have been implemented in an effort to decrease stress.

At the same time, though, such an arrangement could increase worker stress, Mr. Sauter said, as working in the home may make it difficult for some employees to distinguish between work and personal life.

"We have a tremendous swing in the way that organizations are doing business with growth of flexible production processes," said Mr. Sauter, noting the popularity of outsourcing and flexible employment arrangements. "These changing employment practices and production processes have been little studied."

Another undertaking of the nascent discipline is to examine those workplaces that exhibit low levels of worker injury or disability while being competitive and profitable, and then educate other companies regarding successful practices.

PrintPack Inc., an Atlanta-based printing and film manufacturer, implemented a behavior-based safety program that encouraged employees to conduct self-audits in 1998. One plant that had a total injury rate of 7.96% prior to the program's implementation saw this drop to 2.89% after, said Ford Best, PrintPack's director of corporate safety.

"They're proud of what they're doing," said Mr. Best, who is based in Shreveport, La. "The employee involvement and the desire to be suc-

cessful has helped along the safety program."

The key to having an effective program is to build trust, he added.

Mr. Sauter sees a future role for occupational health psychologists in corporate risk management departments.

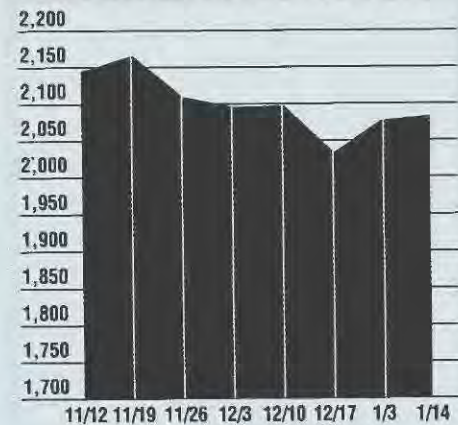
It may take three to five years, though, before the present-day students of this new area begin to use their expertise to advise the business community, Mr. Sauter said.

Ms. Moran sees a strong correlation between the behavioral science disciplines and the risk management practices of today's corporations.

"The more we can network and interface with various disciplines, the greater impact we can have on the problems confronting our organizations," said Ms. Moran, who noted that risk managers should keep in mind the importance of their work.

"At a time where risk managers are wearing a million different hats, (they should) continue to understand the tremendous impact they can have on an organization."

BI Insurance Index



Base=100 on Dec. 29, 1978

Source: CNET Investor (investor.cnet.com) Boulder, Colo.

PCS catastrophe options

As of Jan. 14	Price	Call	Price
spread	bid/ask	spread	bid/ask
National Annual 2000			
60/80	5.0/—	California Annual 2000	
100/150	7.5/—	150/155	0.1/0.3
150C	6.0/—	Western Annual 2000	
190/195	0.3/0.5	150/155	0.2/0.4
200/250	3.7/—	300/350	0.5/—
Midwest June 2000			
10/20	0.8/3.3	Eastern March 2000	
20/30	0.4/1.5	20/30	—/2.0

Total volume: 0 Total open interest: 792

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

British Issues

Companies	Price	P/E	Div.	Yield	52-week
	pence		pence	%	high-low
Legal & Gen	157	19.1	3.6	2.4	237-142
Royal & Sun	454	—	23.0	5.2	633-351
Brokers					
Lmbt Fenchurch	140	14.0	4.2	3.0	145-58
JLT	259	11.5	12.0	4.7	286-166

Note: Prices are Jan. 14 closings; other numbers from Jan. 13.

Source: CNET Investor (investor.cnet.com) Boulder, Colo.

Physicians

Continued from page 2

If enacted, the measure could "not only increase health care costs and, in turn, health care premiums" but also would do so without any guarantee of enhanced access or quality, said Ann Cato, senior corporate counsel for Wal-Mart Stores Inc. in Rogers, Ark. The measure provides "no incentives to lower prices," Ms. Cato said last week, as she addressed a Washington press briefing on the bill, sponsored by the Antitrust Coalition for Consumer Choice in Health Care. The coalition consists of employers—including Wal-Mart—insurers, trade associations and some medical provider groups, such as nurse-midwives, nurse practitioners, optometrists and physical therapists, that oppose H.R. 1304.

Marion McCartney, director-professional services for the American College of Nurse-Midwives, told the press briefing that while members of the coalition "may differ on questions of whether managed care should be reformed," the bill "may be a thinly disguised attempt by physicians to gain an even greater monopoly over who provides care to patients."

If the measure becomes law, it "could result in millions of Americans losing their coverage" due to cost increases, said Ms. Cato.

"It has profound implications for the way that plans negotiate with health care providers," said Paul Dennett, vp-health policy at the employer-backed Assn. of Private Pension & Welfare Plans in Washington. The APPWP is a member of the Antitrust Coalition for Consumer Choice.

From the employers' point of view, the impact, in terms of not just cost but quality and accountability as well, would be considerable, Mr. Dennett said.

In any other field of the economy, the act "would be viewed for what it is"—an anti-competitive measure, he said.

Neil Trautwein, director of employment policy for the National Assn. of Manufacturers in Washington, which also belongs to the antitrust coalition, said the group found it hard to see how a "doctor cartel" would enhance the quality of medicine. He noted that some in Congress who had opposed the managed care regulation bill passed by the House late last year view the measure as a bonus to organized medicine.

The managed care bill, drafted by Reps. Charles Norwood, R-Ga., and John Dingell, D-Mich., would subject managed care plans and the employers that sponsor them to a number of new restrictions and liabilities (BI, Oct. 11, 1999). That bill is now on hold in a congressional conference committee.

"The possibility is always out there" that H.R. 1304 could be a back-door way to achieve some of the goals of the Norwood-Dingell bill by limiting the power of managed care plans, warned Wal-Mart's Ms. Cato.

"We at Wal-Mart wanted to make sure that this doesn't go anywhere. We truly do believe, if this bill passes, we will have to increase health care premiums," she said.

The bill's sponsors view the matter differently, to say the least.

"The legislation is needed to respond to the practice of health insurers—which already benefit from special antitrust protections pursuant

to the McCarran-Ferguson Act—engaging in heavy-handed negotiating tactics and requiring exclusionary contractual commitments from health care providers," wrote Reps. Campbell and Dan Miller, R-Fla., in a March 19, 1999, letter explaining the bill and soliciting co-sponsors.

The act "would allow health care providers to come together as a coalition to present a united front when negotiating the terms and conditions of a contract with health insurers, putting them on a more-level playing field. It's the best way to let the market deal with the complaints so many health care professionals have raised with HMOs and other insurers," the lawmakers wrote.

The American Medical Assn. agrees with that assessment.

In a letter sent to all members of Congress last June 25, Dr. E. Ratcliffe Anderson Jr., AMA executive vp, sought to reassure his readers that "the AMA is not creating a traditional labor union; it is directing the creation of a professional alternative that will give physicians a voice and protections they need. This organization will follow the AMA's principles of medical ethics and will not allow strikes or activity that will endanger patient care."

Dr. Anderson said H.R. 1304 "would allow physicians who practice independently to engage in joint negotiations with health plans regarding contract terms that affect patient care... It is estimated that 56% of physicians are in solo practice or are small-group owners. Due to the nature of their practice as independent physicians, they are often at a great disadvantage, in terms of their ability to negotiate contracts relating to patient care, especially with a large health plan."

BI Industry Stock Report JAN. 10, 2000, THROUGH JAN. 14, 2000

		BROKERS												INSURERS/REINSURERS												HEALTH MAINTENANCE ORGANIZATIONS													
		Price	Weekly % change	Year to date % change	Year to date				Price	Weekly % change	Year to date % change	Year to date				Price	Weekly % change	Year to date % change	Year to date				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)					High	Low	Vol.(000)					High	Low	Vol.(000)					High	Low	Vol.(000)			
Aon Corp.	NYS	29.94	-29.97	-25.16	46.89	26.06	22658	EMC Insurance Group Inc.	NDO	9.75	6.85	6.85	13.38	9.00	44	St. Paul Cos.	NYS	34.00	-0.73	0.93	37.06	25.38	2953																
Clark Bards Holdings	NDO	15.13	0.00	5.22	21.00	11.63	35	ESG Re Limited	NDO	6.00	2.13	-13.51	22.00	5.13	845	SCOR	NYS	48.38	-2.52	9.32	62.00	42.94	13																
E.W. Blanch Holdings Inc.	NYS	54.13	-5.46	-11.63	71.75	47.69	387	Enhance Financial Services	NYS	15.75	-0.79	-3.08	28.13	15.00	390	SAFECO Corp.	NDO	25.31	1.50	1.76	46.75	21.81	2561																
Gallagher Arthur J. & Co.	NYS	59.63	-5.73	-7.92	64.88	42.25	179	Everest Reinsurance	NYS	26.44	3.17	18.49	38.00	20.50	1735	SCPIE Holdings Inc.	NDO	29.69	-1.25	-7.59	36.06	23.69	NA																
Hibb, Rogal & Hamilton	NYS	28.06	-1.10	-0.66	29.13	15.56	47	Fremont General Corp.	NYS	8.50	4.62	15.25	23.56	4.69	1333	Selbels Bruce Group	NDO	1.63	4.00	-7.14	6.25	1.50	109																
Kaye Group Inc.	NDO	8.66	-4.81	3.36	9.25	5.00	5	Frontier Insurance Group	NYS	3.00	-7.69	-12.73	17.25	2.38	1529	Selective Ins. Group	NDO	16.56	2.32	-3.64	22.50	15.19	347																
Marsh & McLennan	NYS	103.88	8.91	8.56	103.88	57.13	6322	Gainsco Inc.	NYS	6.06	-1.02	12.79	6.94	3.94	96	Terra Nova Ins Co. Ltd.	NYS	30.00	0.42	0.00	32.63	21.25	392																
Brown & Brown	NYS	39.88	4.25	4.08	40.63	29.31	26	Harleysville Group	NDO	13.38	0.00	-6.14	24.38	12.63	42	Tokio Marine & Fire	NDO	53.13	-4.28	-10.15	67.00	50.00	138																
BROKERS AVERAGE			-0.66	-0.70				HSB Group Inc.	NYS	30.00	-5.33	11.28	42.25	30.00	402	Torchmark Corp.	NYS	27.38	-3.10	-5.81	38.00	24.56	1841																
ACE Ltd.	NYS	20.56	13.45	23.22	35.25	15.19	6329	HCC Insurance Holdings	NYS	13.13	0.48	-0.47	25.13	8.00	507	Transatlantic Holdings	NYS	75.31	0.33	-3.52	80.50	69.06	59																
Accel International Corp.	NDO	0.97	-3.20	-3.20	3.38	0.50	108	ING Groep N.V.	NYS	58.13	-4.42	-4.71	63.94	21.00	375	Travelers Property Casualty	NYS	37.38	5.47	9.12	41.86	27.69	1632																
Acceptance Insurance Cos.	NYS	4.56	-13.10	-20.65	19.00	4.56	211	IPC Holdings Ltd.	NDO	15.50	2.06	4.20	22.50	14.25	101	Trenwick Group Inc.	NYS	15.88	-2.68	-6.27	35.25	14.38	607																
AEGON N.V.	NYS	85.75	-8.53	-10.21	115.94	69.63	647	Hartford Financial Services	NYS	43.69	-2.51	-7.78	66.44	36.50	3480	Unico American Corp.	NDO	7.16	1.33	2.23	13.75	6.38	31																
Aetna Life & Casualty	NYS	56.25	-2.81	0.78	99.88	46.50	5003	LaSalle Re Holdings Ltd.	NYS	15.25	0.00	-7.58	21.63	10.88	311	United Fire & Casualty	NDO	21.97	-4.48	-2.90	33.00	19.25	13																
AFLAC Inc.	NYS	42.94	-4.72	-9.01	56.75	39.00	7818	Lincoln National	NYS	38.88	2.47	-2.81	57.50	35.50	3006	Unitrin	NDO	36.72	-2.49	-2.41	42.38	30.50	1493																
Allmerica Financial Corp.	NYS	52.75	2.68	-5.17	64.81	46.06	610	MAIC Holdings Inc.	NYS	22.81	4.89	7.67	33.00	19.88	217	UNUM Corp.	NYS	29.44	-1.88	-8.19	62.50	26.00	4289																
Allstate Corp.	NYS	24.19	-1.28	0.52	40.75	22.63	12437	Market Corp.	NYS	151.00	0.67	-2.58	193.00	143.25	65	Vesta Insurance Co.	NYS	4.75	-1.30	22.58	8.38	3.38	310																
Ambac Financial Group	NYS	50.75	-0.49	-2.75	63.00	25.06	1725	MBIA Insurance Group	NYS	50.56	-1.58	-4.26	71.88	45.00	2039	XL Capital Ltd.	NYS	51.56	-3.06	-0.60	67.50	41.94	3780																
American Financial Group	NYS	24.25	-5.83	-8.06	39.63	23.81	293	Meadowbrook Insur. Group	NYS	7.00	-3.45	6.67	17.44	4.75	54	Zenith National Ins.	NYS	21.38	0.59	3.64	26.69	19.25	39																
American General	NYS	69.00	-1.25	-9.06	82.19	61.88	4214	MMI Cos. Inc.	NYS	8.81	0.36	2.17	17.44	3.31	399	INSURERS/REINSURERS AVERAGE		-1.13	-1.97																				
American Intl Group	NYS	114.06	4.17	5.49	114.06	76.50	14906	Mutual Risk Mgmt. Ltd.	NYS	15.53	-4.21	-7.06	43.25	9.81	1166	HEALTH MAINTENANCE ORGANIZATIONS																							
American Safety Insurance	NYS	8.94	2.78	6.73	10.38	6.00	90	Navigators Group	NDO	10.25	-8.89	5.13	16.00	9.13	37	Foundation Health Systems Inc.	NYS	10.44	-6.70	5.03	10.44	0.00	2312																
Argonaut Group	NDO	18.88	-3.51	-5.03	27.94	18.69	158	NYMAGIC Inc.	NYS	13.56	0.46	2.84	19.50	12.00	46	Humana Inc.	NYS	8.25	-5.71	0.76	19.94	5.88	5924																
AXA-UAP Group	NYS	67.50	-3.40	-4.93	76.75	53.75	629	Ohio Casualty Corp.	NDO	14.38	-4.17	-10.51	21.69	14.13	2549	Oxford Health Plans	NDO	15.16	-4.15	19.46	24.25	9.75	8716																
Baldwin & Lyons Inc.	NDO	19.56	-0.32	-11.58	24.03	19.09	18	Old Republic Int'l	NYS	12.88	-0.96	-5.50	21.38	12.06	1831	Pacificare Health Sys.	NDO	51.06	-0.24	-3.66	100.38	31.13	2107																
Berkley W.R. Corp.	NDO	19.13	-5.26	-8.38	32.75	18.81	227	Partner Re Ltd.	NYS	29.88	-2.05	-7.90	46.19	28.56	396	Sierra Health Services	NYS	6.94	16.84	3.74	21.63	4.63	1266																
Berkshire Hathaway Inc.	NYS	52200.00	-7.61	-6.95	81100.00	51700.00	1	Penn-America Group Inc.	NYS	6.63	-15.20	-14.52	11.44	6.63	34	United HealthGroup	NYS	61.63	0.51	16.00	70.00	39.38	5234																
Capitol Transamerica Corp.	NAS	10.13	1.25	0.62	18.94	9.38	51	PMA Capital Corporation	NDO	19.75	-1.25	-0.63	21.13	17.38	110	Wellpoint Health Networks	NYS	71.25	-7.32	8.06	97.00	48.25	1888																
Chubb Corp.	NYS	57.19	0.66	1.55	76.38	44.00	3016	Philadelphia Cons. Holding	NDO	14.75	1.72	1.72	25.50	10.81	181	HMOs	AVERAGE	-0.97	7.06																				
CIGNA Corp.	NYS	80.63	-5.29	0.08	98.63	63.44	3216	PXRE Corp.	NYS	12.88	0.49	-0.96	23.44	9.94	110	ALL COMPANIES AVERAGE	AVERAGE	-0.92	1.46																				
Cincinnati Financial Corp.	NYS	30.38	-3.95	-4.71	42.50	29.75	1643	Reliance Group Holdings	NYS	5.81	-14.68	-12.26	12.81	2.81	3998																								
Citigroup	NYS	58.00	6.30	4.15	58.25	32.69	48401	ReliaStar Financial Corp.	NYS	33.69	-3.75	-14.04	49.81	28.56	3014																								
CNA Financial Corp.	NYS	38.56	-2.99	-8.10	45.31	33.00	561	RenaissanceRe Holdings Ltd.	NYS	40.19	0.63	-1.68	43.19	30.00	141																								
CNA Surety	NYS	11.06	-0.56	-14.90	15.56	9.75	177	Risk Capital Holdings	NDO	14.88	13.88	17.82	22.25	11.00	213																								
								RLI Corp.	NYS	33.69	3.06	-0.92	38.81	27.88	45																								

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