

# Business Insurance

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

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## Roth bill would raise limit on 401(k) plan contributions

WASHINGTON—Senate Finance Committee Chairman William Roth, R-Del., is introducing legislation that would boost contributions employees can make to 401(k) plans as well as give a new tax break to savings plan contributions.

Under his proposal, the maximum annual salary deferral employees could make to 401(k) plans would rise to \$15,000 from the current \$10,000 limit. In addition, aftertax contributions made to a so-called Roth 401(k) plan could be withdrawn at retire-

See Updates on next page

# ACE to buy CIGNA's P/C units

By GAVIN SOUTER

PHILADELPHIA—ACE Ltd.'s \$3.5 billion offer for the property/casualty operations of CIGNA Corp. could significantly benefit policyholders and create a new international powerhouse.

Under terms of the deal announced last week, ACE would pay \$3.5 billion for CIGNA's domestic property and casualty business and most of its international business. ACE would initially pay cash and later issue stock and debt to fund the purchase.

The price tag for CIGNA is larger

than the amounts paid for other large U.S. property/casualty insurers in recent years, including the \$2.8 billion The St. Paul Cos. Inc. paid for USF&G Corp. in 1997, and CNA Financial Corp.'s \$1.1 billion purchase of Continental Insurance Co. But it is lower than the \$4.0 billion that Travelers Corp. paid in 1996 for Aetna Life & Casualty Co.'s property/casualty operations.

The proposed deal would give ACE an established, and largely profitable, insurance franchise worldwide, as well as a significant presence in the U.S. market.

"We have been trying to develop a global specialty property/casualty company... and this short-cuts a long process by getting there in one acquisition," said Brian Duperreault, chairman, president and chief executive officer of ACE in Hamilton, Bermuda.

For CIGNA policyholders, an acquisition by ACE could bring additional protection for long-tail liabilities as well as a new parent committed to property/casualty insurance.

But more information on the proposed deal is needed, however, before any advantages or disadvantages of an

See ACE on page 22

## Decade of property/casualty deals

| Year | Deal                                  | Price         |
|------|---------------------------------------|---------------|
| 1995 | CNA buys Continental Insurance        | \$1.1 billion |
| 1996 | Travelers buys Aetna's P/C operations | \$4.0 billion |
| 1997 | SAFECO buys American States           | \$2.8 billion |
| 1998 | St. Paul buys UFS&G                   | \$2.8 billion |
| 1999 | ACE buys CIGNA's P/C operations       | \$3.5 billion |

## State, federal bills aim to restrict settlement buying

By MEG FLETCHER

WASHINGTON—A two-tiered national campaign is under way to better protect injury victims from selling their structured settlement rights to companies that buy them for sharply discounted lump sums.

Structured settlements are voluntary agreements that provide long-term financial protection for injury victims. They are intended to protect the victims and their families against the loss or dissipation of lump-sum recoveries.

The targeted transactions involve specialty finance companies that make significantly discounted cash payments—typically lump sums—to settlement recipients in exchange for all or some of the periodic payments, which are often paid through an annuity sold by a life/health insurer.

At the state level, the American Insurance Assn. is leading a campaign urging legislators in at least 18 states to increase the regulation of settlement purchases by so-called "factoring" companies. Such regulation would require advance court approval of such proposed deals, as well as increased disclosure of the financial details.

According to the proposal, crafted with the help of the Washington-based National Structured Settlement Trade Assn., a state court could approve a settlement purchase in cases of imminent financial hardship as long as the transaction did not violate other applicable laws, such as most states' bans on assigning workers comp settlements.

In addition, the proposal requires that the recipient receive independent professional advice about the transaction.

The topic also is being addressed at the federal

See Structured on page 23

## New liability bill introduced

# Broader Y2K protection urged

By MARK A. HOFMANN

WASHINGTON—Businesses could enjoy sharply circumscribed liability from the Year 2000 computer problem if a bill introduced during the first days of the 106th Congress becomes law.

The Year 2000 Consumer Protection Plan Act of 1999, sponsored by Rep. Don Manzullo, R-Ill., already has won the support of House Majority Whip Tom DeLay, R-Texas, and House Rules Committee Chairman David Dreier, R-Calif., as co-sponsors. The measure, among other things, would cap damages in Y2K cases and provide certain protections against liability for corporate directors and officers. Its chief goal is to encourage businesses to take reasonable steps to identify and correct Y2K-related problems.

Thus far, the bill is getting understandably favorable reviews by employers. But supporters agree that the measure is unlikely to be the last congressional word on the subject.

"The primary purpose of the legislation is to encourage end users to test their equipment and, if they find a problem, to fix it," said Kurt Markva, Rep. Manzullo's legislative director.

The measure seeks to "stave off any liability suits that could clog up the courts down the line," Mr. Markva

said. "We're trying to encourage people to take care of the problem before real problems exist, rather than have plaintiffs' suits devastate the economy."

"When all is said and done, I would not be surprised if other individuals start putting legislative proposals on the table. We need to hear from the Democrats; we need to hear from the Republicans across the board. This issue affects almost every congressional district and every senator," he said.

"This is a rifle shot. We believe it will address the primary concerns of many people out there. The width and breadth of this is pretty large. We understand that other people want to add more, and we welcome their thoughts," said Mr. Markva. "We wanted people to know that Congress

See Y2K on page 4



Rep. Manzullo

## Two indicted in fraud

### Pair accused of bilking policyholders for \$50 million

By DOUGLAS McLEOD

HOUSTON—Two Bahamian businessmen, including a prominent Bahamas political figure, are facing charges that they used a bogus offshore insurer to defraud United States policyholders of more than \$50 million.

A federal grand jury in Houston has indicted George L.J. Wilson, a Bahamas businessman and political activist, and Norwood Rolle, an accountant, on multiple fraud charges stemming from their operation of the now-defunct Winston Hill Assurance Co. Ltd. of the Turks & Caicos Islands.

Starting in 1986, the two men created phony Winston Hill financial statements showing millions of dollars of non-existent assets to attract a wide range of property/casualty and life/health risks throughout the United States, the indictment alleges.

Winston Hill took in more than \$50 million in premiums over the next six years. By 1992, though, as it became a target of regulatory actions and lawsuits in numerous states, Winston Hill filed for voluntary winding

up in the Turks & Caicos, with Mr. Rolle as purported liquidator. Mr. Rolle later filed an ancillary bankruptcy petition for the insurer in federal bankruptcy court in Houston.

Mr. Wilson, Winston Hill's president and sole shareholder, pleaded not guilty before a federal magistrate judge on Jan. 5 and is being held without bail in Houston.

He was arrested last November as he arrived at Miami International Airport. The indictment, originally filed the previous month, was kept sealed until after the arrest.

"He did not believe he had done anything wrong and was on a routine business trip, like he's done every so often for many years," said Mr. Wilson's lawyer, Jack B. Zimmermann, with Zimmermann & Lavine in Houston.

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PHOTO: THE NASSAU GUARDIAN  
Mr. Wilson

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## Updates

### Roth sponsors savings bill

*Continued from previous page*  
ment without taxes being paid on the investment income earned on those contributions.

Other provisions in the bill would allow employers to contribute more to their defined benefit pension plans, even if their plans were relatively well-funded.

"This would be a step forward for retirement savings plans," said James Delaplane, vp-retirement policy at the Assn. of Private Pension & Welfare Plans in Washington.

### Alpine agrees to conservation

SOLVANG, Calif.—Alpine Insurance Co., a troubled unit of Exstar Financial Corp., has agreed to be placed in conservation by the Illinois Insurance Department.

Illinois-domiciled Alpine, which ceased underwriting last fall, "is unable to state with actuarial certainty its liability for incurred but not reported claims," the conservation order says. "Therefore, its current surplus as regards policyholders... appears deficient, and Alpine's stated surplus could mistakenly lead someone to believe that the company possesses the capacity to pay claims as they become due and owing."

Alpine reported surplus of \$2.4 million as of last Sept. 30, according to Richard S. Darling, chief operating officer with the Illinois department's Office of the Special Deputy Receiver in Chicago.

However, the insurer's problems include potential adverse loss development on its main contractor's liability line and related reinsurance coverage questions, Mr. Darling said.

The conservation order freezes Alpine's assets and halts litigation against the insurer until regulators assess its condition. Alpine may then either emerge from conservation or enter rehabilitation or liquidation.

"It's too early to say which way it's going to go," said Mark Rosenberg, Alpine's Solvang, Calif.-based treasurer.

Mr. Darling said he expects the conservation to last 30 to 90 days while the insurer develops a business plan.

In 1996, after California regulators denied it a license or eligible surplus lines status, Alpine shifted most of its business to Frontier Insurance Group's United Capitol Insurance Co. unit. Alpine initially acted as a reinsurer of United Capitol, but the reinsurance relationship later was terminated.

Another Exstar unit, WESTCAP Insurance Services Inc., continues to produce business for Frontier Group units.

### Aetna to offer external review

BLUE BELL, Pa.—Aetna U.S. Healthcare is going to pay for external review of health care coverage decisions.

Aetna U.S. Healthcare already offers plan members internal review of coverage decisions. But the expanded policy, which Aetna announced last week, will be implemented by June 30 in states that don't already mandate it. The new policy will permit members to request external reviews after the first- and second-level internal appeals have been completed. Once all necessary information is submitted, external reviews will be completed within 60 days.

An expedited external review will be available when a member's life, health or ability to regain maximum function would be in jeopardy if a decision were not rendered before the 60-day period elapses.

The policy also will allow any licensed physician to request an external review on behalf of a member, provided that the member consents to that doctor's representation.

Aetna U.S. Healthcare will bear the cost of the independent reviews except in those states that allow companies to charge plan members fees for requesting review.

### Columbia/HCA, Humana settle

FT. LAUDERDALE, Fla.—Columbia/HCA will treat Humana Inc. patients in Florida for three more months to end a dispute between the hospital chain and managed care company.

Humana had filed in state circuit court a request for injunction to force the hospital chain to treat Humana patients through March 31. Humana charged that its contract with Columbia/HCA, which expired Jan. 1, called for Columbia/HCA hospitals to continue to treat Humana patients during a three-month "runoff period." The three-month period was intended to allow Humana members who used Columbia/HCA facilities to find other hospitals.

The two sides reached an agreement before a judge could rule on the injunction request, according to a Humana spokeswoman.

The two sides may eventually sign another contract if disputes over Columbia fee increases can be resolved, she said.

*See Updates on page 22*

### Errors & omissions

Due to editing errors, two listings in the Dec. 28, 1998, Directory of Managed Care Providers contained incorrect information:

- The Evolutions Healthcare Systems Inc. listing misspelled the names of Chief Operating Officer Allen K. Cranford and Chief Financial Officer Jere Gulau and omitted Puerto Rico from the PPO's service area.

- Intracorp's POS listing incorrectly provided an HMO service area.

Due to incorrect or insufficient information supplied, two companies were omitted from rankings and a third contained an error:

- Beech Street Corp. would be the fourth-largest PPO based on total enrollment of 13,280,726.

- FOCUS Healthcare Management Inc. would be the second-largest workers compensation PPO based on total workers comp enrollment of 23,500,000.

- Prudential HealthCare's listing incorrectly included Arizona in the HMO service area.

# Hartford offers to settle

## Insurer denies hidden fees for residual market losses

By MICHAEL BRADFORD

MIAMI—The Hartford Financial Services Group Inc. is seeking to settle suits brought in 1997 by employers who accuse Hartford subsidiaries as well as other insurers of charging as much as \$1 billion in illegal residual market loads and other improper fees.

Lawsuits have been filed by employers in 13 states charging that insurers forced them to pay fees that were not authorized by regulators. These fees were used to stem heavy losses on business written in assigned risk markets,

the suits allege.

The plaintiffs are employers that bought retrospectively rated workers compensation coverage in the voluntary market and paid fees allegedly designed to cover their insurers' residual market losses. Workers comp insurers typically accept risks in assigned risk pools as a condition that states mandate for writing voluntary market coverage.

A Hartford spokeswoman confirmed it has offered \$12.6 million to settle all claims against its subsidiaries, but she would not comment further, except to say the insurer's offer of a settlement "is

not an admission of wrongdoing," and that it is in "our own and our customers' best interest" not to be involved in the litigation.

A hearing on the settlement proposal is scheduled for March 1 in U.S. District Court in Miami, where the Florida action was filed in January 1997.

Other settlements are expected, according to plaintiffs attorney Charles Ames of the Fred Misko Law Firm in Dallas. Confidentiality agreements prohibit the release of details related to settlement talks with insurers, he said.

"We're hopeful that ultimately

*See Fees on page 14*

# IRS rule lets workers boost

## 401(k) rollovers to IRAs

By JERRY GEISEL

WASHINGTON—Employees and employers alike will benefit from an Internal Revenue Service regulation that gives companies one more year to comply with a 1998 law designed to close a 401(k)/IRA tax loophole.

As earlier reported, IRS Notice 99-5 gives employers until Jan. 1, 2000, to comply with the 1998 law that bars hardship withdrawal rollovers of pretax 401(k) contributions to individual retirement accounts. This technique has allowed employees to avoid a 10% penalty tax that normally applies to 401(k) plan hardship withdrawals (*BI*, Jan. 11).

Employers had sought a delay in complying with the law, citing a need for more time to modify their benefit administration systems to separate the various types of funds—pretax, aftertax and employer matching contributions—involved in savings plans.

In addition to giving employers more time, Notice 99-5 also provides an interpretation of the 1998 law that will allow employees to roll over to an IRA more savings plan money than some experts originally thought. This new way of calculating hardship distribution amounts eligible for rollover to an IRA would apply this year for employers adopting Notice 99-5 in 1999. Otherwise, the new method of calculating

*See Tax on page 6*

# Gemini Re is born

HAMILTON, Bermuda—A former Centre Solutions senior executive and Bermuda's former minister of finance have formed a new reinsurer that will be capitalized with more than \$400 million.

Gemini Re Holdings initially will focus on life and health reinsurance and other long term liabilities, said David Brown, president and chief executive officer of the reinsurer, which earlier this month filed registration documents for an initial public offering with the Securities and Exchange Commission.

In the future, Gemini Re may expand to cover other lines, including mainstream property and casualty insurance, he said.

Gemini Re will write both finite and financial reinsurance coverages as well as conventional reinsurance coverage, said Mr. Brown, who was formerly president and CEO of

Centre Solutions (Bermuda) Ltd.

The chief financial officer of Gemini Re is Grant Gibbons, who was minister of finance for Bermuda before his party, the United Bermuda Party, was routed in elections last year (*BI*, Nov. 16, 1998).

Gemini Re will differentiate itself from other reinsurers by investing in managed investment funds as well as in bonds, Mr. Brown said. Traditionally, reinsurers place the majority of money in bonds.

The IPO is intended to raise \$400 million, and the capital of the company later will be increased by substantial private investments, Mr. Brown said.

Gemini Re is unrelated to a Cayman Islands company of the same name that was involved in a recent risk securitization deal of Allianz A.G. Holding (*BI*, Jan. 11).

—By Gavin Souter

# TPA

## directory

### upcoming

*Business Insurance* will publish its annual Directory of Third-Party Administrators on Feb. 15.

The directory is published as an editorial service, and there is no charge to be included. To be listed in the directory, a company must generate at least \$500,000 in gross revenue from handling claims for self-insured clients in the United States on a direct, unbundled basis.

If your company meets the requirements and has not received a questionnaire, please request one immediately by calling Assistant Directory Editor John Keagy at 312-649-5313.

Copies of the questionnaire also can be printed from the *BI* World Wide Web site at [www.businessinsurance.com/magazine/directories.html](http://www.businessinsurance.com/magazine/directories.html).

Completed questionnaires must be submitted by the extended deadline of Jan. 25.

**BI**

## Inside

- The Year 2000 Consumer Protection Plan Act of 1999, a bill introduced by Rep. Don Manzullo a few days ago, is a good start by Congress in dealing with the Y2K problem, this week's editorial says. **PAGE 8**

- Syndicate analyst Chatset Ltd. predicts that Lloyd's of London will sustain a loss of \$92.5 million for 1998 after members' agents charges and the Central Fund levy are assessed. **PAGE 15**

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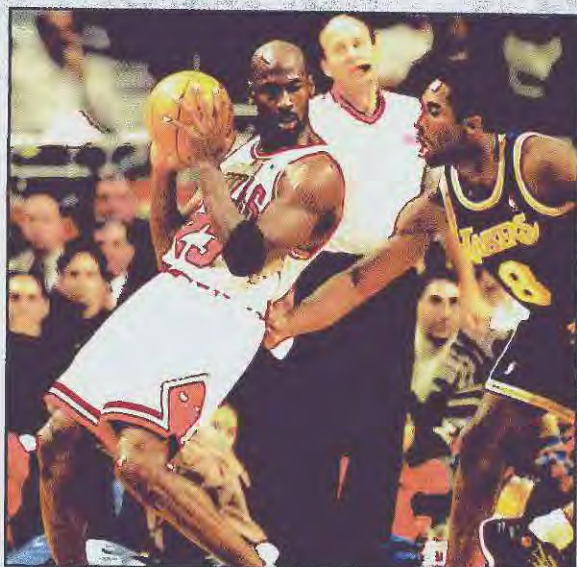


PHOTO: NBA  
Los Angeles Laker Kobe Bryant goes up against Michael Jordan of the Chicago Bulls in a 1997 game.

## Lakers miss shot at covering loss

Owner declined policy for lockout

By JOANNE WOJCIK

LOS ANGELES—The owners of the Los Angeles Lakers would have netted \$1.75 million in insurance recoveries to offset National Basketball Assn. lockout losses if it had accepted a contingency policy offered by the team's property insurance broker.

But California Sports Inc., the corporation that owns the Lakers and the Great Western Forum in Inglewood, Calif., where the team plays, did not buy the \$9.8 million policy because its \$1.5 million premium was too high.

"We talked to a number of the underwriters, and the insurance was available, but it was too costly," a Lakers spokesman said.

The coverage, assembled by Crump Financial Services Inc. of Nashville, Tenn., would have paid \$350,000 for four of each five canceled home regular season games above a 10-game deductible, according to Crump President Janet Carmichael.

She calculated that at least five of the 16 Lakers' home games canceled as a result of the 192-day lockout would have been covered, for a total insurance reimbursement of \$1.75 million.

"It was a great deal, actually," she said. "We don't usually do this (type of risk), but when Browning & Trudeau approached us back in January, I thought it would be fun. We probably spent a good nine months trying to put it together."

Los Angeles-based Browning & Trudeau is California  
See Lockout on page 21

## P/C execs hope to avoid broader industry's woes

By PAUL D. WINSTON

NEW YORK—The property/casualty insurance industry is feeling the pain of soft pricing, but some companies still see pockets of opportunity.

The keys, according to a panel of insurer executives, are to have data that reflects a company's true operating performance, be flexible in light of changing buyer needs, and make acquisitions for strategic purposes.

Apart from stiff competition, the panel said other issues the industry faces include worsening workers comp results, the failure of financial services modernization legislation and the Year 2000 computer problem.

The broad-ranging panel discussion was part of the 1999 Property/Casualty Industry Joint Forum, held last week in New York.

"I think, if we stand back and look at industry fundamentals, it's easy to conclude from the large capital, low growth and low returns that the industry is at a relatively mature stage," said James O. Matschulat, chief executive officer of Middlesex Mutual Assurance Co. of Middlesex, Conn. Indicators of this maturity, he said, include efforts to level the competitive playing field in the market by

lobbying for tax-free catastrophe reserves and the push to eliminate rate and form regulation, he said.

Other signs that the market may have reached its limits for growth, according to Mr. Matschulat, are that insurers increasingly are walking away from underpriced lines of business and that the "power of the distributor" is increasing.

"We're in for a long period of grim returns," he concluded.

But not all panelists agreed that growth prospects are reaching their limits.

"We're not a totally mature market yet, because there is constant change and new companies needing new products," said Maurice R. Greenberg, chairman and CEO of American International Group Inc. in New York. "Companies that are not responding to this need have limited growth. More flexible and efficient companies can still prosper," he said.

The panel also discussed the problems created by excess capital.

"As an industry, we are overcapitalized, and industry returns are subpar. But the mean is not an indication of how all companies are doing," said Ramani Ayer, chairman and CEO of Hartford  
See Forum on page 21

# California tort reforms may face new challenges

By ROBERTO CENICEROS

SACRAMENTO, Calif.—With Democratic Gov. Gray Davis now leading California, employers and insurers expect a tougher fight fending off legislation sponsored by plaintiffs attorneys and aimed at unraveling tort reforms.

Employers and insurers also expect a newly energized push to increase workers compensation benefits and to expand health maintenance organization liability, they said.

Insurer and employer representatives take some comfort in Gov. Davis' promise to chart a centrist course and think that could help them negotiate some compromises. But they also say it's "payback time" for the millions of dollars labor and plaintiffs attorneys contributed to his campaign.

Plaintiffs attorneys spent \$8.6 million on political contributions for legislative and statewide offices during last fall's elections, including \$3 million spent on Davis' campaign, estimates the Sacramento, Calif.-based Assn. for California Tort Reform.

"They expect a return on that investment, and there is going to be real tension, because Gray Davis has said he wants to govern from the middle—to be moderate—and, by our definition, some of the things that the trial lawyers want are definitely not moderate requests," said



NEWSMAKERS PHOTO

Gov. Davis

John H. Sullivan, ACTR president.

Gov. Davis was elected last fall and assumed office this month. State legislators are just now introducing bills for the session, and challenges employers and insurers expect to face are not new, such as increasing the cap on subjective, non-economic damages in medical malpractice cases and increasing workers compensation disability benefits. But labor and plaintiffs attorneys will make some gains

this year that have eluded them in the past, predicts Mark Webb, vp-state affairs for the American Insurance Assn. in Sacramento, Calif.

Gone are the days when business leaders could count on a Republican governor, Pete Wilson, to veto unfavorable legislation, they said. But those business leaders do foresee Gov. Davis asking labor, trial attorneys and legislators to present him with compromise legislation that will not chase business out of the state.

Plaintiffs attorneys want to increase to \$750,000 a state cap on medical malpractice compensation for subjective, non-economic damages, Mr. Webb said. They also want automatic adjustments for inflation. The state's Medical Injury Compensation Reform Act, passed in 1975, now limits such damages to \$250,000.

"That is definitely one of the cornerstone issues for the trial lawyers," Mr. Webb said.

Attorneys also are expected to renew a push for legislation allowing bad-faith lawsuits against a defen-  
See California on page 23

## Risk managers, insurers oppose regulation

# ADR growth draws scrutiny

By ROBERTO CENICEROS

As alternative dispute resolution grows in popularity, some states are reviewing whether regulations or guidelines are needed to avoid potential problems and whether the hiring of private judges is undermining the quality of public courts.

Concerns in some states include whether there is adequate oversight of court-appointed ADR practitioners and special masters, and whether the court system is being diminished as judges opt for better pay in private dispute resolution.

The scrutiny of the private system comes as risk managers and insurers increasingly turn to ADR as a more suitable and less costly system for resolving third-party claims, coverage disputes, employment practices claims and other complex issues. They say any regulation or legislation that would restrict their use of ADR would

be unwelcome.

For their part, states seem unlikely to tamper with the private use of ADR services, especially among commercial parties, and are likely to focus on public court-appointed ADR services, legal experts say.

The most commonly used ADR mechanisms are arbitration and mediation.

In arbitration, a "neutral" party, such as a private judge, rules on the facts presented by each side. Arbitrated decisions are often final and binding.

Arbitration is commonly required for resolving disputes under reinsurance contracts, and some insurers also require policyholders to submit coverage disputes to arbitration. While some arbitrations use a single private judge, or neutral, other arbitrations, including those used in reinsurance, rely on an umpire and two arbitrators, one for each side.

In mediation, a mediator is sought or appointed to help two sides that are willing to talk to reach a settlement. Courts also frequently appoint special masters to mediate disputes or side issues.

Former judges, attorneys or professionals with specialized expertise, such as accountants, can fill the role of mediator or arbitrator.

According to JAMS/Endispute, one of the country's largest for-profit ADR firms, most of the calls it receives are for mediation rather than arbitration.

In California, where ADR use is prevalent, Supreme Court Chief Justice Ronald M. George last year appointed a task force to study the impact of private judging and court-affiliated ADR services on the state's court system, litigants and the public.

One potentially negative impact of the growing use of ADR, court watchers say, is the possible creation of a  
See ADR on page 20

## Supreme Court to hear ADA cases

WASHINGTON—The U.S. Supreme Court will hear three cases that could further define the scope of the Americans With Disabilities Act.

The justices agreed to hear the cases last week. The question before the court in both *Sutton vs. United Airlines Inc.* and *Murphy vs. United Parcel Service Inc.* is whether people whose disabilities can be corrected still are considered disabled under the ADA.

The *Sutton* case involves twin pilots who were denied employment because of nearsightedness even though their vision was corrected by contact lenses. The *Murphy* case involved a truck mechanic who lost his job because of high blood pressure. In both cases, appeals courts ruled that the plaintiffs were not con-

sidered disabled and, therefore, could not pursue damages under the ADA.

In the third case, *Albertsons Inc. vs. Kirkingburg*, an appeals court ruled that a one-eyed truck driver who'd lost his job could sue his former employer for discrimination under the ADA.

Separately, the justices also ruled last week in *El Al Israel Airlines vs. Tseng* that air travelers suffering personal injuries that do not meet the standards set by the Warsaw Convention for airline liability can't sue for those injuries in state court.

The decision will have very little practical impact, though, because the Senate last year ratified an amendment to the Warsaw Convention forbidding such suits.

—By Mark A. Hofmann

# Y2K

Continued from page 1  
is aware of this issue and addressing it."

The bill would limit the impact of Y2K-related suits in a variety of ways. First, any suits seeking damages over a Y2K processing "failure, disruption or error" initially would go to mandatory arbitration. If that fails, plaintiffs would have to prove through "a preponderance of evidence" that the processing failure was foreseeable; the defendant's "action or inaction" as an end user—defined in the bill as "a party in possession of and using software and hardware"—was "unreasonable under the circumstances"; and that the loss was proximately caused by the defendant.

Mr. Markva noted that courts would define "unreasonable" on a case-by-case basis.

The bill would specifically exempt directors and officers from liability unless they failed to exercise due diligence in overseeing an act covered by the bill.

The bill would permit recovery for personal injury, including medical expenses, lost past and future earnings, and pain and suffering; wrongful death; property damage; and punitive damages. But pain and suffering would be capped at an amount equal to medical and hospital expenses. Punitive damages would be capped at three times actual damages and could not be awarded when only property sustained damage.

To be covered under the legislation, all Y2K-related cases would

have to be brought within two years of Jan. 1, 2000. In addition, all Y2K-related class actions—regardless of whether governed by federal or state law—would have to be brought into the U.S. district court for the district in which the failure occurred. Finally, the act would not cover suits arising "out of an express written contract" between the parties.

The bill has drawn praise from the New York-based Risk & Insurance Management Society Inc. for

**'I think the bill is a very good starting point for the whole question of Y2K liability,' says Ken Schloman.**

a number of reasons.

"Perhaps the best feature of the bill would be that, if enacted, it would give employers some kind of certainty as to their potential liability," said Anne Allen, director-government affairs for RIMS.

The bill contains much of interest to risk managers, said Ms. Allen. The measure's call for a clear and convincing standard of evidence before punitive damages could be awarded, the federal punitive damages cap, the statute of limitations and limit of liability for directors and officers to cases where they did not exercise due diligence are all welcome, she said.

Insurers also praised the measure as a sign that Congress is serious about dealing with the Y2K

problem.

"It has some interesting ideas in it, although we haven't had a chance to do a line-by-line analysis of it. It shows there is interest in dealing with the issue in Congress. Particularly with Reps. DeLay and Dreier as co-sponsors, it shows that there's real interest in the issue," said Melissa Shelk, assistant vp-federal affairs for the American Insurance Assn. in Washington.

"I think the bill is a very good starting point for the whole question of Y2K liability. I think the fact that the bill has been co-sponsored by Rules Committee Chairman Dreier and Majority Whip DeLay indicates that the whole Y2K issue will have priority in this Congress," said Ken Schloman, Washington counsel for the Alliance of American Insurers. Mr. Schloman said he believes legislation can move in time to be of benefit.

One of the nation's largest employer groups shared that sentiment.

"It's not incompatible with the direction in which we're going to go. We hope to continue the discussion on this, and we're happy they've started it," said Jan Amundson, general counsel for the National Assn. of Manufacturers in Washington.

Ms. Amundson said that the NAM and the Year 2000 Industry Working Group—a broad-based NAM-sponsored group that represents insurance, banking and health concerns as well as manufacturing and retail companies—plans to issue its own proposal soon. **BI**

# BI makes staff changes

CHICAGO—*Business Insurance* has made several changes to its Chicago editorial staff. Rodd Zolkos has been promoted to senior editor, Amy Kepka has been promoted to assistant graphics editor/online editor, and Lee Fletcher has joined *BI* as editorial assistant.

Mr. Zolkos, 43, joined as an associate editor in 1994, reporting on risk management, insurance and employee benefit issues.

Before that, he was a reporter for nine years at City & State magazine, which was published by Crain Communications



**Mr. Zolkos**

Inc., the publisher of *Business Insurance*. Prior to that, he was a managing editor and staff writer at Pioneer Press Inc. and was city editor of the Daily Herald-Journal in Monticello, Ind. He has a bachelor of arts degree in mass communications from Purdue University in West Lafayette, Ind.

He can be reached at 312-649-7784.

Amy Kepka, 24, joined *BI* as production assistant in 1997. In addition to assisting Graphics Editor Kathy Barnes with design and weekly production, Ms. Kepka also has assumed daily responsibility for *Business Insurance's* Web site, [www.businessinsurance.com](http://www.businessinsurance.com). The site formerly was managed by Amanda Milligan, who was promoted to associate editor.

Before joining *BI*, Ms. Kepka was an editorial intern at Atlanta Magazine in Atlanta and sports correspondent at the Topeka Capital-Journal in Topeka, Kan.



**Ms. Kepka**

She received a bachelor of science degree in journalism from the University of Kansas.

She can be reached at 312-280-3176.

Lee Fletcher, 22, joined *BI* in December 1998 as editorial assistant, succeeding Ms. Milligan. Her responsibilities include assisting the editorial staff and the directory department.

Before joining *BI*, Ms. Fletcher was a reporter at the City News Bureau in Chicago, which recently closed. She also has interned at several daily



**Ms. Fletcher**

newspapers, including the Cincinnati Enquirer and the Hamilton, Ohio, Journal News.

She has a bachelor of arts in English, with a concentration in journalism, from Miami University in Oxford, Ohio.

Ms. Fletcher can be reached at 312-649-5398. **BI**

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# Tax

Continued from page 2

amounts eligible for rollover would go into effect on Jan. 1, 2000.

"The net result is that employees will be able to roll over a little more than they otherwise would," said Larry Heller, a director in the Fort Lee, N.J., office of PricewaterhouseCoopers.

"It is very good news for the handful of employees who take hardship withdrawals and roll over those funds to an IRA," Mr. Heller said.

The IRS guidance applies in situations where an employee makes both pretax and aftertax contributions to a savings plan, takes a hardship withdrawal of contributions and then directly rolls over some of those contributions to an IRA.

An example, provided by benefit consultant Hewitt Associates L.L.C. of Lincolnshire, Ill., illustrates how the IRS guidance maximizes the amount of a hardship distribution that can be rolled over to an IRA.

Assume an employee takes a \$15,000 hardship distribution. The distribution includes \$6,000 in pretax contributions, \$4,000 in aftertax contributions and \$5,000 in earnings on aftertax contributions.

Prior to the 1998 change in law, an employee could roll over \$11,000—the \$6,000 in pretax contributions and the \$5,000 in earnings on aftertax contributions. Federal law does not allow employees to roll over aftertax contributions to an IRA.

Prior to the IRS notice, some thought that the new 1998 law meant only the \$5,000 in aftertax earnings could be allowed to be

rolled over to the IRA. But the IRS notice clarifies the way to determine how much money can be rolled over to an IRA from a hardship distribution comprised of aftertax and pretax contributions as well as earnings on those contributions. The methodology, benefit experts note, has the effect of raising the amount of money that can be rolled over into an IRA.

Under this new calculation, the amount of the hardship distribution eligible for rollover to an IRA would be the lesser of:

- The gross distribution minus the amount attributable to the aftertax contribution.
- The gross distribution minus the amount attributable to pretax contributions.

Using the IRS methodology for the above example, the gross distribution minus the aftertax contribution is \$11,000, while the gross distribution minus the

amount attributable to pretax contributions is \$9,000. As a result, the amount eligible for rollover is \$9,000, compared with an eligible amount of \$5,000 had the IRS not adopted this methodology.

The methodology proposed by the IRS increases the amount eligible for rollover to an IRA, said Michele Schwanke Halley, a consultant with Hewitt Associates.

However, if the employee failed to roll the \$9,000 distribution over to an IRA, a 20% withholding tax would be imposed on the amount. The employee in many situations also would pay a 10% penalty tax on the distribution.

To be sure, relatively few 401(k) plan participants—roughly 1% to 5%—opt for hardship withdrawals, say employers and consultants. An employee who needs money is more likely to take a loan, which is not subject to with-

holding or other taxes.

Furthermore, only a small percentage of those employees taking hardship withdrawals rolls over funds to IRAs.

In certain situations, though, rolling over a hardship withdrawal to an IRA and later withdrawing the funds makes much more sense than simply taking the money out of the savings plan.

One situation involves hardship withdrawals needed to pay for a child's college tuition. If the hardship withdrawal is taken in cash, a 20% withholding tax is imposed; if the employee is under age 59½, he or she also pays a 10% penalty tax. By contrast, an employee who rolls eligible funds over to an IRA escapes the withholding and excise taxes. **[B]**

## IRS proposes new tax tables

WASHINGTON—Newly proposed Internal Revenue Service tax tables would reduce the taxes paid by most employees on employer-provided group term life insurance with coverage exceeding \$50,000.

The tax tables, which would apply to insurance provided after June 30, are used to calculate the cost of employer-provided group term life insurance that must be included in an employee's taxable income.

Under the new tables, which would replace tables published in 1983, the current under-30 age bracket would be divided into an under-25 age bracket and an age bracket for those who are 25 to 29.

For employees under 25, the annual tax rate will be 60 cents for each \$1,000 of coverage above \$50,000, while the tax rate for employees aged 25 to 29 will be 72 cents for each \$1,000 of coverage. That compares to the current tax rate of 96 cents per \$1,000 of coverage for employees under age 30.

The new, proposed annual tax rates for each \$1,000 of coverage above \$50,000 for employees in other age brackets are: ages 30-34, 96 cents, down from \$1.08; 35-39, \$1.08, down from \$1.32; 40-44, \$1.20, down from \$2.04; 45-49, \$1.80, down from \$3.48; 50-54, \$2.76, down from \$5.76; 55-59, \$5.16, down from \$9; 60-64, \$7.92, down from \$14.04; 65-69, \$15.24, down from \$25.20; 70 and older, \$24.72, down from \$45.12.

Under the new tables, a 50-year-old employee who has \$150,000 in group term life insurance would have \$276 in taxable income for that coverage, compared with \$576 under the old tables.

The new tables reflect significant increases in life expectancy, the IRS says.

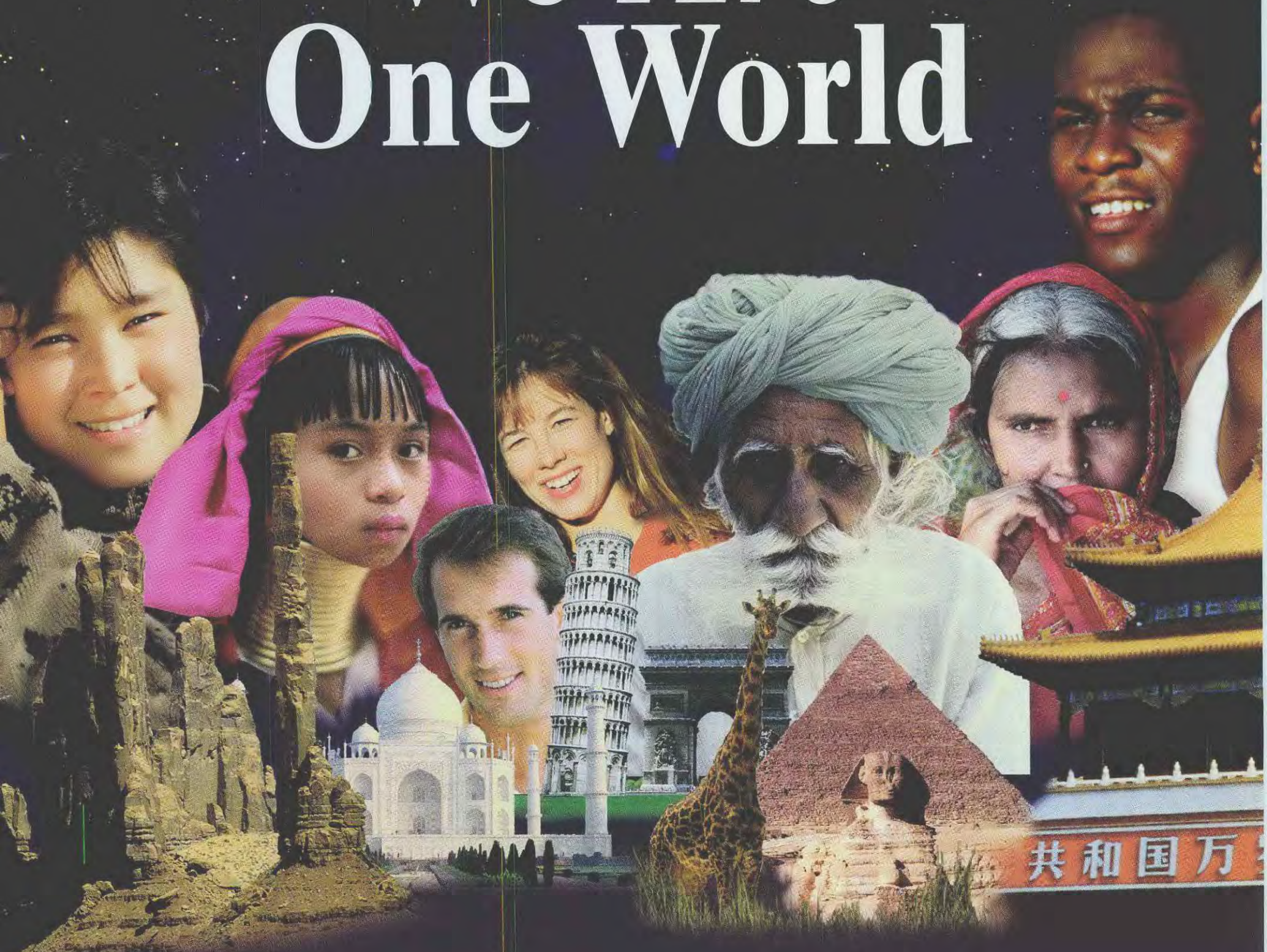
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## Opinions

## Bill would provide Y2K relief

**J**AN. 1, 2000, IS LESS THAN ONE YEAR away, and there's nothing any legislature on Earth can do to stop it from arriving on schedule.

But Congress can do something to mitigate what every risk manager knows will accompany Jan. 1, 2000—a potentially devastating computer glitch known as the Year 2000 computer problem. Congress can move swiftly to spell out more clearly who will be liable for what—and for how much—if and when computers and systems reliant on them start crashing with the new year.

Fortunately, Rep. Don Manzullo, R-Ill., provided a path for Congress to take in dealing with the Y2K problem a few days ago when he introduced the Year 2000 Consumer Protection Plan Act of 1999.

The bill is designed to do two things:

- Encourage businesses to find their computer problems and fix them.
- Head off the possible flood of litigants expected to fill the courthouses early next year.

The measure would apply some ideas that have long been advanced by advocates of broad-based tort reform to the specifics of the Y2K problem, most notably a cap on punitive damages. The bill also would require that disputes go to arbitration before they can proceed to court.

The measure builds on existing—though limited—legislative fixes for the problem. Most previous legislation has focused on either immunizing public entities from Y2K liability or easing antitrust laws so businesses could more easily share information about dealing with the bug. Rep. Manzullo's bill takes the legislative relief a step further.

Of course, no one, including the bill's staunchest supporters, expects the measure to be the final word on the matter. As Rep. Manzullo's legislative director points out, "we understand that other people want to add more, and we welcome their thoughts. We wanted people to know that Congress is aware of this issue and addressing it."

Rep. Manzullo, with the support of some key law-



OF COURSE, HERE'S ANOTHER WAY TO DEAL WITH IT...

makers, has put his bill on the table, and the House must waste no time in taking it up. The trick will be adding changes that would strengthen the bill—and keeping out those changes that would weaken its protections—during the short amount of time that remains before the effects of Y2K make themselves known.

No one knows how much chaos the Y2K glitch will cause. But one thing seems certain: The more widespread the computer crashes caused by the problem, the more state and federal courts will be inundated, as those harmed by the failure seek redress that could run into the hundreds of billions of dollars.

If the economy is mired in Y2K problems, one of the last things it could withstand would be a flood of Y2K-related lawsuits. Enactment of legislation built around the core elements of the Manzullo bill could go a long way toward preventing such a deluge.

## Letters

## Living on hope no way to tackle Y2K problem

To the editor: It is not very often that I take the time to write on topics of general discourse. However, given my intimate knowledge and involvement in the Y2K issue, I cannot help but speak out on the lack of depth and investigative review this issue is getting by the insurance press.

Panic and fear are based in hope and rumor. Much like those who experienced the sea changes at the turn of the last century, we are faced with a similar landscape. Just think of it—in 1899, when there was no Federal Reserve system and our banks were in chaos, our fuel supply was controlled by Standard Oil and the U.S. dollar had little or no international buying power. Today, we live in similarly chaotic times, amid the Asian financial crisis, the Microsoft antitrust hearings and the presidential impeachment.

The reality of evolution is that it has

two constants: change and paradigm shifts. Both of these are dynamic and are interdependent. Those who base their fate on hope are those who are destined to be most affected by change, and those who plan are those who are destined to gain the most by change. Paradigms are only plateaus of change.

The Y2K issue presents both change and the end of a paradigm. We are entering a new era of electronic commerce and entirely different ways of socializing. "You've Got Mail," anyone?

The issues explored in the Dec. 21 issue of *Business Insurance* clearly illustrate how the risk management community is living on hope. It appears that battle lines are being drawn between buyers and sellers of insurance. The bullets being fired are of the "covered" and "not covered" caliber. Instead of the industry developing test standards, scripts and patches, it is creating an industry of self-destruction.

As a member of the semiconductor industry, in the heart of the high-tech sector, and as project manager for our corporate Y2K task force and a corporate risk manager, I can only be proud of the solutions being delivered by Sematech, our industry association. The solutions are based on planning and execution, not hope and fear. We are not relying on ivory tower questionnaires, surveys and coverage disputes; we are relying on real solutions to real problems.

I challenge the insurance industry, especially the brokerage and commercial insurance community, to develop a test standard and advisory body that allows risk managers to truly have a risk management tool at their fingertips. Forget schlocky insurance products that are based on broken promises; deliver software patches, EEPROM (electrically erasable programmable read-only memory) flashes and test scripts that we can all test-run ourselves in a positive and constructive manner.

As Peter L. Bernstein opines in his 1996 book "Against The Gods: The Remarkable Story of Risk," "The revolutionary idea that defines the boundary between modern times and the past is the mastery of risk: the notion that the future is more than a whim of the gods and that men and women are not passive before nature. Until human beings discovered a way across that boundary, the future was a mirror of the past or the murky domain of oracles and soothsayers who held a monopoly over knowledge of anticipated events."

Today, I am sorry to say that the oracles and soothsayers for the insurance industry are the defense and plaintiff bars of this country.

**Mark R. McKay**  
Corporate Risk Manager  
Y2K Project Manager  
WaferTech L.L.C.  
Camas, Wash.

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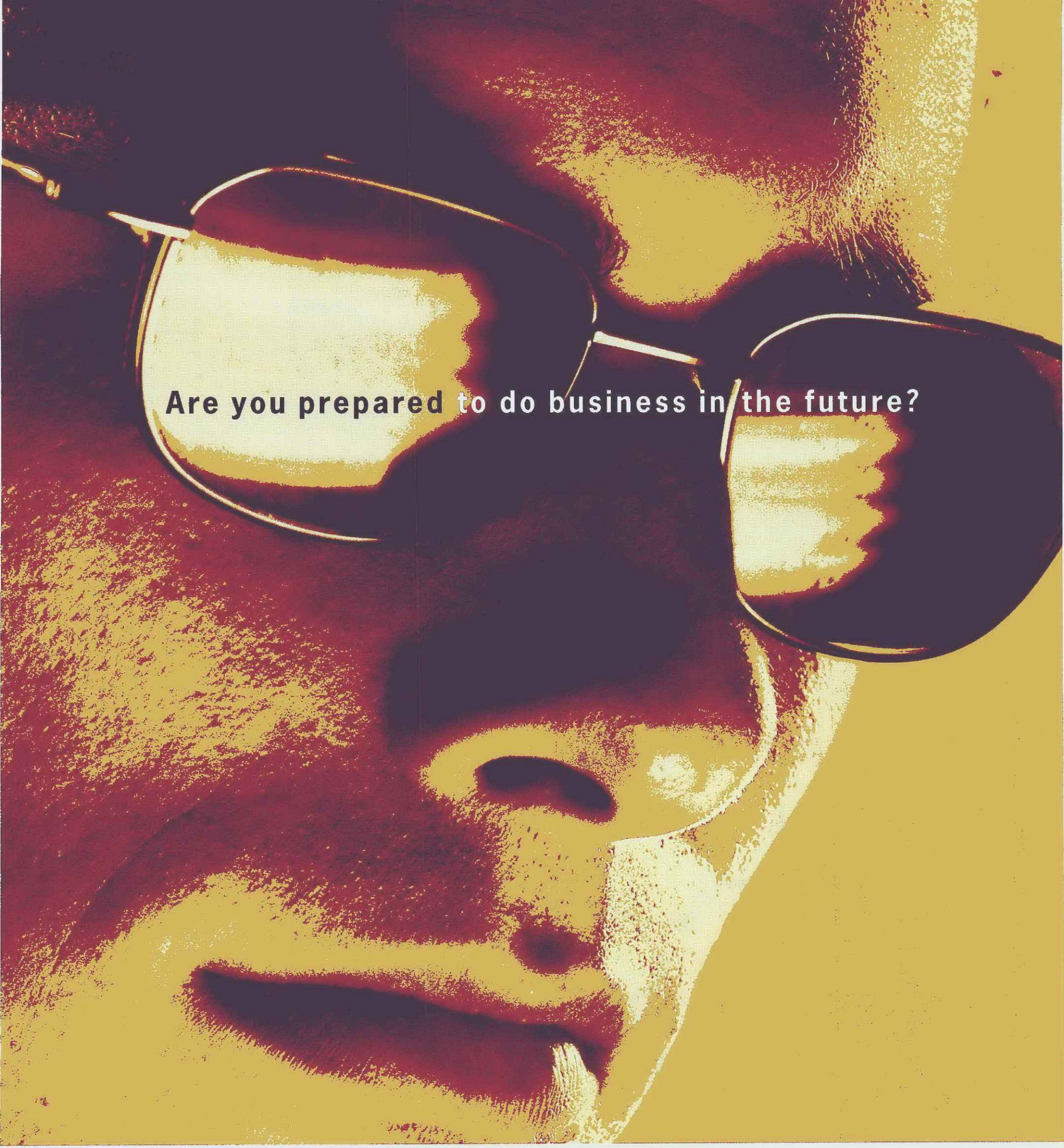
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■ Tillinghast-Towers Perrin provides an overview of the **U.S. property/casualty industry** from the perspective of industry executives. Request item 407.

■ A state-by-state analysis of **employment law** is available from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. Request item 408.

■ International Risk Management Institute Inc. offers a **commercial auto insurance guide** that helps employers understand exposures and the related ISO Business Auto Policy. Request item 409.

■ An article discussing **steps to take immediately after a loss** occurs is available from Deloitte & Touche. Request item 410.

■ A newsletter addressing the risks and liabilities of **construction and surety** is available from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. Request item 411.

■ A description of the **property and casualty insurance courses and programs** offered by the American Institute for CPCU and the Insurance Institute of America is provided in a booklet. Request item 412.

■ Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. offers a newsletter addressing legal developments of interest to **agents and brokers**. Request item 413.

■ Wisenberg Insurance+Risk Management offers an article on reducing the overall cost of risk for clients in **motor sports programs**. Request item 414.

A newsletter that provides updates on developments in **employee/labor law** is available from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. Request item 415.

■ A newsletter from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. discusses important developments within all areas of **general liability litigation**. Request item 417.

■ International Risk Management Institute Inc. offers a guide to **CGL and umbrella insurance**, with answers to routine questions on issues of general and excess liability coverage. Request item 418.

■ A newsletter from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. reports on timely issues in **securities litigation, securities arbitration and investment adviser registration**, among other topics. Request item 419.

■ A new study from J&H Marsh & McLennan explores **liability coverage data** for 23 U.S.-based industries. Request item 420.

■ A newsletter from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. focuses on developments in the area of **directors and officers liability**. Request item 421.

■ A flier that describes the **Chartered Property Casualty Underwriter (CPCU) professional designation program** is offered by the American Institute for CPCU. Request item 422.

■ A guide from International Risk Management Institute Inc. discusses ways to reduce, manage and insure executive risks such as **D&O, employment practices and fiduciary liability**. Request item 423.

■ Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. offers a newsletter addressing various **liability issues** such as lead poisoning, repetitive stress injury and brownfields. Request item 424.

■ A guide to **boiler and machinery insurance** from the International Risk Management Institute Inc. provides clarification of coverage issues and helps employers identify and fix coverage and claims deficiencies. Request item 425.

■ A periodic newsletter addressing various aspects of **accountant's liability** is available from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. Request item 427.

■ The Insurance Institute of America's three-course **Program in General Insurance** is described in a flier. The program is geared toward individuals in insurance-related occupations who require an understanding of insurance principles and policies. Request item 428.

■ A newsletter from CFR examines the problems that building owners face from **enforcement of building codes** and offers suggestions about what they can do to protect themselves. Request item 429.

■ A booklet from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. gives a state-by-state analysis of the **Punitive Damages Review and Unfair Claims Settlement Practices Act**. Request item 430.

■ A CFR newsletter discusses problems faced when **renting a vehicle for business purposes** and the related business auto policy coverage issues. Request item 431.

■ J&H Marsh & McLennan provides a primer on **wrap-ups**—or controlled insurance programs—used to provide risk management solutions for handling exposures related to single- and multiple-site construction activities. Request item 432.

■ A newsletter from Wilson, Elser, Moskowitz, Edelman & Dicker L.L.P. covers recent developments in **patent law, trademarks, copyrights** and other matters pertaining to unfair competition. Request item 433.

## FIDELITY & SURETY

■ A flier from the Insurance Institute of America describes the five-course **Associate in Fidelity and Surety Bonding designation program**. Request item 701.

## FINANCIAL SERVICES

■ Watson Wyatt Worldwide offers a study to help benefit managers evaluate the advantages and drawbacks of granting large amounts of **employee stock options**. Request item 802.

■ Hershey Financial Group offers a commentary on upcoming **insurance-related banking laws and trends**. Request item 803.

Continued on page 12

There's a new source for insurance compliance information

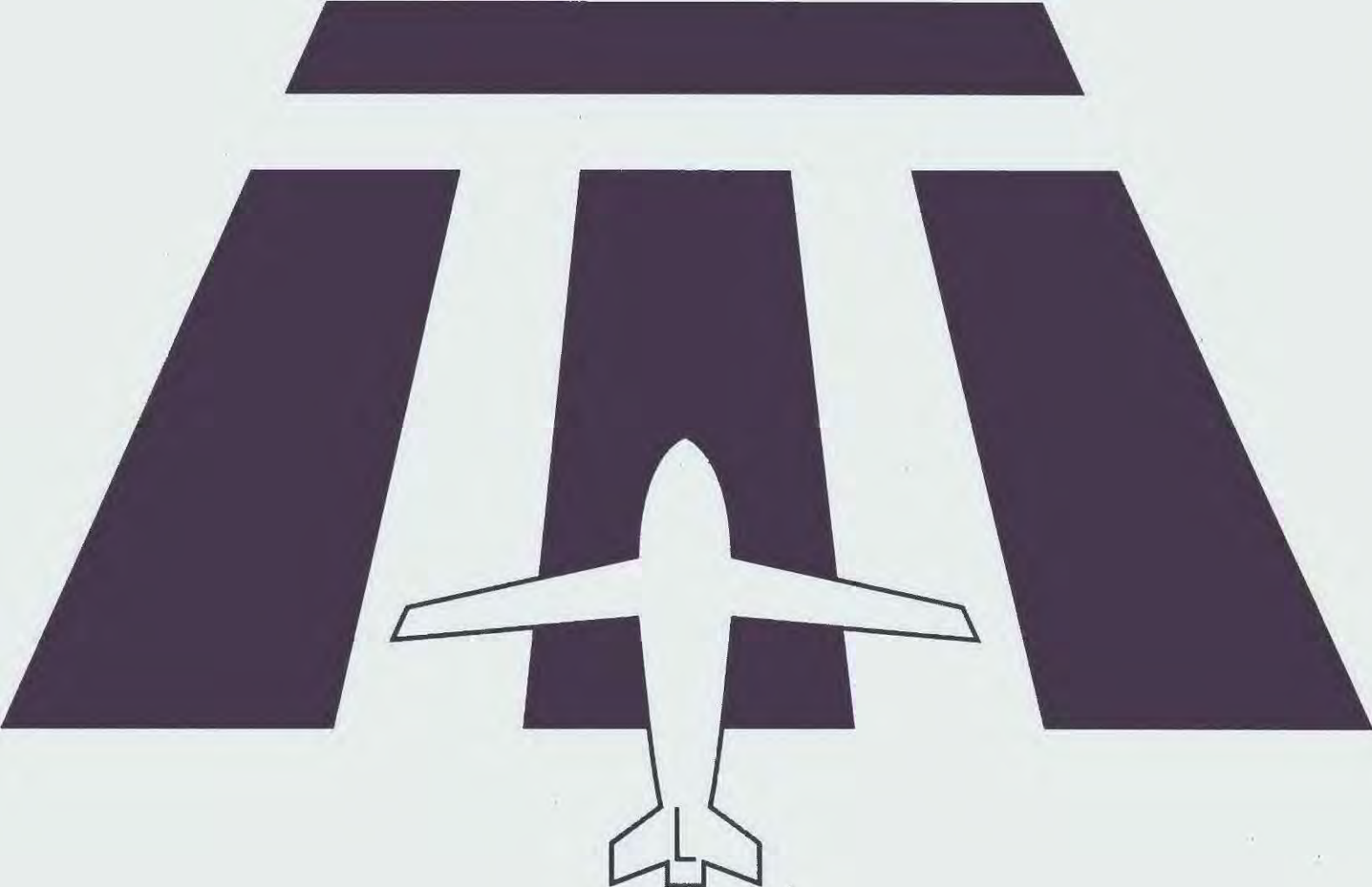
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**Swiss Re America**



**Management of Capital and Risk**

Continued from page 10

■ The Insurance Institute of America offers a flier on its four-course **Associate in Insurance Accounting and Finance designation program** for technical accounting, statistical and financial personnel at insurance companies. Request item 804.

■ Structured Financial Associates Inc. offers software that presents the basic definition and technical functions of **structured settlements**. Request item 805.

## INTERNATIONAL

■ Aetna Global Benefits offers a list of **usual and customary benefits** for more than 50 countries. Request item 901.

■ A Baker & McKenzie newsletter discusses worldwide developments on **labor, employment and employee benefit** issues. Request item 902.

■ Globex International Inc. offers a newsletter on **issues faced by companies that conduct business internationally**. Request item 903.

■ An article from Marsh & McLennan Cos. Inc. discusses the **impact of the Euro** on companies conducting business in Europe. Request item 905.

■ A Watson Wyatt Worldwide survey of executives from 23 countries explores the **business and people issues** that are critical to competing successfully in a global economy. Request item 906.

■ Articles from Employers Reinsurance Corp. analyze the **German liability insurance market**. Request item 907.

■ Employers Reinsurance Corp. offers a discussion of the **Euro and its implications for the insurance industry**. Request item 909.

■ Duncanson & Holt Group offers an overview of **long-term care insurance** around the world, including discussions of demographics, government programs and private insurance. Request item 910.

## LOSS CONTROL-PEOPLE

■ Comprehensive Health Group offers a pamphlet on how **drugs in the workplace** affect safety and productivity. Request item 1001.

■ An injury prevention program brochure discussing **lifting techniques, back exercises, ergonomics, safety promotions and back belts** is available from Heppner Risk Management. Request item 1003.

■ A guide to **protecting executives from threats** such as kidnapping and terrorism is available from Professional Indemnity Agency Inc. Request item 1004.

■ Case studies illustrating the effects of **injury prevention programs** involving back safety exercises, training, ergonomics and back belts is available from Heppner Risk Management. Request item 1005.

## LOSS CONTROL-PROPERTY

■ A booklet from American Re-Insurance Co. summarizes **post-judgment interest, pre-judgment interest and punitive damages** as applied by various states and territories. Request item 1101.

■ Driver Check Inc. offers an insurance video explaining the advantages of a **24-hour vehicle safety monitoring program**. Request item 1102.

■ The Insurance Institute of America's five-course **Associate in Loss Control Management designation program** is described in a flier. Request item 1103.

■ EQE International Inc. offers a recent **hur-**

**ricane report for Puerto Rico**. Request item 1104.

■ A publication on **preventing vehicle collision losses** is available from DriverCheck Inc. Request item 1105.

■ BMS Catastrophe Inc. offers a workbook with the **basic tenets of disaster recovery planning**. Included are discussions of current restoration technology and procedures. Request item 1106.

■ American Re-Insurance Co. offers an overview of **insurance coverage and environmental tort cases** in the United States and Canada. Request item 1107.

## MARINE

■ A flier from the Insurance Institute of America describes the six-course **Associate in Marine Insurance Management designation program**. Request item 1201.

## REINSURANCE

■ A review of **catastrophe reinsurance programs** in the United States, analyzing price, retention levels, limits of insurance and market placement is available from Guy Carpenter & Co. Inc. Request item 1301.

■ An expanded **glossary of selected reinsurance terms** reflecting the changing life/health and property/casualty insurance industry can be ordered from Gill & Roeser Inc. Request item 1302.

■ Information on recent developments as of the fall of 1998 in **insurance and reinsurance law** are available from Mound, Cotton & Wollan. Request item 1304.

■ Mound, Cotton & Wollan offers its spring 1998 newsletter on recent developments in **insurance and reinsurance law**. Request item 1306.

■ The Lincoln National Reinsurance Group Resource highlights trends in the group benefits market and information on **how to manage claims, develop products and understand the implications of regulatory and legal actions**. Request item 1307.

■ A booklet by Guy Carpenter & Co. Inc. reviews the **Year 2000 computer problem** and covers under existing insurance and reinsurance contracts, and explains reinsurers' approaches to the problem. Request item 1308.

■ A booklet from Marsh & McLennan Securities Corp. explains developments in **reinsurance and the capital markets for financing the recovery from catastrophic events** and shows how markets for these risks are likely to evolve in the next decade. Request item 1310.

■ A booklet from Guy Carpenter & Co. Inc. discusses topics that include the **globalization of reinsurance**, the integration of financial services, and merger-and-acquisition activity. The report analyzes the U.S., Bermuda, London and European markets. Request item 1311.

■ A summer 1998 newsletter from Mound, Cotton & Wollan contains recent developments in **insurance and reinsurance law**. Request item 1313.

■ International Risk Management Institute Inc. provides practical examples and case studies covering **products, strategies and trends in securitization, convergence and financial reinsurance**. Request item 1315.

■ The Insurance Institute of America's four-course **Associate in Reinsurance designation program**, designed for employees of reinsurance companies, reinsurance intermediaries, primary insurers and others, is described in a flier. Request item 1317.

## RISK MANAGEMENT

■ American International Cos. offers a pamphlet that explores Year 2000-related liability and insurance issues and risk management steps companies may take to **avoid or mitigate Year 2000-related directors and officers liability claims**. Request item 1401.

■ Information prepared by American Appraisal Associates Inc. explores how appraisals are used in establishing the **insurable property value** of historic buildings. Request item 1402.

■ Duff & Phelps Credit Rating Co. shares its system for **rating insurance-linked securitizations**, or so-called catastrophe bonds. Request item 1403.

■ A booklet from Victor O. Schinnerer & Co. Inc. explains how design professionals can **manage risk through contract language and negotiation**. Request item 1404.

■ Evolution Underwriting Services has developed a manual designed to help **expedition outfitters and guides manage liability exposure**. Request item 1405.

■ The Insurance Institute of America's three-course **Associate in Risk Management designation program**, designed to teach risk management problem-solving techniques, is described in a flier. Request item 1407.

■ Marsh & McLennan Cos. Inc. offers an article explaining why companies need to **consider business-oriented risks** as well as traditional hazards when forming their risk and insurance programs. Request item 1409.

■ Liberty Mutual Group offers a quarterly magazine consisting of **risk management articles directed at corporate insurance buyers**. Request item 1410.

■ T.E. Brennan Co. has published an article with a thorough discussion of **disaster planning** and step-by-step guidelines for formulating a company plan. Request item 1412.

■ VISTA Information Solutions Inc. has developed a guide designed to aid companies as they develop and implement **environmental risk programs**. Request item 1414.

■ An article from SIGMA Actuarial Consulting Group Inc. discusses factors driving the trend of **employee vs. employer lawsuits**. Request item 1415.

■ ICALM Group offers a practical checklist to assist in the evaluation of **claims and litigation management procedures**. Request item 1416.

■ Victor O. Schinnerer & Co. Inc. has produced a pamphlet addressing the Y2K issue and how the millennium will affect **professional design firms**. Request item 1417.

■ ICALM Group offers a guide highlighting **operational and contingency planning**, litigation coordination and legal expense audits. Request item 1419.

■ A manual developed by Evolution Underwriting Services is designed to help manage **recreational exposure** for members of the International Special Events & Recreation Assn. Request item 1420.

■ Law firm O'Brien & Hennessy offers monthly advice to companies on **claims subrogation issues**. Request item 1422.

■ ICALM Group offers a preliminary checklist of actions for **hotel and management personnel** with legal, financial, risk management and catastrophe planning responsibilities. Request item 1423.

■ Executive Risk offers a newsletter providing information on **employment-related law-**

**suits and vulnerability audits**, as well as the Age Discrimination in Employment Act. Request item 1424.

■ Network Medical Review Co. provides leaflets of general information about **evidence-based independent medical examinations and peer file reviews**. Request item 1425.

■ ICALM Group has published a handbook for **financial exposure containment** through practical management of liability problems and transactional costs. Request item 1426.

■ An Executive Risk newsletter provides information on the **Americans with Disabilities Act and sexual harassment**. Request item 1427.

■ Wisenberg Insurance & Risk Management offers an article highlighting the importance of **contracts as tools to reduce loss exposures and transfer risk**. Request item 1428.

■ ICALM Group offers a leaflet that highlights ways to simplify the process of finding, organizing and **using information in major litigation**. Request item 1429.

■ Executive Risk offers a newsletter providing information about **third-party employment practices liability claims** and the "glass ceiling." Request item 1430.

■ ICALM Group offers model guidelines for **litigation billing and reporting procedures**. Request item 1431.

■ American Re-Insurance Co. offers a guide to insurance coverage and liability issues in **sexual misconduct claims**, particularly sexual abuse during childhood. Request item 1432.

■ A newsletter by Executive Risk highlights **liability issues** related to managed care organizations' marketing. Request item 1433.

■ T.E. Brennan Co. is offering an information sheet that describes the **Year 2000 problem** and what companies can do to prepare. Request item 1434.

■ A one-page leaflet from ICALM Group offers a brief **guide to communications** that reduce legal costs. Request item 1435.

■ Marsh & McLennan Cos. Inc. offers an article that explains how companies can apply the **enterprise risk management** concept to guard against global economic challenges. Request item 1436.

■ Executive Risk offers a newsletter that includes a discussion of **medical exclusive contracts and risk management strategies** for exclusive contracts. Request item 1437.

■ BNA Books offers a newsletter explaining **sexual harassment** and how to deal with sexual harassment situations. Request item 1438.

■ ICALM Group offers an article about enhancing relationships with **defense counsel**. Request item 1439.

■ An article from Marsh & McLennan Cos. Inc. describes how multinational companies can establish **seamless international risk management programs** that still address regional and local issues. Request item 1440.

■ Executive Risk offers a newsletter that includes information on **fraud and abuse in managed care**. Request item 1441.

■ Victor O. Schinnerer & Co. Inc. provides a newsletter on **construction industry liability** issues. Request item 1442.

■ ICALM Group has published a list of questions for determining when and where to conduct **claim audits**. Request item 1443.

■ AIG Environmental offers a newsletter addressing **environmental liability issues**. Request item 1444.

■ J&H Marsh & McLennan Inc. offers a discussion of the **total cost of risk** and how corporations are using this approach to protect their earnings, manage processes and increase profits. Request item 1445.

■ ICALM Group offers 10 steps to successful and cost-effective **litigation management**. Request item 1446.

■ Executive Risk has published the 1997 Harris study covering **risk management at large law firms**. Request item 1447.

■ ICALM Group offers guidelines to make **legal bills from litigation and claims** easier to understand. Request item 1448.

## RISK MANAGEMENT INFORMATION SYSTEMS

■ DORN Technology Group Inc. offers information about how risk management information systems can be used to **reduce the number of paper documents while improving risk management processes**. Request item 1501.

■ EDS provides material reviewing **what data houses are** and how a risk manager can ensure

he or she gets the return on investment in better decision support. Request item 1502.

■ A DORN Technology Group Inc. brochure discusses the **sophistication of risk management information system applications** and the need for close working relationships between RMIS vendors and users. Request item 1503.

■ Health Risk Management Inc. offers a brochure discussing the reasons behind **medical risk exposures** and ways to reduce them. Request item 1504.

■ The DORN Technology Group Inc. has published material discussing how the **Internet can be used to help manage risks** when integrated with risk management information system applications. Request item 1505.

■ Deloitte & Touche L.L.P. offers a risk management information systems/lab methodology CD-ROM that serves as a guide through the necessary steps to **select, evaluate and implement** a new risk management information system. Request item 1506.

## SELF-INSURANCE SERVICES

■ Corbel offers a newsletter designed for health plan third-party administrators that provides the latest news, regulation updates and common questions and answers for **self-funded health plan professionals**. Request item 1601.

■ InPhoto Surveillance offers an analysis of court decisions relating to **disability surveillance**. Request item 1602.

■ Pacific Risk Management Services offers a pamphlet to help brokers, agents and benefits administrators stay up to date in today's **changing benefits marketplace**. Request item 1603.

■ Prime Insurance Syndicate Inc. offers a manual to help commercial policyholders manage **bodily injury claims** in the early stages after an accident. Request item 1604.

■ A Pacific Risk Management Services article highlights the **advantages of self-funding** for small to medium-size companies. Request item 1605.

## WORKERS COMPENSATION

■ Actec Inc. offers an informational packet that includes articles about companies' experience and promotion of **toll-free claims reporting service**. The packet also contains examples of standard reporting guides. Request item 1701.

■ American Re-Insurance Co. offers a guide to **workers compensation settlements** in the United States. Eight questions are asked in 51 jurisdictions that explain the circumstances allowing various forms of settlement. Request item 1702.

■ Crawford Insights is published by Crawford & Co. as an information resource for its current and prospective clients and associates in the casualty, workers compensation and group health environments. Its editorial focus is to cover key issues while offering **solutions to cost-containment problems**. Request item 1703.

■ Corporate Risk Management offers a booklet explaining **workers compensation retrospective plans**. Request item 1704.

■ CFR offers a newsletter discussing certified workplace medical plans in **workers compensation in Oklahoma**. Request item 1705.

■ The HJH Group Inc. has published material providing an overview of industry trends and events that affect **workers compensation and workers compensation managed care**. Request item 1707.

■ The Mid-America Coalition on Health Care offers insight into the demonstration project funded by the Robert Wood Johnson Foundation to improve the **timeliness of the communication process in the medical component of workers compensation**. Request item 1709.

■ AIG Claim Services Inc. offers a quarterly publication for brokers and risk managers. It examines workplace issues, **including workers compensation and modified duty programs for disabled employees**. Request item 1712.

■ SAC3 offers a booklet describing the **workers compensation insurance system** and recent industry trends. Request item 1713.

■ An article from SIGMA Actuarial Consulting Group Inc. discusses factors that drive the **workers compensation experience modification** up or down. Request item 1714.

## Addendum

The following item was omitted from the Jan. 4, 1999, employee benefit information resource section.

■ Duncanson & Holt Group offers a comprehensive overview of **long-term care insurance**, discussing topics such as underwriting, claim administration, policy design and marketing. Request item 546. **BI**

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# Insurer Topics

Business Insurance, January 18, 1999/ 12A  
A special editorial section  
sent exclusively  
to insurers and reinsurers

## Inside:

Swift action on  
financial services  
reform bill not  
likely in 1999

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Integration of  
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to create  
new challenges

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Insurers find  
best solutions  
to clients' needs  
through creativity

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## Banks in Insurance



Opening the way  
to broad changes  
in financial services

# Future of financial services reform unclear

By MARK A. HOFMANN

So close, and yet so far away.

That pretty much describes what happened to the chances of enacting financial services modernization legislation supported by producers and insurers alike during the 105th Congress.

And now, chances for swift action on something like last year's bill may be slipping even further away.

While there's general agree-

ment on why the legislation—H.R. 10—died during the final days of the 105th Congress' regular session, what will ultimately happen in the new Congress remains far from clear, particularly with the Senate likely to be embroiled in President Clinton's impeachment trial for weeks or even months.

But, according to some observers, failure to enact something like H.R. 10 in the next couple of years or so could lead to tensions within the insurer/agent coalition that backed reform, be-

cause some parts of that coalition could support federal insurance regulation as a means of leveling a playing field tilted in banks' favor.

After months of wrangling, the House approved H.R. 10 by a narrow vote last year. But the Senate's version of the bill came under fire from both ends of the political spectrum and both ends of Pennsylvania Avenue, and it ultimately died.

"It was time running out, but it was more complicated than that. While extraordinary progress had

been made in the final two months of the legislative session, the veto threat by the administration remained intact," said Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington. Even if the opposition of Sens. Phil Gramm, R-Texas, and Richard Shelby, R-Ala., had been worked out, the administration's opposition remained, he said.

Robert Rusbuldt, executive vp of the Independent Insurance Agents of America in Washington, said, "Really, the sheer force and determination of Phil Gramm combined with the veto threat of the administration" killed the bill.

"You had all the stars in the right alignment as never before" to pass a financial services reform bill, but the measure still failed, Mr. Rusbuldt said.

For Sens. Gramm and Shelby, the stumbling block was a provision concerning extending the Community Reinvestment Act to additional institutions, pointed out David Pratt, senior vp of the American Insurance Assn. in Washington.

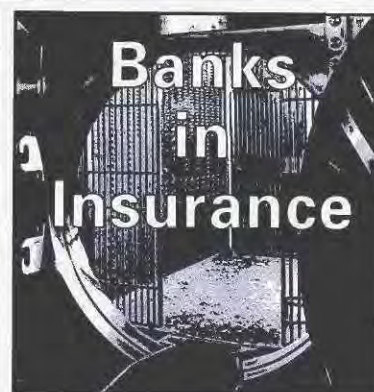
The CRA is a federal law that applies to federally insured depository institutions and requires them to, among other things, make loans and provide credit to the communities in which they operate. H.R. 10 would have created wholesale financial institutions—often referred to as "woofies"—that would not have accepted demand deposits and would not have been federally insured. The Treasury Department feared that large companies likely to form woofies would shift funds into woofies out of insured institutions required to operate according to the CRA. The Treasury wanted the CRA to apply to woofies as well, but Sen. Gramm opposed the move and effectively filibustered against H.R. 10.

Questions over how operating subsidiaries of national banks would be regulated also helped kill the bill, said Mr. Pratt.

Under one approach, favored by the Office of the Comptroller of the Currency, national banks could have set up as operating subsidiaries units in insurance underwriting, securities and real estate development. But neither the Federal Reserve Board nor the House Banking Committee, chaired by Rep. Jim Leach, R-Iowa, liked such a direct connection between banks and units engaged in potentially risky business. In fact, the House Banking Committee ruled out merchant banking, insurance underwriting and real estate development as permissible activities for subsidiaries, holding that they would have to be carried out by bank affiliates that would not put the bank at such a degree of risk.

"That has to be resolved for this year," said Mr. Pratt.

Despite the death of H.R. 10



last fall, the CIAB's Mr. Wood said that "far more progress was made than anyone had anticipated. We're hopeful Congress will pick back up on that momentum."

It appears as though the House and Senate will follow different paths in regard to financial services regulation.

"Everyone knows what Jim Leach is going to do: He's going to pick up where we left off. No one knows what Phil Gramm is going to do," said IIAA's Mr. Rusbuldt.

In fact, Rep. Leach introduced a new version of H.R. 10 the same day that the 106th Congress convened.

The IIAA had supported the House version of H.R. 10 because the bill held that in disputes between the OCC and any state insurance commissioner, courts were to decide the case strictly on its merits and not grant "deference" to the OCC position, said Mr. Rusbuldt. A provision had been stripped out of the Senate bill for disputes that arose before passage of H.R. 10.

"We believe that judges should make decisions purely on the law, and not deference. Senate stripped it out pertaining to pre-passage disputes," said Mr. Rusbuldt.

The IIAA declared its neutrality on the new bill earlier this month.

Proponents of H.R. 10 also note that the defeat of Sen. Alfonse D'Amato, R-N.Y., and his subsequent replacement by Sen. Gramm as chairman of the Senate Banking Committee will have some impact on reform's future, though exactly what the impact will be is far from clear.

"Obviously the situation in Senate has changed with the defeat of Al D'Amato," said Dean Sackett, vp-government affairs for the National Assn. of Professional Insurance Agents in Alexandria, Va. Sen. Gramm's position is "somewhat of a blank slate on some of our key insurance issues," he said.

"Everything is still open for further discussion," said Robert Diblee, senior vp-government relations in the National Assn. of Independent Insurers' Washington office.

No one thinks passing a bill will be easy.

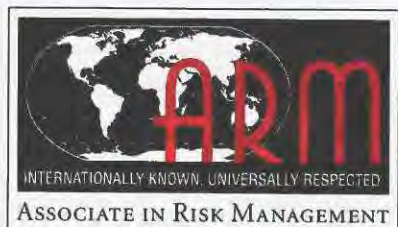
"But no one's under any illusions, particularly with D'Amato out of the Senate, that this is a bill that's going to be slammed through the Congress in

*Continued on next page*

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that would  
move the world,  
first move  
himself."

—Socrates

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Continued from previous page  
the first six months," said the CIAB's Mr. Wood.

The head of the American Bankers Assn.'s insurance operation took an optimistic view of a new bill's chances. "It's definitely not a dead issue for the following reasons: Chairman Leach introduced a bill at the end of the 105th Congress that represented the modified Senate version. He fully intends to introduce that bill early in the session. He has every intent to start that process immediately," said Larry LaRocco, managing director of the ABA Insurance Assn. in Washington.

A few days later, Rep. Leach did indeed do what Mr. LaRocco predicted.

"That means to me that it's out of the blocks quickly in the 106th Congress. But its fate from there is sort of unknown. We'll have to see what the new chairman of the Senate banking committee will do," said Mr. LaRocco, himself a former congressman from Idaho.

Mr. LaRocco said he does not expect to see financial services modernization legislation pass during the first half of the 106th Congress.

Proponents of reform clearly have their work cut out for them, noted one outside observer.

"Coalitions have to be re-established," said John Herzfeld, principal in consultant Milliman & Robertson's Wakefield, Mass., office. He noted the narrowness of support in the House, adding that interested parties will have to struggle and work together to get a new coalition.

"I imagine something will get through, but the tug of war will happen again. It's going to be slow and tortuous again," he said.

"I think there will be a drive for 'son of H.R. 10,' although I give it no better than an even chance," said Jim Overholt, head of M&R's financial services practice in Chicago and a former insurance executive.

"I don't think it's dead simply because of the musical chairs that has occurred in the congressional leadership."

Still, tensions remain within the coalition that fought so hard for H.R. 10.

"Obviously, our big issue is preservation of state regulation of insurance. We came on board in support of the bill because in the end it did provide the functional regulation that our members so actively pursued," said NAI's Mr. Dibblee.

Mr. Dibblee said the NAI also is concerned about the NARAB—National Assn. of Registered Agents & Brokers—provision, which would provide a national clearinghouse for meeting multi-state agent and broker licensing requirements. Mr. Dibblee called NARAB "an unnecessary regulatory burden better handled at the state level."

Such a position is diametrical-

ly opposed to that of the CIAB, which has championed NARAB as part of reforms.

"I would hope that modernization legislation would remain that—it would be modernization legislation that would benefit every sector of the affected industry," such as NARAB for agents and brokers with business that crosses state lines, said CIAB's Mr. Wood. "To the extent this is legislation of a significant reach, there should be provisions that enhance the ability of all the affected industries to compete more efficiently," he said. That might include, he said, deregulation of commercial insurance lines.

Congress may be forced to act by forces outside the political arena, said some observers.

"In regard to financial services reform, it is very clear to me that

*'I don't think (H.R. 10) is dead simply because of the musical chairs that has occurred in the congressional leadership.'*

— Jim Overholt

the marketplace is moving much faster than the Congress and at the present time will determine the shape and scope of the new

financial services entities of the 21st century, unless the Congress moves to create a road map for these institutions. But time is growing short," said David M. Farmer, senior vp-federal affairs for the Alliance of American Insurers in Washington.

"It is clearly up to the Congress to objectively determine the appropriate mix of state and federal regulation necessary to accomplish this task. We believe that the general outlines of H.R. 10 from the 105th Congress provide that road map, which preserves appropriate functional regulation and does not leave any institutions with

unfair regulatory advantages," Mr. Farmer said.

"I think the marketplace is going to move forward irrespective of congressional action. Obviously it's advantageous to have guidance from the Congress to avoid protracted litigation," agreed PIA's Mr. Sackett.

However, if Congress doesn't enact H.R. 10 or something like it within the next two or so years, some segments of the insurance industry appear likely to press for even more sweeping change.

"If it becomes apparent that this legislation cannot move because of political factors within

See **Reform** on next page

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# Reform

*Continued from previous page*  
the administration or banking community, I think ultimately you're going to hear a clamor within the insurance industry for a federal dual-chartering option so that the insurance industry can enjoy some of the benefits of a single regulator," said the CIAB's Mr. Wood. He said he believes that "within a couple or three years, there will be a very wide divide in the OCC's actions

as to how national banks exercise insurance powers."

"The banks have considered what the state of insurance regulation is and are confident that they will have insurance operations. They already have insurance operations. They could be, in a very short time, de facto federally regulated insurance operations. And consequently, the banks are considering ways other than state insurance regulation, like dual chartering," said AIA's Mr. Pratt.

If modernization legislation

dies outright in the 106th Congress, "we would probably put forward a federal regulator proposal," said the ABA Insurance Assn.'s Mr. LaRocco, adding "we see the success of the dual regulatory system in banking work" and believe that it could apply to insurance as well.

"As we move toward de facto federal regulation of insurance operations of national banks, we will have a dual system of regulation," said IIAA's Mr. Rusbuldt.

He made it clear that he thinks dual regulation is a bad idea, but

said that without a bill, reform proponents may have to make the best of a bad situation.

M&R's Mr. Overholt said he believes federal insurance regulation will come sooner rather than later and could have "much more viable potential in early 2000." Markets, mergers and technology—as well as fights among regulators—will drive such a move, he said, though it will stop short of total federal oversight.

"I think a dual system is probably going to survive, but much

the same as you have dual regulation in the banking system and securities as well. It would not be as cataclysmic as some people think," he said.

Not all reform supporters are willing to go so far.

"I think there is a real danger that some in the insurance industry will push for federal regulation as a quick fix if there is no financial services modernization," said PIA's Mr. Sackett.

"PIA has been and will continue to be a stalwart protector of state insurance regulation." **BI**

## Insurers starting to bank on integration

By RODD ZOLKOS

**W**hile the integration of banking and insurance has long been anticipated, 1998's \$70 billion megamerger of Citicorp and Travelers Group into Citigroup Inc. made it clear that such integration is fast becoming reality.

With that new reality are coming some very real changes in the way insurance agents and brokers and insurance companies will do business.

While some of those changes will create advantages on the insurance side of the ledger, some of them play to strengths that banks can bring to the insurance distribution table, and the reality of financial integration is not without potential benefits for agents, brokers and insurers.

"I think that Travelers-Citicorp is a great example of where the synergy between a very large customer list and the capability of providing that customer list with

a broad variety of new products is pretty attractive," said Ken A. Crerar, president of the Council of Insurance Agents & Brokers in Washington, D.C.

"Overall, I think the integration of insurance and banking is moving ahead pretty swiftly," Mr. Crerar said.

In fact, in the case of Citigroup, it moved so swiftly that it outpaced the federal legislation needed to amend current law banning bank affiliation with insurance companies.

H.R. 10, the bill that would have eliminated the Glass-Steagall Act ban on bank, insurance company and security dealer affiliation, died in the 1998 Congress. However, a similar bill has been introduced into the current session (see story, page 12B).

Without such legislation, Citigroup enjoys a two-year grace period on the banks-in-insurance ban under the federal Bank Holding Company Act. That grace period can be extended to a total of five years with permission of the Federal Reserve Board.

"I think the Citigroup transac-

tion really is a harbinger of what is to come," said Douglas J. Elliott, managing director and head of the insurance practice at investment bank Sandler O'Neill & Partners L.P. in New York.

"But I think they may have jumped the gun a little bit, in that it now looks like legislation won't happen until the year 2000, and there's some question as to whether it will happen even

*'Overall, I think the integration of insurance and banking is moving ahead pretty swiftly.'*

—Ken A. Crerar

then," Mr. Elliott said. "I think given the uncertainties, many companies are going to hold back from making as drastic a step until the legislative picture clarifies."

But many see the ultimate passage of financial modernization legislation as inevitable, and so the insurance, banking and securities industries are all moving to prepare themselves for the change.

Whatever the short-term outlook on the legislation, on a long-term basis, Mr. Elliott allowed, "I think many other companies will go the route Citicorp-Travelers has."

"I've always thought it was inevitable, and I've taken a lot of flak for that," said George Nordhaus, chairman of Los Angeles-based Insurance Marketing & Management Services.

Among other reasons, Mr. Nordhaus said, it's natural for banks to get into the insurance business as a way to take advantage of the fact that their data management capabilities and information systems are superior to those of insurance companies.

"And I've always heard the criticism that 'Banks can't sell' or 'Banks won't sell' insurance," he said. "But then the Internet came along, and we began to see the deterioration of some personal lines books of business."

With the opportunity to purchase insurance online, "No in-

dependent agent out there is going to have a customer who's not going to know that they can get the same product somewhere else cheaper," Mr. Nordhaus said.

"Now that doesn't mean everybody else is going to get it cheaper," he said. "But I think we're beginning to see the banks flood the country with the idea that 'You can get it here. And you can pay for it easier.'"

The latter advantage—the ability to transfer customers' premium payments directly from their accounts—is a significant one, Mr. Nordhaus said.

"Another effect is it's forcing delivery costs down," the IMMS chairman said. "What they're doing is making some people more and more aware of the cost basis."

Consequently, agents and insurers must find ways to reduce their business costs in order to compete with banks.

For agents to survive in competition with banks, they're going to have to emphasize relationships with policyholders, treating them as "clients" rather than "customers," Mr. Nordhaus said.

The insurance products banks are most likely to offer are "commodity" products. Such products are fairly standard from customer to customer and involve little need for sophisticated information from policyholders, said Mr. Crerar of the Council.

"Personal lines commodity products—a product that you can deliver to a customer without a lot of information. That's one segment of the market that's being impacted by this consolidation," he said.

"As it relates to the insurance brokers and agents who are essentially providing counsel—the middle and larger markets—I think the activity there is basically teaming (with banks)," Mr. Crerar said. "A bank might not want to sell that product because it means they're going to have to service those customers."

But transactions such as the one last year in which Chase Manhattan Corp. joined a consortium of insurers to purchase a majority stake in broker USI Holdings Inc. may be typical of one way banks can participate in that sort of "teaming." It would



get them into the insurance business without requiring them to provide the kind of service large commercial customers would expect, Mr. Crerar said.

In terms of distribution of many personal lines of insurance and some coverages to small businesses, banks hold some significant advantages over the existing methods of insurance distribution, Mr. Elliott said.

"The banks bring some powerful advantages to the distribution of insurance that insurers don't start with," he said. For example, banks typically enjoy greater customer loyalty than do insurance companies, he said, and they also have facilities in more places than do insurance companies.

"Another of these may sound trivial but really gives you some advantage: If you get mail from your bank, you open it," he said, meaning banks' marketing materials should be well-read if included in mailings.

"What most banks are going to do is affiliate with an insurance agency and get some commission for the business they bring an insurance company," Mr. Elliott said.

But there will be some banks "that will have a clientele that will be highly desirable to insurers, but the insurer isn't willing to pay a lot of commission to get," he said. In such cases, those banks might see advantages to creating their own insurance company or forming a joint venture operation with an existing insurance company.

Mr. Elliott noted that customers' credit ratings are considered to be good predictors in insurance underwriting, and, though there may be some questions concerning how the information can be used, banks already possess a host of information on their customers' credit profiles.

See **Integrate** on page 12F

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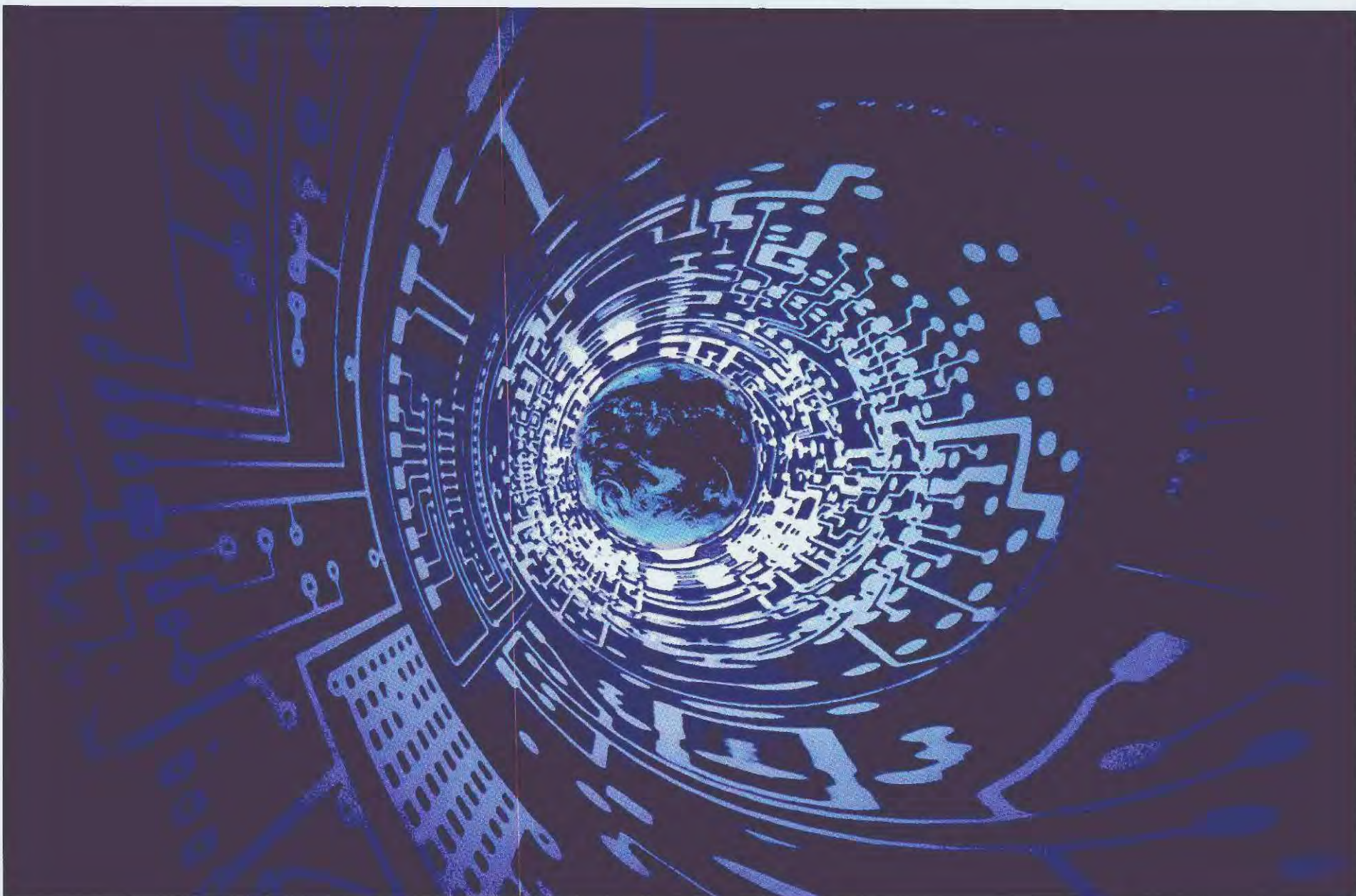
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# Integrate

Continued from page 12D

One more reason for banks to seek entry into the insurance business is that many banks are placing increased emphasis on asset management.

"A natural way to expand assets under management is to own an insurance company that brings in assets you're managing," Mr. Elliott said.

"We've definitely talked to banks out there who think that in the long run, insurance companies might be good investments," the investment banker said.

"There are a lot of reasons why banks and thrifts will affiliate with insurance companies coming from the banking side," Mr. Elliott said. Meanwhile, from the insurance companies' perspective, perhaps the greatest reason for such affiliations is the opportunity to reach a broader market.

Despite an "enormous fear" of this process among many agents and brokers, "I think there are a lot of exciting opportunities for brokers and agents," the Council's Mr. Crerar suggested.

Mr. Elliott added that while there might be great opportunities for banks in selling insurance

products, insurance agents might well find new chances for business coming from affiliations with banks as well.

"I've talked to some insurance company executives who think the biggest opportunity for insurance agents is to sell bank products—for example, mortgages," he said, adding that such products also could include certain consumer loans or certificates of deposit.

One advantage the insurance industry has over banking is a superior marketing ability, and if such financial products are made readily accessible to insurance agents, "they might be able to generate quite a lot of bank product business," Mr. Elliott said.

Banks also have a great ability to provide agents "hot leads," he said. "And oftentimes they're providing them at a time that's directly relevant. If somebody's buying a home and applying for a mortgage, I bet they're buying house insurance."

In starting relationships with banks, however, agents, brokers and insurance companies need to keep several factors in mind if the arrangements are to be truly successful, say those advising brokers and insurers on such transactions.

"They need to understand the client base that the bank or thrift

has, because there are significant variations in the demographics and other characteristics of the way the bank itself is marketed," Mr. Elliott said. Thus, an insurer or agent must determine whether the bank's customer base is compatible with its own market.

They also need to examine closely the quality of the bank's management.

Further, "They need to strongly think about how they are going to integrate their activities with those of the bank," Mr. Elliott said. "If you just put a desk in the bank lobby, you're probably not going to sell that much insurance."

Instead, in order to gain maximum advantage, the bank and insurance entities entering those relationships need to rework the way they do business, he said.

"What we've seen is that banks and insurance distributors who take the integration seriously can generate a lot more business than companies that don't know quite what they want to do and have just wandered into it," he said.

For its part, the Council has advised members who are looking to sell with banks to start from the basis of their own strategic plan, always keeping their own customers in mind.

They also should take a close

look at the existing regulatory environment and what it allows, the Council advises.

Overall, perhaps the most significant impact of the Citigroup deal is that it has forced those in the insurance business to rethink where that business fits in the scope of a broader industry.

"What the Citicorp-Travelers merger signaled to the whole industry is that we were just a sub-segment of a larger industry," the Council's Mr. Crerar said.

"We're now one segment, and we're going to have to adjust to that," he said. "I think the whole industry's responding to that."

BI

## Creative approaches important to finding, meeting market needs

By Kimberly Paterson

**T**HE INSURANCE INDUSTRY is steeped in competition, and relief is nowhere in sight.

Yet even with the adverse business conditions and immeasurable pressures of today's market, the opportunity exists for insurers to flourish. One way they can do so is by adopting a creative approach to developing and delivering products and services.

All too often in insurance, creativity means fitting a risk into a class where it isn't traditionally written or finding a way to write an account at a lower price.

But these solutions are temporary at best. The long-term answer—and, ultimately, what will distinguish the winners from the also-rans—is the ability to identify real market needs and find creative ways of meeting them.

Examples of this abound in other industries. In a good business hotel, for example, every aspect of the service delivered is based on an acute knowledge of business travelers' needs and a commitment to fulfilling them.

Because the hotel knows I don't have time to wait in line in the morning, I can check out via the TV in my room. Imagine the looks that went around the room when some brave employee first made that suggestion. What's more, if I have a fax to send or need an extra phone line for my modem, my room is probably equipped appropriately. If not, the hotel's business center surely has what I need.

Now, contrast that to the insurance industry. In the 20 years I've been buying business insurance, the four major insurers I deal with—and they're all household names—have done little to improve their products and services from a

### IT Perspective

customer perspective.

As it was two decades ago, billing remains a hassle. Not only are statements difficult to read, but if I have a change on my policy, it can take months to get the billing straightened out.

What's more, every year at renewal, I have to fight with companies to prove our subcontractors are independent businesspeople and not employees of our firm. I fill out the same forms for the same people and submit them to the same companies each year. It's as if they have no prior knowledge of me or my business.

Aside from these "service" issues, the companies that insure my business have done so with basically the same products for 20 years. They've made minor changes in policy wording—usually new exclusions—but nothing that represents a real improvement in terms of products and services. To me, that would be like checking into a business hotel and finding your room outfitted with a black-and-white TV and rotary-dial phone.

As more and more banks, investment firms and other outsiders get their hands in the insurance pie, it's inevitable that someone is going to turn the industry upside down. So the challenge facing insurers is to beat them to the punch.

To do that, insurers need to focus on and nurture creativity in their organizations. Here are some ways to do that.

### Make a commitment to product development

Creating products and services that fill a real need in the marketplace requires a steadfast commitment to product development. When underwriters, field offices and marketing are the ones developing products—and they're doing so in addition to the primary requirements of

their jobs—product development usually takes a back seat.

But in today's market, product development really needs to be someone's full-time mission. It also should be high up on the corporate agenda so that it gets the attention it truly deserves.

### Hire creative talent

The industry needs to start hiring creative people to breathe new life into the product development process—people who have different skills from those traditionally recruited by the insurance industry.

For example, underwriters are trained to look for risk in the situations they face, and that can shut down creativity. Claims people approach scenarios with caution and skepticism, and that too can clamp down on creativity. While it's important for underwriters and claims people to have these attributes, it's equally important that product developers do their creative thinking unencumbered by the restraints of traditional industry disciplines.

Other than being held back by its notoriously low self-image, there's no reason the insurance industry can't attract bright, creative thinkers. Companies must recruit these kinds of people. Bringing in creative people can begin to transform the company one meeting, one conversation, one new product at a time.

### Provide an environment that lets creativity flourish

Companies that consistently come up with fresh, creative products do so, in part, because their workplaces facilitate creative thinking.

At these places, top management develops and demonstrates a creative attitude that is reinforced throughout the organization. They encourage risk-taking and never frown upon people who put new ideas on the table.

When you're trying to

See **Creativity** on page 12H



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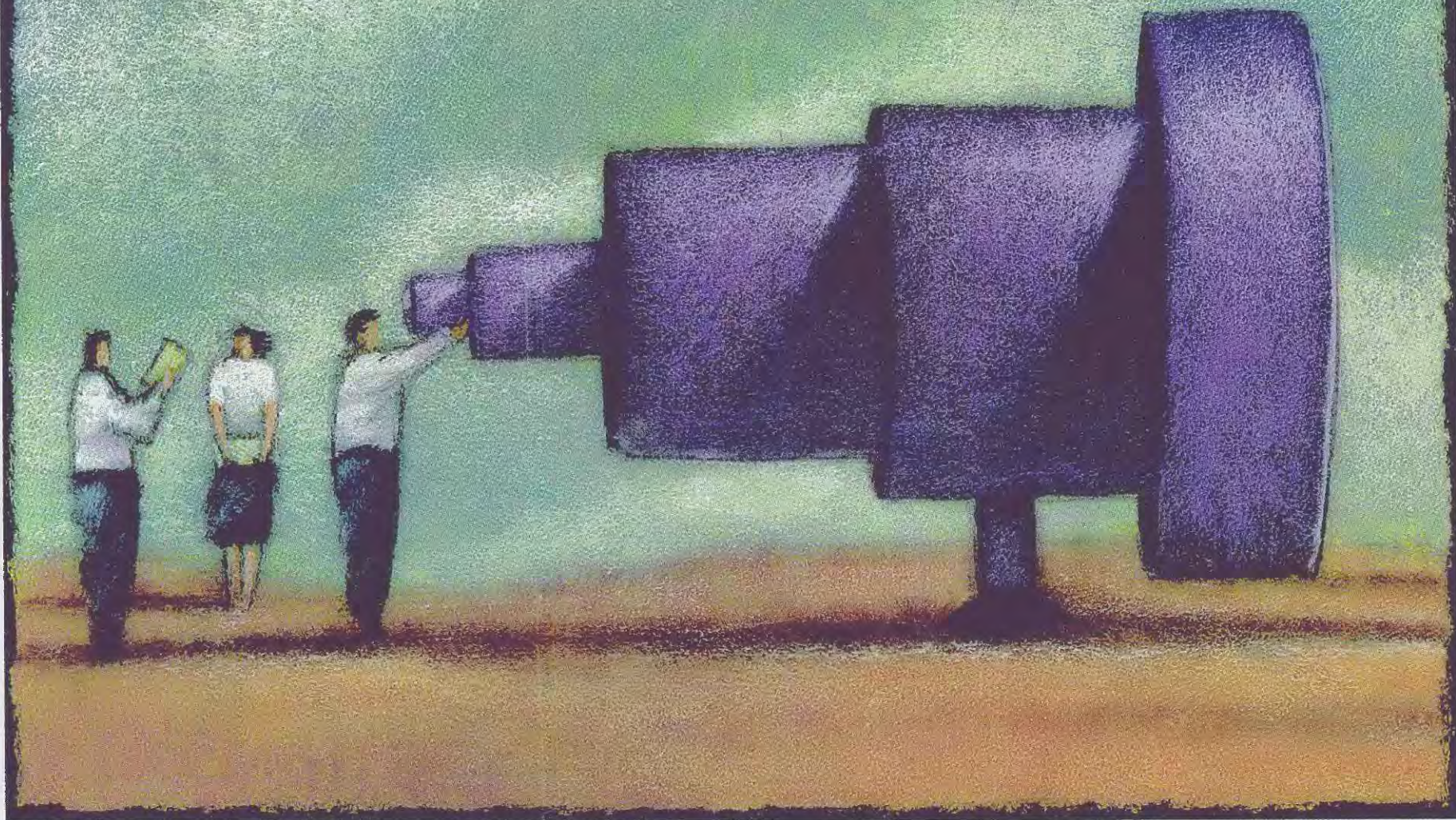
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# Insurer Topics

## Creativity

Continued from page 12F  
establish a creative atmosphere, one concept that's especially effective is to outlaw what I refer to as "bazookas," otherwise known as "idea killers."

Whether it's with a comment, joke or body language, bazookas are people who always seem to be saying, "We can't do that" or "We tried that" the moment someone comes up with a new idea. Their actions can totally shut down the creative process. I highly recommend mandating zero tolerance of their type.

### Use a brainstorming process

At creative services companies, brainstorming is a carefully structured, planned process that's designed to generate the best possible results. It's not just a group of people sitting around a table discussing the issues.

Who attends the session is a key concern. To get fresh

thinking and creativity, invite people from other areas of the company who have responsibilities unrelated to the specific task at hand.

If you're brainstorming for solutions to a marketing problem, don't just invite people who have traditionally handled your marketing efforts. While you want a few people who know marketing well, you also want several who don't, because they won't be encumbered by past experiences or preconceived notions.

As far as how many people to include, we always try to involve eight to 12 people. In our experience, a dozen or so people is a large enough group to generate numerous ideas, yet it's small enough to get good interaction among everyone in the room.

As the session progresses, the goal is to come up with as many ideas as possible. A few tricks of the trade can help you keep the stream of ideas flowing.

Make sure you've got the right

resources and stimuli in the room. For example, as the ideas start to dry up, display an essential fact, figure or trend that is affecting your business and customers. Post it in a place where everyone can see it, then discuss it for a few moments. When things get slow again, post another fact and talk about it for a while. This is a process that should bring out new ideas as long as there are facts, figures and trends to post.

Sometimes taking a few steps away from the insurance industry can help you see things in a new light. For example, make use of analogies from other industries. Consider how automakers solve product development problems, or think about how Nike would address a particular market need.

Later on, when the new ideas are really getting thin, try introducing completely unrelated thoughts to free your mind. Ask people to describe their favorite movie scene, for example. Once everyone has

taken a turn, try to connect the scenes to the task at hand. Although this technique may seem a little bizarre at first, it has stimulated more than a few unique product ideas through the years.

Whatever happens in a brainstorming session, it's essential to completely suspend judgment on any of the thoughts and ideas presented until a later time. Here again, it's the no-tolerance-for-bazookas concept.

While a careful and thoughtful evaluation process is critical, the initial brainstorming session is not the time or place for it. The challenge in a brainstorming session is to get as many ideas on the table, no matter how far-fetched or off the wall they may be. Tell participants that idea killers and negative comments have no place in a brainstorm, and be sure to enforce that rule.

### Conclusion

Finally, your ability to generate products and services

that benefit from creative thinking ultimately stems from management's commitment to the creative process. Management that has a tendency to play the bazooka role sends a signal that can squelch creativity throughout the company.

On the other hand, demonstrating a top-down commitment to creativity and showing that it's part of your organization's daily approach to the business will help foster the consistent development of creative products and services. **BI**

Kimberly Paterson is president of Creative Insurance Marketing Co., a Red Bank, N.J.-based consulting firm that specializes in insurance industry issues.



## Industry to host skating fund-raiser

The insurance industry hopes to raise more than \$500,000 for children suffering from cancer when it teams up next month with the New York Rangers hockey team for the fifth annual "Skate with the Greats" fund-raiser.

The event, sponsored by New York-area insurance industry professionals, will be held the evening of Tuesday, Feb. 9, at Wollman Rink in Central Park.

Participants pay \$500 to \$1,000 for an opportunity to skate and chat with Rangers players and participate in an auction of sports memorabilia.

Proceeds of the fund-raiser will go to the Ronald McDonald House of New York City, which provides tem-

porary housing to pediatric cancer patients being treated at any New York hospital and their families.

The co-chairs of this year's event include Colin Devine of Salomon Smith Barney, Robert Mebus of Standard & Poor's Corp., Thomas Walsh of Pricewaterhouse-Coopers L.L.P. and Greg Wilcox of The Equitable Cos.

Rangers legend Rod Gilbert and current captain Brian Leetch are honorary chairmen.



PHOTO: UPI

New York Rangers stars past and present will lace up on Feb. 9 for "Skate with the Greats," an insurance industry event that aims to raise money for children suffering from cancer.

For information on tickets or the event in general, call Event Associates at 212-245-6570. **BI**

### IT Briefs

#### Cloney retires

WASHINGTON—Gordon Cloney has retired as president and chief executive officer of the International Insurance Council.

Mr. Cloney, who had been with the Council for more than two decades, will continue to serve as a senior adviser to the organization as he launches an international advisory and consulting practice. No successor has been named.

The IIC, based in Washington, works to foster open insurance markets and to advance the interests of the international insurance industry. The IIC was founded by U.S. insurers involved in interna-

tional trade.

#### NAMIC policy

INDIANAPOLIS—The National Assn. of Mutual Insurance Cos. released a formal policy earlier this month advocating that mutual insurance company management should have access to all possible corporate structural alternatives.

The policy is the key conclusion of a NAMIC white paper produced to help the association's 1,200 member companies address possible considerations of demutualization and other alternatives to the mutual company structure.

Though advocating companies' access to all possible structural alternatives, the white paper also concludes that the mutual form remains a viable one. **BI**

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### Correction

Sam Tassel of Admiral Insurance Agency in Lynn, Mass., was misidentified as Frank Tassel in a Dec. 21, 1998, *Insurer Topics* story on weather insurance programs.

### Insurer Topics

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# ASK A BENEFIT ACTUARY

**Q** How can we more effectively retain critical skilled employees?

**A** This question comes from a vp-human resources at a manufacturing company. The company is suffering from a 30% turnover rate among its information technology and programming staff. The vp is searching for ways to retain information technology professionals and to attract others.

Watson Wyatt's Strategic Rewards Survey certainly shows that this organization is not alone.

Among the survey's findings, annual turnover among critical skilled employees averaged 14%. Sixty percent of the employers included in the survey cited information technology personnel as being in short supply.

Demographic trends are likely to make this situation worse. The growth rate for the U.S. labor force is declining. It now stands at less than 1% per year; projections suggest the labor force will actually begin to shrink early in the 21st century (BI, Feb. 23, 1998).

Furthermore, the supply of younger workers already is shrinking. Watson Wyatt research into U.S. Department of Labor statistics shows that, from 1996 to 2006, the number of workers between the ages of 25 and 44 will decline (BI, June 1, 1998).

Because younger workers often have critical IT skills, the problem of attracting and retaining these workers will be exacerbated. With such an alarming demographic trend, employers must develop creative solutions.

Organizations are using various techniques to attract and retain critical skilled employees, including increased current compensation, stay bonuses, and stock options or grants. But each of these approaches has drawbacks.

retention program that overcomes the deficiencies of traditional approaches—"The Stay for Pay Plan." It is a retention incentive program that is financially efficient in delivering deferred compensation to targeted groups within the framework of a qualified retirement plan.

A Stay for Pay Plan provides a lump-sum cash payment to employees when they reach a targeted employment threshold. For example, a

be taken back or held by the employer. This is so because in all cases, the Stay for Pay Plan lump sum is held in a qualified retirement plan.

The rollover option lets the employee accumulate tax-deferred investment earnings on the Stay for Pay Plan lump sum.

For several reasons, the plan also is advantageous for employers.

It allows the employer to accumulate funds each year toward the payment of the Stay for Pay Plan lump sum. The employer makes annual tax-deductible contributions to a trust to accumulate funds to pay the Stay for Pay Plan lump sum.

These funds accumulate investment earnings on a tax-deferred basis, reducing the cost of the bonuses paid. Alternatively, the employer might pay the Stay for Pay Plan lump sums out of assets in an existing overfunded pension plan.

Perhaps most notably, a Stay for Pay Plan can save an employer money.

Assume the employer adopts the Stay for Pay Plan described above: six months' pay to an employee who remains in service for the next five years. If current annual turnover is 30% and total recruitment costs average 60% of annual pay (for recruitment fees, signing bonuses, training,

relocation, etc.), the Stay for Pay Plan will pay for itself if it only reduces turnover to 25% per year.

As we move into the 21st century, workforce management can create competitive advantages for an organization. Companies will need to be cognizant of how workforce demographic trends will shape their labor markets.

If an organization is to gain competitive advantage through its human resources policies and practices, it will need to develop innovative programs to attract and retain workers.

BI

## Stay for Pay lump sums increase with pay



Source: Watson Wyatt Worldwide

worker might receive six months' pay after remaining in service for the next five years. No benefit is paid for earlier termination of employment (see Figure 1).

A plus to the Stay for Pay Plan is that it can target employee groups experiencing high turnover. For example, the plan might cover only IT staff or other critical skilled employees.

In many cases, employers can get around the Internal Revenue Service's non-discrimination rules because IT professionals typically are not highly compensated employees under IRS guidelines.

Also, selected employees can have this benefit if it is a supplemental benefit within an existing defined benefit plan that covers these employees and a larger group of employees.

When an employee reaches the targeted employment threshold—five years in the prior example—he or she has several options regarding the lump-sum payment. The employee can:

- Leave the lump sum in the plan and avoid current taxation (by doing so, the employee enjoys the benefit of future pay increases when calculating the dollar amount of the lump sum as shown in Figure 2).

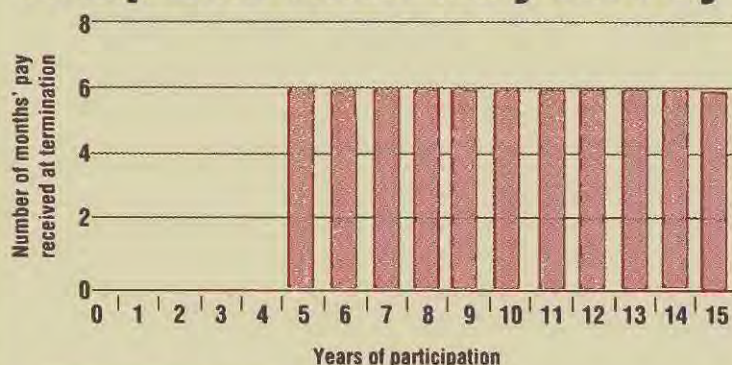
- Roll the lump sum into an IRA or other qualified retirement plan sponsored by the employer and avoid current taxation.

- Take the lump sum in cash.

When compared with traditional tools, the Stay for Pay Plan includes a number of advantages for employees.

Employees have control over when the lump-sum payment is taxed. If the employee chooses to defer receipt of the lump-sum payment and either keep it in the Stay for Pay Plan or roll it over into an IRA or other qualified plan, the money still belongs to the employee and cannot

## Lump sum under Stay for Pay



Source: Watson Wyatt Worldwide

For example, employees are taxed when they receive current compensation and stay bonuses. Stock options or grants may be an ineffective tool for an organization that is not experiencing rapid growth in its share price.

Additionally, non-profit organizations or U.S. subsidiaries of foreign-owned organizations typically cannot grant stock options or shares.

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Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore., answers actuarial questions in the casualty field.



Christopher E. Mandel, senior director of risk management at Tricon Global Restaurants Inc. in Louisville, Ky., answers questions on risk management.

Dennis J. Nirtaut, managing director of compensation and benefits for Arthur Andersen & Co. L.L.P. in Chicago, answers questions on employee benefit plans.

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## Fees

*Continued from page 2*  
it will settle," Mr. Ames said of the litigation, "and we think that eventually it will."

In addition to the suit in Florida, class-action suits against insurers are pending in Alabama, Pennsylvania, California, Kentucky, Missouri, Tennessee, New Jersey, New York, Michigan, Georgia and Illinois.

A similar suit, described by a plaintiffs attorney as a "mass action," was filed by a group of employers in Arizona.

The suits name insurer defendants that make up "pretty much the whole industry," said Melvyn I. Weiss, a plaintiffs attorney with Milberg, Weiss, Bershad, Haynes & Lerach L.L.P. in New York. The plaintiff classes are made up of policyholders who bought retrospectively rated workers comp coverage in the 13

states from Jan. 1, 1985, through May 7, 1998.

The lawsuits also name as a defendant the National Council on Compensation Insurance, the agency the suits say participated in the scheme to overcharge policyholders. The NCCI files workers comp rates for insurers.

An attorney representing the NCCI said the agency should not have been named in the suits.

"These are essentially breach-of-contract suits between individual insureds and their insurance companies," said John Karaczynski, a partner with Akin, Gump, Strauss, Hauer & Feld in Los Angeles. "The NCCI is not an insurance company; they didn't price these policies, and (they) shouldn't be a part of these suits."

He said the NCCI made proper rate filings in several of the states where the suits have been filed and is not the rating agency responsible for filings in some of the states.

The lawsuits claim the defendants "schemed to bilk the (plaintiffs) in the voluntary market across the nation out of more than \$1 billion, by purporting to legitimately bill for fees, taxes, factors, assessments, charges, and loads, which defendants and other carriers sometimes referred to as RMLs (residual market loads), none of which are permitted under the laws of most states."

The suit claims that the defendants knew the fees they were charging policyholders were not authorized by state insurance regulators and "therefore, were illegal."

The court papers say the complex premium formulas used for retrospectively rated policies provide "the perfect means for defendants and their co-conspirators to implement the illegal scheme...." The filing further states that it is ironic that the policies were "aggressively marketed by insurers during this period as a means for insureds to save money by controlling their losses."

According to the suits, the defendants charged policyholders for unauthorized residual market loads as well as amounts for:

- A tax multiplier that is used in premium calculations and was "misrepresented and inflated."
- An illegally inflated loss conversion factor.
- An inflated basic premium amount.
- Endorsements or policies that were unrequested and unnecessary.

The suits also contain allegations of violations of the Sherman Antitrust Act and the Racketeer Influenced and Corrupt Organizations Act. **BI**

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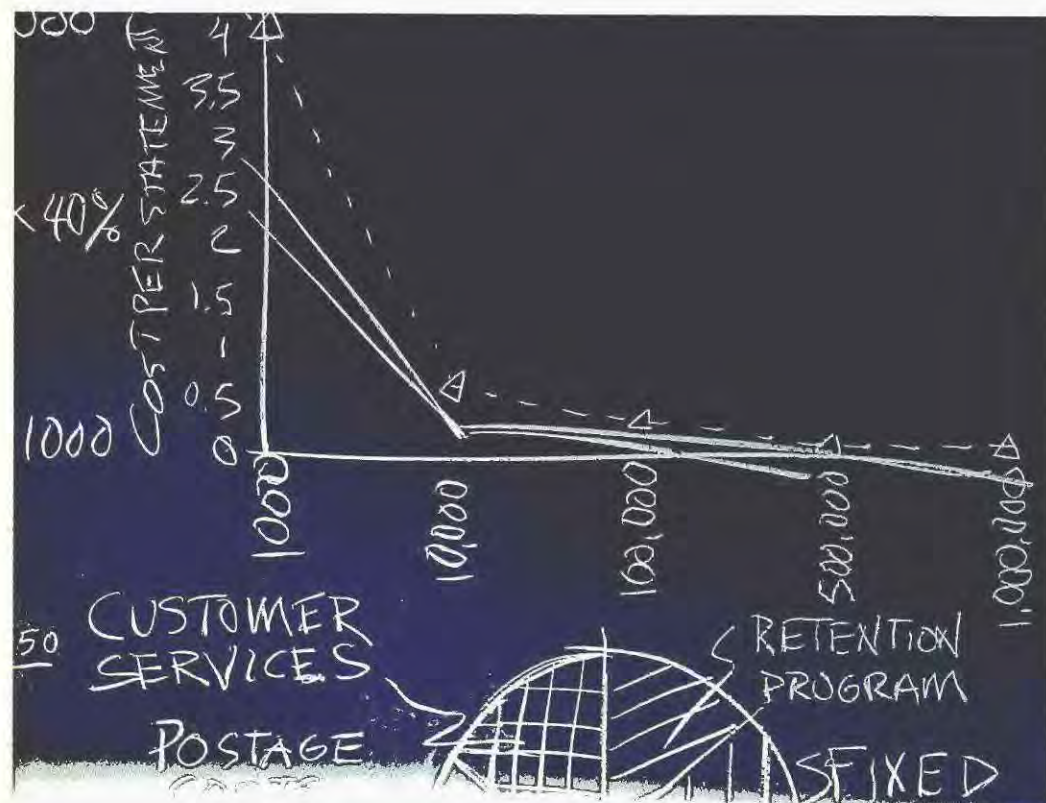
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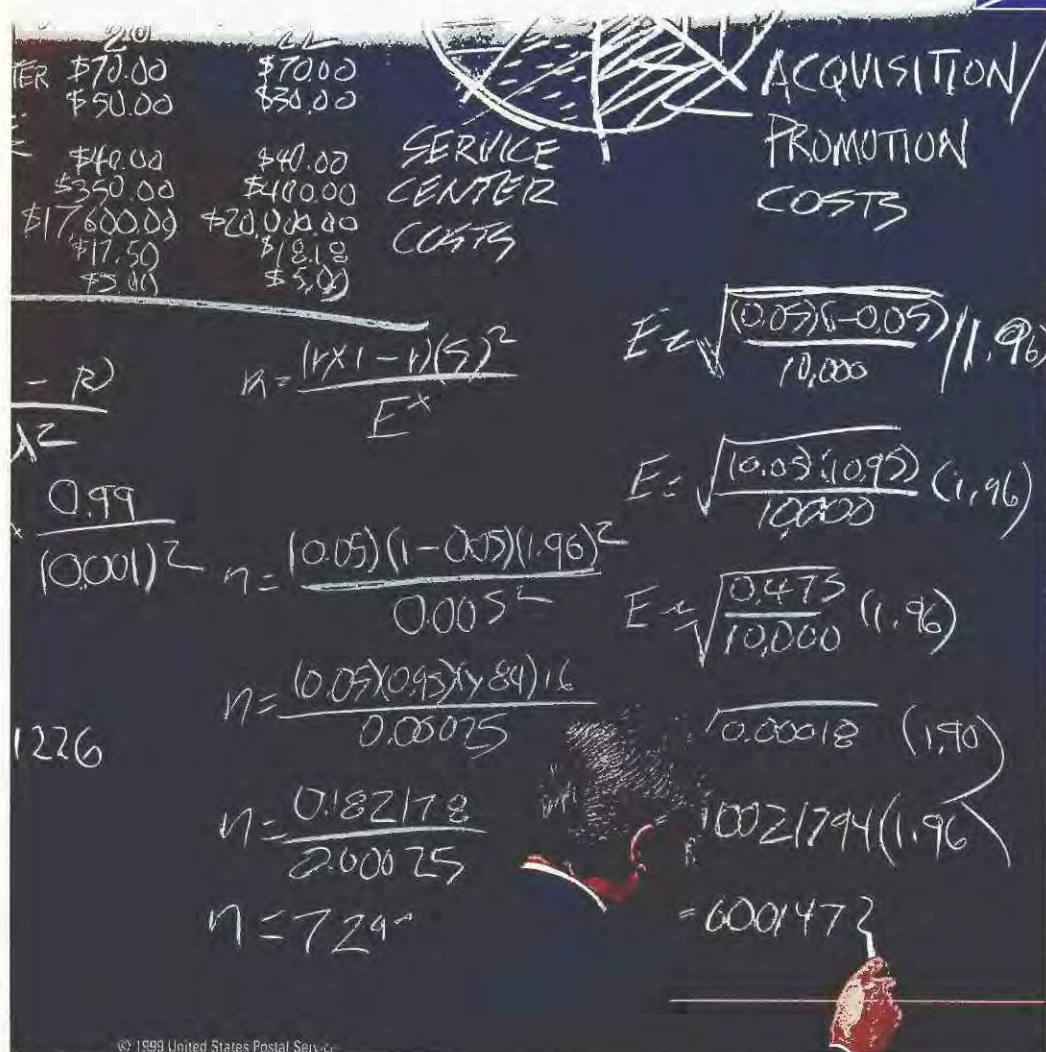
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## INTERNATIONAL

## Global Briefs

**Equitas Ltd.**, the runoff reinsurer of Lloyd's of London's pre-1993 liabilities, has reported "steady progress" for the six months ending Sept. 30, 1998, according to new Chairman Hugh Stevenson. Gross claims paid were £1 billion (\$1.63 billion), down from the same period the previous year, when they reached £1.2 billion (\$1.96 billion). However, after reinsurance recoveries, the net claims paid totaled £767 million (\$1.25 billion) for the six months ending Sept. 30, 1998, up 5.1% from 1997. The fall was because "special factors," such as recoveries on Lloyd's agents' errors and omissions coverages and names' personal stop-loss policies, had contributed to the 1997 figures, said Equitas. Operating costs dropped 15.4% to £104 million (\$169.4 million) for the period. . . . The Nicosia, Cyprus-based **Popular Bank Group** has bought three local insurance companies for 47 million Cyprus pounds (\$94.3 million). Interamerican Insurance Co. Ltd., PanEuropean Insurance Co. Ltd. and Philiki Insurance Co. Ltd., all purchased from the Shacolas Group of Cos., will give the Popular Bank Group a 30% share of the domestic market, said a bank spokesman, and allow it to expand its insurance activities in Greece and the United Kingdom. . . . London-based broker **Willis Corroon Group** has bought German reinsurance broker Mansfeld, Hubener & Partner GmbH. The offices of the Hamburg, Germany-based reinsurance broker will be merged with Willis Corroon's Hannover operation. Financial terms were not disclosed. . . . **Andrew Dear** and **David Hindson** have been appointed directors at the Birmingham, England, office of loss assessor McLaren's Toplis. . . . Businesses exporting goods from Tajikistan are now required to buy state cargo insurance under a **Tajik governmental resolution** introduced at the beginning of this month. The coverage must be purchased from state insurer Tajikinvest and will not exceed 0.2% of the cost of the exported goods. . . . London-based claims and insurance management service provider Risk Enterprise Management International, part of Claims Management Group Ltd., has appointed **Jeremy Baxter** as senior claims adjuster. Mr. Baxter joined REMI from Aon Group. . . . Cordis Consulting, the financial management consultancy arm of London-based broker Willis Corroon Group, has teamed up with Edinburgh, Scotland-based risk consultant Barrie & Hibbert Ltd. to provide combined **asset and liability modeling services** to insurance and reinsurance clients. . . . David Clissitt has been appointed **head of taxation at the Corporation of Lloyd's**, the administration and regulatory arm of Lloyd's of London. He joins Lloyd's from the Inland Revenue and replaces David Culliford, who retires at the end of March. . . . Lloyd's insurance group **Euclidian P.L.C.** has announced a 21.6% increase in pretax profits for the six months to the end of September 1998, compared to the same period the previous year. Euclidian Chairman Sir Alexander Graham said the £1.7 million (\$2.9 million) profit for 1998 was the result of increased investment income, the first full-year contribution from subsidiary Euclidian Underwriting Ltd. and a three-month contribution from J.S. Insurance Management Ltd, acquired by Euclidian in June. . . . **Ken Barrett** is to join the board of insurance agency BC Dyer Holdings Ltd. on Jan. 25, as the company sets up a new subsidiary, KR Barrett Underwriting Agencies Ltd. Mr. Barrett, who previously was on the executive management committee of Zurich Reinsurance (London) Ltd., will become CEO of the new operation, which will write casualty reinsurance on behalf of Lloyd's syndicates. Projected premium income for KR Barrett's first year is \$30 million.

# Lloyd's loss predicted for '98

£11 million profit to be erased after charges, levy, Chatset says

By EDWIN UNSWORTH

LONDON—Even its major reconstruction in 1996 may not have been enough to shield Lloyd's of London from the competitive global insurance market and from writing business at a loss, according to predictions of syndicate analyst Chatset Ltd.

Chatset's "Lloyd's League Tables Review, January 1999" covers the years 1996, 1997, and 1998—the three unfinalized years under Lloyd's three-year accounting system. The syndicate analyst expects a 1998 Lloyd's underwriting profit of only £11 million (\$18.5 million).

Lloyd's net result, however, would end up in the red after members' agents charges and the Central Fund levy are assessed. It would be Lloyd's first loss since the market was reconstructed in 1996 after a series of large annual losses, the last of which was a

£1.19 billion (\$1.87 billion) loss in 1992.

The review comes on the heels of a forecast from members agency Sedgwick Oakwood Lloyd's Underwriting Agents Ltd. that Lloyd's is likely to post a pure underwriting loss for 1998 that might be offset by investment income (BI, Jan. 4).

Blaming the deterioration on overcapacity in global insurance markets and resulting low rates, Chatset warned that "there are no signs that rates are picking up for 1999."

Other gloomy signs noted by Chatset for this year's outcome include a recent warning by Cox Insurance Holdings P.L.C. that its 1998 profits could be 30% to 40% below market expectations (BI, Dec. 21, 1998) and a severe loss of business in nuclear syndicate 1176, which Chatset dubs "the darling of the market" in virtue of its performance.

## Return to tough times predicted for

### LLOYD'S

| 1994    | 1995     | 1996*     | 1997*     | 1998*   |
|---------|----------|-----------|-----------|---------|
| £1.4 B  | £1.15 B  | £521 M    | £214 M    | (£55 M) |
| \$2.4 B | \$1.93 B | \$876.3 M | \$360.0 M | \$92.5M |

\* Chatset Ltd. estimates

Charles Sturge, Chatset director and the editor of the report, warned that 1998 looks, at best, like "a very marginal year," given the extreme dearth of premium income. Lloyd's experienced negative cash flow in the first two quarters of 1998, mainly due to reduced business and a general reduction in rates, he said.

The review added, "The im-

mediate prospects for most sectors of the market are not good, and little hope is offered for any increase in rates for another year or so."

According to the review, Lloyd's currently is not writing much more than 40% of its capacity of £9.7 billion (\$16.3 billion) on a net basis. Mr. Sturge

See Lloyd's on next page

## U.K. market driving out E&O writers

By CAROLYN ALDRED

LONDON—British lawyers, doctors, accountants and other professionals may face fewer professional liability insurance options and higher rates, as the professional indemnity market continues to bleed heavily, insiders say.

In the past few months, several insurers have given up putting their pens to professional indemnity business, finding that rates are now so low it is impossible to make a profit on the business. Fears about the millennium bug, or Y2K problem, also are prompting some insurers to take a more cautious approach to E&O underwriting, with at

least on insurer excluding millennium bug claims from professional indemnity coverage.

So far, the withdrawal of capacity has not had a dramatic effect on rates, as there is plenty of capacity in the market. Financial advisers are paying increased professional indemnity premiums as the U.K. government's probe of the pension sales scandal continues.

But several market observers say it is only a matter of time before the professional indemnity market hardens again, leaving professionals scrambling for E&O coverage.

Colonia-Baltica Insurance Ltd. is one of the latest London market insurers to stop writing

See E&O on next page

## Pension reform comes to Poland

By MARIA KIELMAS

WARSAW, Poland—The private pension market in Poland is expected to grow considerably following the implementation of social security reform on Jan. 1.

The new law requires workers under 30 to participate in a personal retirement savings plan in addition to basic state pension benefits.

The change is not likely to drive up employers' costs. Employers will have to pay higher salaries so workers can afford to comply with the new law, but that expense will be mostly offset by a reduction in their pension contributions to the government.

The new law also stipulates

a retirement age of 65 for men and 60 for women, a move that has brought protests from the mining industry.

The Polish government drafted the new law taking into consideration pension reforms in Chile, Argentina, Mexico and, to a certain extent, Sweden, according to Jaroslaw Krol. Mr. Krol is legal counsel at the Warsaw law firm of Cameron McKenna Sp.z o.o., a subsidiary of London-based Cameron McKenna, and a former adviser on pension reform to the Polish government.

Under the new law, employees under the age of 30 must subscribe to a second pension plan, known as a top-

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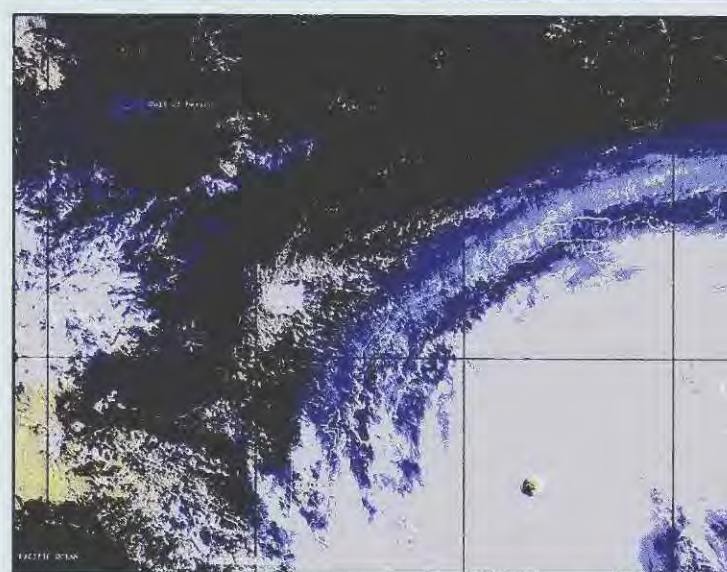


PHOTO: NOAA

A forecast predicts more hurricanes than average will hit the U.S. East and Gulf coasts in 1999. 1998's Hurricane Mitch is pictured above.

## U.S. may face more hurricanes in '99

Model predicts jumps above average

By EDWIN UNSWORTH

LONDON—The first forecast from a hurricane model developed for a consortium of U.K. insurance companies predicts that an above-average number of hurricanes will hit the U.S. mainland in 1999.

The forecast was developed by researchers at University College London working as part of the Tropical Cyclones Forecasting Project, which is led by the U.K. Meteorological Office.

The TCFP is sponsored by a consortium of seven insurers and brokers known as TSUNAMI and is half-funded by a grant from the Department of Trade and Industry. The consortium and the DTI are contributing a total of £960,000 (\$1.6 million)—half from each—to fund climatic research projects over three years since TSUNAMI's launch date in October 1997.

TSUNAMI, the Japanese word

for "tidal wave," is also an acronym for Technology and Science in Universities, the Natural Environment and Research Council and the Meteorological Office for Insurance. It was launched in October 1997 as the first attempt by the U.K. insurance industry to use sophisticated scientific techniques to help forecast extreme weather conditions and to use those results to calculate exposures (BI, Sept. 29, 1997).

This first TSUNAMI forecast predicts that four tropical cyclones will hit the U.S. mainland this year, compared with an average of three per year over the previous 20 years. The forecast also predicts the number of hurricanes hitting the U.S. East Coast in 1999 at 70% above the 20-year average, and the number hitting the Gulf Coast at 35% above the average. Seven tropical cyclones, including hurricanes Mitch and Georges, hit the United States in

See Hurricanes on page 17

## INTERNATIONAL

## E&amp;O

Continued from previous page

professional indemnity business. The insurer, which wrote about £5 million (\$8.1 million) a year in professional indemnity premiums for architects, engineers and surveyors, announced this month it "is uneconomic for it to continue to underwrite this class of business, for which the level of rates prevailing in the market has fallen to historically low levels which are without precedent."

GAN Insurance Co. Ltd., part of the Paris-based Groupama, pulled the plug on its professional indemnity business at the end of last year. "This is an overcrowded marketplace with uneconomic underwriting being conducted by a number of our competitors," Steve Hartigan, GAN's director of commercial lines, said at the time.

Royal & Sun Alliance Insurance Group P.L.C.'s refusal to cover Year 2000 exposures has led the Institute of Chartered Accountants in England & Wales to remove it as an approved professional indemnity insurer.

The withdrawal of some insurers

from the competitive professional indemnity market does not surprise underwriters in the business, including Reg Brown, a leading Lloyd's of London liability underwriter.

"PI underwriters are having difficulty keeping pace with the rising tide of litigation and the size of damage awards," he said. "Rates ought to be going up, as there is only one direction claims are going, and that's up. But rates are still coming down."

But, Mr. Brown said he believes the soft cycle is nearly over. "This cycle is no different to any other, and I believe that we are coming to the end of it," he said, forecasting a substantial rise in premiums in the year 2000.

Even though insurers are withdrawing from the market, it isn't to the degree they did prior to the onset of the 1986 hard market, said Mr. Brown, drawing comparisons with the last market turn.

Tony Howe, managing director of professional indemnity broker and manager Collegiate Management Services Ltd., also believes that the "next year or so" will see a fast and hard turn in the E&O market.

Although underwriters have been

claiming for years that premiums should harden, several factors may now force that to happen, he said.

Changes in the English legal system will enable more people to bring actions to court through the increase of conditional fees, the English equivalent to contingency fees. Other reforms will speed up the whole process of litigation (BI, April 20, 1993).

Meanwhile, the increase in industry ombudsmen and other consumer-friendly regulation likely will raise compensation payouts. The ongoing government review of misleading pension sales (BI, Oct. 26, 1998) is already leading to steep E&O rate hikes for financial advisers, Mr. Howe said.

The prospect of an economic recession in the United Kingdom and fears over professionals' preparedness for any computer problems that may arise with the arrival of the year 2000 could precipitate a hardening in the E&O market, Mr. Howe predicted.

Already, reinsurers are taking a more cautious approach, he said.

Fears about the millennium bug are playing a part in holding many E&O rates steady, agreed Russell Newell, an underwriter for Trenwick Interna-

tional Ltd., Still, Trenwick has been writing a decreasing amount of U.K. E&O business "because the rates are too competitive," Mr. Newell said.

He also agreed that professional indemnity reinsurance has been "harder to place this year, although not necessarily more expensive."

However, Mr. Newell does not anticipate E&O rates hardening in the U.K. market in the immediate future.

The U.K. professional indemnity market is much larger now than in 1985-86, when a hard cycle last took hold. As a result, he believes the market will change class by class. For example, financial advisers already are facing huge rate hikes, while accountants, though affected by the pensions review, still are seeing a very competitive E&O market, he noted.

Peter Burton, deputy director of professional standards at the London-based Institute of Chartered Accountants, agreed that accountants are enjoying plenty of inexpensive E&O capacity with no signs of change.

Although insurers are taking a cautious approach to the millennium, only one company, the Royal & Sun Alliance, is refusing to cover it and

has been removed from the ICA's list of approved insurers. Other insurers are requiring accountants to complete Y2K preparedness questionnaires before covering a company's Y2K risks.

Lawyers, meanwhile, are pursuing their own battle about whether they should be allowed to buy E&O coverage from the open market or remain tied to the industry's mutual insurer, the Solicitors Indemnity Fund.

That long-running dispute likely will be resolved this year, according to a spokesman from the Law Society.

This week, the Law Society Council will discuss the future of the SIF, which has a deficit of about £450 million (\$733.2 million), and whether members should be able to buy primary coverage from the open market.

Meanwhile, the Law Society says it will "vigorously defend" Judicial Review proceedings being brought by lawyer Michael Dalton, who claims that the Law Society is breaking E.C. competition law by making all members buy insurance from SIF. A group of large London law firms also has written to the Law Society president, claiming the society is breaking E.C. competition law. **BI**

## Poland

Continued from previous page

which supplements the basic state plan paid through social security contributions. Though mandatory, top-up pensions are managed by professional organizations or unions. People between 30 and 50 may join a new plan or stay with the state plan. Those over 50 must stay with the state plan, Zaklad Ubezpieczen Spolecznych. Anyone may buy a private pension, known as a third pillar.

Before the reform, Polish employers paid 45% of their payrolls in taxes to the social security system. Employees contributed nothing. The state provided pensions, health benefits and workers compensation. But the transition from a communist to a free-market economy necessitated reform.

Under the new plan, employers and employees will share equally the cost of pension and benefit provisions. Thus, 19.52% of an employee's gross salary will go toward retirement insurance, with employers and employees each responsible for making half

of this contribution. Of the 19.52%, 7.3% of salary will be paid into the state's existing retirement plan, while the remainder will go into the top-up pension fund of the employee's choice.

A further 13% of salary will pay for disability insurance, and 2.45% of salary will pay for medical insurance. Finally, 0.8% to 8.12% of salary will pay for workers comp insurance, with the premium based on an employee's working conditions.

Unlike the Chilean system, the Polish reform is not a wholesale privatization of the state pension plan but an additional fund, Mr. Krol said.

The government expects that some individuals will not subscribe willingly to any plan, and so it will audit that group by lottery, he said. Workers under 30 who have been identified as not subscribing will be assigned to the various pension plans in operation.

Individuals may start subscribing to the new pension funds March 1, and they must sign up by Sept. 2. The funds may begin advertising Feb. 16 and start operations April 1.

Stiff opposition to the new law has come from miners and their support-

ers in the Solidarity union. Under the old rules, miners were among the most privileged workers in Poland, able to retire with full state pensions after 25 years' service.

The new law stipulates a retirement age of 65 for men and 60 for women. The miners protested, staging strikes for two weeks before Christmas, and union leaders predicted more protests in January. On Dec. 24, Solidarity leader Marian Krzaklewski and Labor Minister Longin Komolowski signed an agreement to preserve the miners' early-retirement rights. This concession is in the form of a "bridging retirement," said Mr. Krol, which will cover miners between their previous retirement age and age 65.

Employers must raise salaries to help employees pay the new pension and benefit costs without a net cut in their wages. But, the cut in payroll taxes will offset employers' higher salary costs, he said.

The new law is unclear on the private-sector pension plans, which employers may wish to offer as an extra benefit. "Lots of firms would like to provide this, but it is not tax-efficient if the employer pays from his own funds," said Zbigniew Paluszczak, account manager in the employee benefits division of Aon Polska Sp. z o.o., a unit of Aon Corp.

Reniusz Borowski, pension specialist at the Ministry of Labor and Social Policy, said tax credits will apply only to the compulsory part of the pension provision and not to private funds. He added that refinements will be introduced this year to try to define tax treatment for voluntary contributions.

Contributions to the compulsory top-up pensions must not exceed 30 times the average monthly salary of

101,500 zloty (\$346) up to a retirement age of 60 for women and 65 for men, for a total of \$10,383 at the current exchange rate.

"This means that some employees will be able to pay off their new compulsory annual contributions within one month and then wait for next year's contribution," said Mr. Krol.

"Those earning 2.5 times the average wage will be able to pay their compulsory contributions early," said Tomasz Frontczak, the president of Warsaw-based AIG Powszechno Towarzystwo Emerytalne S.A., a unit of American International Group Inc.

Mr. Frontczak estimates that out of an adult workforce of 12 million, 6 million will buy private pensions. Others, such as Tom Fraser, managing director of international at Norwich Union P.L.C. in the United Kingdom, believe this market could be 9 million. On Jan. 6, Norwich Union obtained a license to establish pension subsidiary Powszechno Towarzystwo Emerytalne Norwich Union S.A.

So far, 12 new pension companies have been licensed and nine await approval. Mr. Frontczak is worried that the large number of new players will mean a small market share for each.

He also is concerned about the potential administrative costs for private pension sellers. "The administrative costs of pension funds are high," he said. Most of the new costs will be in advertising and distribution.

He is also worried about the proportion of people under age 30 who, though obliged to contribute to the new plan, cannot. That category includes the unemployed, students and women on maternity leave. Although Polish law provides for three months of maternity leave, most Polish wom-

en take a longer break from work after having children, and many leave their jobs altogether. "But we will still have to send regular statements to all of these people," Mr. Frontczak said.

He does believe Poland's pension market will consolidate in a few years, just as happened in Chile.

The status of brokers within the new pension arrangements remains ambiguous. Polish insurance law stipulates a rigid division between insurers and brokers. A broker, in providing services for its corporate or individual clients, is expected to seek out the best insurers for those clients. But the new pension legislation would have an insurance broker represent the products of only one pension company to its clients, an apparent inversion of existing legislation.

An earlier draft of the pension law stipulated that a broker could represent a number of pension companies to its clients, but this was changed to just one company in an amendment finalized late last year for political reasons, said Aon's Mr. Paluszczak.

As a result, his company has decided not to participate in second-pillar top-up pensions. "Now, every fund can engage as many agents as it likes," Mr. Paluszczak added. He said, however, that Aon is keen on providing services for the third pillar, as well as participating in the upcoming health insurance market once Poland's health care reform moves forward.

But the Labor Ministry's Mr. Borowski said brokers' role should be limited, to foster competition. He said brokers are regulated under insurance law, and pensions are completely different. "Pensions are not an insurance product; they are investment products," he explained. **BI**

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## Lloyd's

Continued from previous page

warned that this would have negative repercussions for syndicates because their premium income is down, while costs remain unchanged.

Chatset questioned the startup of six new syndicates this year—including Lloyd's first captive syndicate—that added £167 million (\$281.1 million) of underwriting capacity. "One just wonders where they're going to get the business from to justify this new capacity," said Mr. Sturge.

As for Lloyd's two other open years, Chatset expects a 1996 profit of £630 million (\$1.1 billion) and a 1997 profit of £304 million (\$510.4 million). While the 1996 result is in line with past

Chatset forecasts, the 1997 figure is down from a previously predicted £500 million (\$839.5 million) profit. Chatset said the "disappointing" 1997 outcome is due to unrelenting competition.

Sedgwick Oakwood had predicted an even more severe deterioration in Lloyd's profits—to £560 million (\$942.5 million) in 1996 and £242 million (\$406.3 million) in 1997.

The downturn is apparent in all classes of non-life business. Chatset expects Lloyd's marine business to show a 1996 profit of £234 million, falling steeply to £134 million (\$225 million) in 1997 and £21 million in 1998. It expects the aviation account to return a 1996 profit of £37 million (£62.3 million), deteriorating to a £15 million loss in 1997 and a £19 million

loss in 1998. Worst of all will be the motor account, with a £90 million (\$151.5 million) loss expected in 1996, a £114 million (\$191.4 million) loss forecast for 1997, and a £117 million loss predicted for 1998, Chatset said.

Chatset's figures also show the continuing rise in the proportion of corporate capital. Corporate investors are providing 65% of Lloyd's capacity this year, up from 55% in 1998. Chatset added that the number of names has fallen to 4,712 this year from 6,835 in 1998—well below the 1989 peak of more than 34,000.

Copies of the report, "Lloyd's League Table Review, January 1999," are available for £75 (\$122) from Chatset Ltd., P.O. Box 661, London SW1W 8HY, England; 44-171-823-6980.

## INTERNATIONAL

## Forecast

Continued from page 15

1998, which was the third-highest number since records began in 1871.

The forecast was produced on December 1, 1998, in time to provide its sponsors with helpful information for their 1999 contract renewals.

"Weather prediction is a complex area, and absolute certainty may not be attainable. But any information that can improve our understanding of the risks presented by tropical cyclones will be of value to us," said Nick Golden, director of underwriting, reinsurance and risk management with the Royal & Sun Alliance Insurance Group P.L.C. Royal & Sun Alliance is one of the

project sponsors.

Dougal Goodman, who heads the TSUNAMI management board and is deputy director of innovation (new projects) of the British Antarctic Survey, said science can offer insight into the hazards that drive insurers' claims experience. He added that this first forecast demonstrates that U.K. scientists "are well equipped to communicate the results of their research to industry."

The UCL researchers who prepared the TSUNAMI forecasts, Mark Saunders and Chris Merchant, based their conclusions on an analysis of historical storm tracks. They linked this information to past data on sea-surface temperature, high-level winds, and rainfall in West Africa, all of which are known to influence tropical cyclone devel-

opment.

The project already has scientists investigating other areas of interest to insurers, including U.K. flooding, the probability of typhoons in Japan and Australia, and extreme weather events in Northern Europe. James Orr, the project director, said a number of project ideas were proposed to scientists, and project coordinators expect to award other research contracts to scientists over the next month or two.

The TSUNAMI consortium members are: Benfield Greig Group P.L.C., Catlin Underwriting Agencies Ltd., Commercial Union Assurance Co. P.L.C., DP Mann Underwriting Agency Ltd., Royal & Sun Alliance Insurance Group P.L.C., Sedgwick Reinsurance Brokers Ltd., and Wren Syndicates Management Ltd. **BI**

# Marine market seen as bleak

## IUMI president urges firm stand on rates, terms

By EDWIN UNSWORTH

ZURICH, Switzerland—Marine underwriters must become more resolute and resist compromises on premium levels and terms of coverage, according to a leading figure in the marine market.

Georg Mehl, president of the International Union of Marine Insurers, in the current issue of the IUMI newsletter urges marine insurers to "fight for profitability and help guide the market in the right direction." Underwriters must become "unshakably determined" if they want to bring about a market reversal in their favor, he said.

Although the current background of intense competition makes it difficult to increase premiums, one way marine underwriters can steer the market in the

right direction is to try to get claims down, Mr. Mehl says in the newsletter.

The best way to do that, according to Mr. Mehl, is to encourage loss prevention initiatives, implement measures that improve safety at sea and reduce marine pollution, and improve the exchange of data to help reduce the growing problem of cargo loss due to damage and theft.

Mr. Mehl, who also is chairman and chief executive officer of German reinsurer Wurttembergische A.G., paints a gloomy picture of the current environment for marine underwriters. Prices are extremely low, some companies are not underwriting for sufficient return on equity, and marine insurance faces relegation to a lower level of importance within insurance companies, he warns.

Mr. Mehl's warnings are reinforced by Lloyd's of London syndicate analyst Chatset Ltd., which says it is unlikely that any meaningful increase in marine rates will occur before mid-2000.

Chatset made the comment in its Lloyd's League Tables Review, January 1999 report, issued last week (see story, page 15). It said that, given how much marine business is written on three- or five-year contracts, it could well be 2002 before a real change in rates is seen.

On both the hull and cargo accounts, Chatset said premiums are very low, with Lloyd's underwriters complaining of a lack of profit and no sign of an increase.

Chatset warned that, against such a background, 1999 may see the first loss in the Lloyd's marine market since 1991. **BI**

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### LEGAL NOTICE

### LEGAL NOTICE

### LEGAL NOTICE

### LEGAL NOTICE

### HELP WANTED

### HELP WANTED

TO: ALL PERSONS WHO MAY HAVE AN INTEREST IN CLASSIC FIRE & MARINE INSURANCE COMPANY IN LIQUIDATION (FORMERLY KNOWN AS FIRST HORIZON INSURANCE COMPANY AND CLASSIC INDEMNITY COMPANY) AND CLASSIC SYNDICATE INC.

FROM: SALLY B. MCCARTY, INDIANA INSURANCE COMMISSIONER, AS LIQUIDATOR OF CLASSIC FIRE

DATE: December 18, 1998

On December 18, 1998, the Marion Circuit Court in Indianapolis ("Liquidation Court") entered an Order of Liquidation concerning Classic Fire & Marine Insurance Company ("Classic Fire").

The Liquidation Court has established **December 31, 1998**, as the date for fixing claims against Classic Fire, Classic Fire's predecessor companies, and Classic Syndicate Inc. and **December 31, 1999**, as the "Claim Bar Date". TO HAVE YOUR CLAIM CONSIDERED IN THE CLASSIC FIRE LIQUIDATION, IT MUST BE COMPLETED, MAILED, AND POSTMARKED NO LATER THAN **DECEMBER 31, 1999**.

Classic Fire did business in certain states which have a state insurance guaranty fund or association ("SGF"). Certain policies may be covered by an SGF. If the Liquidator's records indicate you are a claimant with a claim "covered" by an SGF, you will be notified. If you have any questions about SGF coverage, you may want to contact the local SGF in your state.

For further information, please write to Classic Fire at the address below:

Classic Fire & Marine Insurance Company  
1450-C Enea Circle, Suite 500  
Concord, California 94520

Thank you for your continued patience and cooperation during the liquidation process.

STATE OF INDIANA } IN THE MARION CIRCUIT COURT  
COUNTY OF MARION } SS. CAUSE NO. 49C01-9712-CP-2827

SALLY B. MCCARTY, as the  
Commissioner of the Department of  
Insurance of the State of Indiana,

Petitioner,

v.

CLASSIC FIRE & MARINE  
INSURANCE COMPANY,

Respondent.

#### NOTICE TO PERSONS INTERESTED IN CLASSIC FIRE & MARINE INSURANCE COMPANY (FORMERLY KNOWN AS FIRST HORIZON INSURANCE COMPANY AND CLASSIC INDEMNITY COMPANY) AND CLASSIC SYNDICATE INC.

This notice is issued pursuant to the Indiana Insurance Law, Indiana Code, § 27-9, and an Order of the Marion Circuit Court in Indianapolis, Indiana ("Liquidation Court"), in the above liquidation proceeding involving Classic Fire & Marine Insurance Company ("Classic Fire"), an Indiana stock property and casualty insurance company.

#### Classic Fire Liquidation Generally

On December 18, 1998, the Liquidation Court entered an Order of Liquidation concerning Classic Fire. The Order of Liquidation declared Classic Fire insolvent, terminated the rehabilitation proceeding concerning Classic Fire that had been pending since January 7, 1998, and appointed Indiana Insurance Commissioner Sally B. McCarty as Liquidator of Classic Fire. The Liquidator was directed to take possession of the assets of Classic Fire and to administer them under the supervision of the Liquidation Court. The Liquidator is vested by operation of law with title to all of the property, contracts and rights of action, and all books and records of Classic Fire, wherever located.

The Order of Liquidation also serves to enjoin the commencement, prosecution or further prosecution of any suit, action or other proceeding against or involving Classic Fire, its former Rehabilitator or its Liquidator, First Horizon Insurance Company and Classic Indemnity Company, the predecessor companies to Classic Fire (the "Predecessor Companies"), and Classic Fire's former subsidiary, Classic Syndicate Inc. ("CSI"). The Order of Liquidation requires that any action brought or judgment sought against Classic Fire or its property or assets must be brought in the Liquidation Court. It also enjoins any suit, action or proceeding against or involving the INEX Insurance Exchange (formerly known as the Illinois Insurance Exchange), the Illinois Insurance Exchange Immediate Access Security Association based on or arising out of: (a) the INEX Insurance Exchange's statutorily mandated oversight of CSI, (b) any insurance policy or reinsurance contract obligation of CSI, (c) any conduct of these entities related to the business, liabilities or assets of CSI, or (d) the liquidation of Classic Fire.

Pursuant to Indiana Code § 27-9-3-8, all Classic Fire insurance policies currently in force will continue until the earlier of (1) January 17, 1999; (2) expiration of the policy coverage; (3) the date when the insured has replaced the policy coverage with equivalent coverage in another insurer or otherwise terminated the policy; or (4) the date when the Liquidator has effected a transfer of the policy obligation. The Liquidator believes that no policies will be in force as of December 31, 1998.

Indiana Code § 27-9-3-31 provides in part that any agent, broker, agency, premium finance company, or any other person responsible for the payment of a premium, other than the insured, shall be obligated to pay (i) any earned but unpaid premium for any policy that is due the insurer for coverage provided before the declaration of insolvency and (ii) any unearned but paid premium collected from the insured before the declaration of insolvency. Insureds are responsible only for the payment of any earned but unpaid premium for any policy that is due the insurer for coverage provided before the declaration of insolvency.

On December 7, 1998, the Rehabilitator filed the Rehabilitator's Recommendations Concerning Liquidation Procedures, Claims and Notices (the "Recommendations"). By Order dated December 18, 1998, the Liquidation Court approved the Recommendations ("Recommendations Order"). Below is a description of the claim filing procedures.

If you have questions about the information contained in this Notice or the liquidation of Classic Fire, you may contact the Liquidator at 1450-C Enea Circle, Suite 500, Concord, CA 94520.

#### Claim Procedures Generally

**Claim Bar Date**

Subject to the provisions of the Recommendations Order, the Liquidation Court has directed that notice be given to persons who may have a claim against Classic Fire, the Predecessor Companies, or CSI as of December 31, 1998, the date of the fixing of liabilities against Classic Fire, the Predecessor Companies and CSI. If you have such a claim, then you must follow the procedures described in the paragraphs below or be forever barred from asserting your claim. THE LIQUIDATION COURT HAS ESTABLISHED **DECEMBER 31, 1999** AS THE "CLAIM BAR DATE" FOR THE FILING OF CLAIMS AGAINST THE ESTATE OF CLASSIC FIRE, INCLUDING CLAIMS AGAINST THE PREDECESSOR COMPANIES OR CSI. TO HAVE YOUR CLAIM CONSIDERED IN THE CLASSIC FIRE LIQUIDATION, IT MUST BE COMPLETED, MAILED AND POSTMARKED **NO LATER THAN DECEMBER 31, 1999**.

#### Filing of Proof of Claim

A Proof of Claim form has been approved by the Liquidation Court. The Proof of Claim should be completed in its entirety and all questions answered. Instructions on how to complete the Proof of Claim appear on the back of the form. Make sure these instructions are followed. Should there be questions that do not apply to your situation, complete each blank not requiring an answer with "NA" or "NOT APPLICABLE".

Complete the Proof of Claim and have it signed under oath (i.e., in the presence of a Notary Public). All documentation supporting your claim must be included with your Proof of Claim. Keep a copy of the completed Proof of Claim and supporting documentation for your records. Once complete, mail the original and one (1) copy of the Proof of Claim by first class mail, along with copies of your documentation, to Classic Fire & Marine Insurance Company at 1450-C Enea Circle, Suite 500, Concord, California 94520. Mail your Proof of Claim as soon as possible, BUT POSTMARKED NO LATER THAN **DECEMBER 31, 1999**. You will be notified sometime thereafter of the Liquidator's recommendation to allow or deny your claim. All claim disputes will be resolved by the Liquidation Court.

You must file one Proof of Claim for each claim you wish to make against Classic Fire's assets. ALL PROOFS OF CLAIMS MUST BE SENT TO THE LIQUIDATOR AT THE ADDRESS INDICATED ON THE PROOF OF CLAIM FORM AND POSTMARKED NO LATER THAN **DECEMBER 31, 1999**. You may make copies of the Proof of Claim form if you have more than one claim to assert.

A Claim Number will be assigned after your Proof of Claim has been properly and timely filed. This number will be confirmed to you in writing in the future. Please **DO NOT** alter or change the Proof of Claim of any of the required information.

For claims filed by attorneys representing a Classic Fire insured or a claimant against a Classic Fire insured, or claims filed by receivers, administrators, assignees, guardians or others on behalf of claimants, proof of authority should be attached to the Proof of Claim. If a husband or wife have a claim jointly against a Classic Fire insured for the same insured loss, a separate Proof of Claim will be required by each.

#### Classic Fire Reinsureds

As part of the documentation supporting their Proofs of Claim, reinsureds of Classic Fire and CSI are required to provide detailed information concerning all potential elements of their claims as of December 31, 1998. Specifically, reinsureds must provide the Liquidator with (i) actual losses, (ii) case reserves, and (iii) estimates for claims that have been incurred by not reported. Such information must be included with your Proof of Claim.

#### SGF Proof of Claim

State guaranty funds ("SGFs") wishing to assert a claim against Classic Fire must use the Omnibus Proof of Claim form included in the liquidation materials sent by the Liquidator to SGFs. Unlike Proofs of Claims filed by other claimants, the Omnibus Proof of Claim form must be mailed by SGFs to the Liquidator at 311 West Washington Street, Suite 200, Indianapolis, IN 46204.

#### Address Changes

All claimants are required to keep the Liquidator advised of any address changes. Should you have the occasion to write about your claim after the Proof of Claim has been filed and if you have any questions about this matter, please identify the Claim Number and the loss date in your correspondence so that your file can be quickly identified.

#### Possible Guaranty Fund Coverage

At the time of rehabilitation, Classic Fire was authorized to do business only in Indiana and Illinois. Business written in other states by Classic Fire was written on an excess and surplus basis. In addition, there may be former policyholders of the Predecessor Companies who are potential claimants against Classic Fire's estate. In those states where Classic Fire and the Predecessor Companies did business, there exists statutes which require an SGF, subject to state-by-state conditions and limitations of coverage and applicability, to fulfill policy obligations of Classic Fire or the Predecessor Companies. CSI policyholders may have some coverage from the Illinois Insurance Exchange Guaranty Fund. It is unknown at this time how much of Classic Fire's business was subject to guaranty fund coverage ("Covered Claims"). If the Liquidator's records indicate that any part of your claim is covered by an SGF, the Liquidator will provide the affected SGF with a copy of our Proof of Claim and notify you. You must complete a Proof of Claim form as explained in this Notice in order to pursue your claim. If you have any questions about whether you have a claim covered by an SGF, you may want to contact the local SGF in your state.

BY ORDER OF THE LIQUIDATION COURT dated December 18, 1998.

Sally B. McCarty, Indiana Insurance Commissioner,  
as Rehabilitator of Classic Fire & Marine Insurance Company

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The ideal candidate will have at least five years of claims management experience in Workers' Compensation, STD and LTD, including a high level of both product and operations knowledge. Excellent interpersonal, analytical, communications and leadership skills are critical. A college degree is required. Professional designations such as ARM or AIC are pluses. The position will require significant out-of-town travel from an office location that will be determined based on the candidate selected and business requirements.

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# Indictment

Continued from page 1

Mr. Wilson knew of the federal investigation of Winston Hill and had been cooperating, Mr. Zimmermann said.

"If he had known there was an arrest warrant, he would have made arrangements to surrender himself," he said.

Mr. Wilson will likely ask the federal judge assigned to the case to grant bail, Mr. Zimmermann added.

"Mr. Wilson is a law-abiding citizen. We do not believe he's going to be a flight risk," he said.

Mr. Wilson was secretary-general of the Bahamas' Progressive Liberal Party from 1974 to 1976 and later ran unsuccessfully several times for a seat in the Bahamas parliament, according to reports in *The Nassau Guardian* newspaper.

Meanwhile, Mr. Rolle, a Nassau-based accountant and Winston Hill's auditor, has not been arrested and is described in court filings as a fugitive.

Mr. Rolle could not be reached. The telephone number his accounting firm used in the early 1990s has been disconnected, and he has no current Bahamas listing.

Mary Jane Harmon, an assistant U.S. attorney prosecuting the case, declined to comment on Mr. Rolle's possible whereabouts or on whether the government will seek extradition if he is located outside the United States.

The charges against Messrs. Wilson and Rolle typically carry a five-year statute of limitations that would have expired before last year because most are based on acts occurring in 1990 and 1991.

Ms. Harmon, however, noted that federal law allows a three-year extension if a prosecutor is seeking information from a foreign country under a Mutual Legal Assistance Treaty.

Winston Hill was incorporated in the Turks & Caicos in 1980 under the name International Atlantic Insurance Co. Ltd. It changed its name in 1986 and was capitalized with \$5 million, according to a 1989 financial statement audited by Mr. Rolle, purportedly using generally accepted accounting principles.

In a separate 1989 statutory financial statement—showing Mr. Wilson as president and Mr. Rolle as "annual statement contact person"—Winston Hill claimed to have total assets of more than \$70 million, including a purported \$63.4 million deposit at Gulf Union Bank in Nassau.

The previous year, the insurer had reported owning \$28.7 million in certificates of deposit with "Dresner Bank" and \$28.3 million in "gold securities" held at Gulf Union Bank.

On the strength of its financial statements, Winston Hill wrote a wide variety of insurance and reinsurance business, ranging from commercial auto liability in New Jersey to health coverage for multiple employer welfare arrangements in several states, at least one of which later was determined itself to be fraudulent.

James C. Day, described in court records as Winston Hill's senior underwriter, managed the insurer's U.S. business from a Houston office. Mr. Day died in December 1996, Ms. Harmon said.

Winston Hill started running into legal trouble in 1991, when it became a target of insurance department cease-and-desist orders and lawsuits in several states.

The New Jersey Insurance Depart-

ment, for example, sued it for illegally writing liability insurance on scores of limousine and other commercial auto risks. Winston Hill had taken over the business from Bel-Aire Insurance Co., a now-defunct Missouri company run by jailed swindler Arthur A. Blumeyer III.

A New Jersey judge ultimately fined Winston Hill \$1.3 million and ordered it to post a \$1.5 million bond. It failed to post the bond, though, first arguing that its financial strength made the bond unnecessary and later explaining that it had filed for liquidation in the Turks & Caicos.

The Kentucky Insurance Department also sued Winston Hill, seeking \$600,000 in restitution for almost 1,300 participants in a health insurance trust whose medical claims the insurer had not paid.

Regulators were not the only litigants. Lawyers in 1994 filed a class action suit on behalf of thousands of small businesses and individuals lured into a bogus union health insurance scheme operated by convicted con man William Loeb. Winston Hill was one of several fraudulent offshore insurers used in the scheme, the complaint alleged (*BI*, May 15, 1995).

The insurer also surfaced as a retrocessionaire of MEWA business written through the now-defunct Zimmerman Line Slip, a loss-plagued reinsurance facility that spawned massive litigation in the early 1990s.

In January 1992, as Winston Hill faced mounting legal pressure, Mr. Rolle filed to wind up the insurer in the Turks & Caicos and convinced the islands' Supreme Court to appoint him liquidator.

He filed an ancillary bankruptcy petition in Houston soon afterward and sought an order stopping all litigation against Winston Hill and re-

quiring agents and others holding Winston Hill premiums to turn them over to him.

A number of parties, including regulators, objected. A federal judge ultimately removed Mr. Rolle as liquidator and appointed a U.S. lawyer to replace him.

The Houston grand jury indictment of Mr. Wilson and Mr. Rolle charges that they conspired, beginning in 1986, to create phony Winston Hill financial statements with bogus assets designed to convince agents, brokers and regulators that the insurer was secure.

They also set up bank accounts in Houston, at Gulf Union Bank in Nassau and elsewhere, through which more than \$50 million in premiums flowed. They used some of the money to pay lawyers, accountants, agents, brokers and intermediaries whose services they needed to carry on the scheme, prosecutors charge.

They also used other premiums, "often in amounts greater than \$10,000," for their own benefit, the indictment charges.

Mr. Rolle, meanwhile, used the U.S. bankruptcy filing to collect an additional several hundred thousand dollars in premiums being held by agents and others, and he transferred that money to accounts outside the U.S., the indictment says.

Mr. Rolle later failed to appear for a deposition ordered by the bankruptcy court, prosecutors say.

The indictment charges both men with conspiracy and multiple counts of mail fraud and money laundering.

If convicted, they face statutory maximum sentences ranging from five years to 20 years in jail on each count.

Mr. Wilson's trial has been scheduled to begin April 12. **BI**

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**Sub-total** .....32,926

Associations .....259  
Government, Unions and  
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#### Commercial Consumers

**Sub-total** .....34,116  
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Insurance Companies .....6,668  
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## FTR FOR THE RECORD

### New York fines insurers, HMOs

NEW YORK—The New York Superintendent of Insurance has issued \$72,200 in fines against 12 health insurers and health maintenance organizations for violating the state's Prompt Pay Law.

The 1997 law requires health insurers and HMOs to pay undisputed claims within 45 days. The 12 violators were hit with \$100 fines for each breach of the law between April 1 and Sept. 30, 1998.

Leading the list with \$40,900 in fines is Oxford Health Plans Inc. After Oxford are: Aetna U.S. Healthcare Inc., with \$8,700 in fines; Capital District Physicians' Health Plan Inc., with \$4,200 in fines; Prudential HealthCare, which Aetna recently agreed to acquire, with \$2,900 in fines; and Community Health Plan, with \$2,700 in fines.

The remaining violators include Wellcare, Health Insurance Plan of Greater New York, HUM Healthcare Systems, NYLCare (now part of Aetna), GHI, CIGNA HealthCare and United HealthCare Corp.

"The industry can expect the frequency and level of fines to increase until all companies are in compliance with the law," Superintendent Neil Levin said in a written statement.

### AIG offers Y2K audit program

NEW YORK—Directors and officers liability insurance policyholders of National Union Fire Insurance Co. of Pittsburgh, Pa., now have access to a Year 2000 compliance audit program designed to help them meet Security and Exchange Commission Y2K disclosure requirements.

National Union is a unit of American International Group Inc.

The audit service is conducted by New York-based American International Technology Enterprises Inc., a subsidiary of AIG Data Center Inc.

As part of the program, which costs \$3,000 for the first audit, AITE will conduct a survey of a D&O policyholder's Y2K compliance efforts—following SEC guidelines—and confirm the effectiveness of any measures taken. The audit also will highlight any compliance inadequacies and

indicate further steps that may need to be taken toward full compliance.

"D&O Gold" policyholders with \$5 million or more of liability coverage from National Union will be reimbursed 50% for the cost of the first audit. D&O Gold policies include coverage for Y2K exposures.

### Kaiser to cover Viagra

OAKLAND, Calif.—Kaiser Foundation Health Plan's request to exclude coverage for the anti-impotence drug Viagra was rejected on New Year's Eve by the California Department of Corporations, which regulates HMOs in the state.

As a result, Kaiser instituted a 50% copayment for the drug beginning Jan. 1, 1999. Because most companies renew their HMO contracts in the fall, it is too late to incorporate the cost into this year's premiums, a spokesman said.

### Arizona tests appeals process

PHOENIX—One-fifth of disputed health care and disability coverage decisions in Arizona were overturned last year under a new appeals process that became effective at midyear.

Group plan members filed most of the 61 appeals, according to an Arizona Insurance Department spokesman. Forty-eight appeals were filed by health maintenance organization enrollees. Six were filed against non-profit medical, dental and vision service corporations. Seven were filed against disability insurers.

The department or an external independent reviewer overturned plans' decisions in 13, or 21%, of the disputes. Plans' decisions in 34, or nearly 56%, of the disputes, were upheld. The remaining disputes were withdrawn, were partially reversed or are pending.

### Comings & Goings

Oakland, Calif.-based Kaiser Permanente has promoted four senior managers to executive vps: California Division President **Dick Pettingill** and senior vps **Dr. Bill Gillespie**, **Dale Crandall** and **Kathy Swenson**.

Mr. Pettingill will act as chief operating officer for California operations and will take responsibility for human resources management, while Dr. Gillespie will act as chief operating officer for

the organization's operations outside of California. Mr. Crandall's responsibilities as chief financial officer have been expanded to include national administrative functions as well, while Ms. Swenson, who is chief financial marketing officer, will be responsible for Medicare, commercial marketing and sales, as well as public relations.

### Information in brief

**NYLCare Health Plans of the Mid-Atlantic Inc.** earlier this month agreed to pay a \$40,000 settlement to the Maryland Insurance Administration to resolve a dispute over compliance with a law that entitles a patient with a chronic condition a 90-day supply of maintenance medication at each prescription refill. The plan decided to settle after a Dec. 18 hearing was postponed, a spokesman for parent Aetna U.S. Healthcare said. NYLCare members now can get 90-day refills through the plan's mail-order service or through network pharmacies. . . . **The Illinois Insurance Department's** new director is **Nathaniel S. "Nat" Shapo** of Chicago, a former research and program development coordinator under then-Secretary of State George Ryan. Mr. Shapo was appointed last week, after Mr. Ryan was sworn in as governor. **Arnold L. Dutcher**, the department's interim acting director, is expected to resume his post as chief deputy director. . . . **Blue Cross & Blue Shield of Delaware** plans to affiliate with **CareFirst Inc.**, which operates Blues plans in Maryland, northern Virginia and the District of Columbia. The affiliation would operate as part of the Owings Mills, Md.-based CareFirst, a non-profit holding company. Pending regulatory approval, CareFirst will be the seventh-largest Blues plan in the nation, with 2.5 million members. . . . **Arthur J. Gallagher & Co.** has formed a new brokerage and risk management division specializing in the insurance needs of the petroleum industry. **Arthur J. Gallagher & Co.-Energy** will be headquartered in the Houston offices of Gallagher member company Gallagher Braniff Inc. . . . **HCC Insurance Holdings Inc.** last week made an unsolicited offer to buy **The Centris Group Inc.**, a Costa Mesa, Calif.-based underwriting agency that specializes in stop-loss medical coverage. HCC offered \$13.25 per share for The Centris Group. HCC already owns 7.79% of Centris' common stock. **BI**

# ADR

Continued from page 3

dual justice system—a private system for the haves that attracts the best legal experts, and the current public system for the have-nots.

Another potential problem is a brain drain on the court system as the best judges find that they can earn more by settling disputes for alternative dispute resolution organizations than the judges can earn by hearing cases in public courts. Justice George's task force is studying these issues, among others.

Officials in Oregon and Texas are studying similar issues, according to Jay Folberg, dean of the University of San Francisco School of Law and chairman of the Subcommittee on ADR and the Judicial System, which is part of Chief Justice George's task force.

Florida already has adopted regulations, ethical standards and qualifications, but only for court-referred alternative dispute resolution practitioners, not for private ADR efforts, Mr. Folberg said.

In addition to those state efforts, the American Bar Assn.'s Section on Dispute Resolution and the National Conference of Commissioners of Uniform State Laws are jointly drafting model mediation laws for states to consider.

Nowhere are current efforts to evaluate the impact of private ADR farther along than in California, Mr. Folberg said.

Among other things, California's task force is weighing whether to recommend measures that would ameliorate potentially negative effects or expand positive effects of ADR.

The task force is also looking to see if state officials have the authority to adopt ethical standards governing arbitrators and mediators and what measures state courts might take to retain qualified judges.

The task force reports to the Judicial Council of California's Administrative Office of the Courts, which sets the rules and practices

for the state's courts and can be "a powerful voice for legislative change," Mr. Folberg said.

State-imposed standards for arbitrators and mediators could help the growing industry weed out unqualified practitioners, according to Bruce Edwards, chief mediator in San Francisco for JAMS.

But if not thought out carefully, such regulation could be problematic, because the ADR industry draws on a broad variety of professions, such as building design

of auditing, loss prevention, insurance and human resources for Kelly-Moore Paint Co. Inc. in San Carlos, Calif. ADR professionals have to be objective, knowledgeable and good communicators and negotiators, he said.

"If they do not have those skills they will not make it in that business because the business is growing and there is competition," Mr. McDonald said.

"The good people will rise to the top and the people that are not good at it will have to find some-

system are not eager for drastic changes.

The California task force, for example, is walking carefully because it recognizes that insurers and other corporate users of ADR are sophisticated consumers that don't seem to need protections, Mr. Folberg said.

"We don't want to start proposing regulations that have unintended consequences of taking something that is flexible and by regulating it because of potential concerns, eliminating the flexibility and informality that seems to be its attraction," Mr. Folberg said.

"The private system is not at risk based on what we are doing," he added. Any changes would be "around the margin" with the greatest impact on court-appointed ADR services, he said.

After holding public hearings, the California task force is likely to make its strongest recommendations for change in regard to the use of court-mandated special masters.

Some attorneys complain there is an abuse of power when courts appoint a referee or special master that the litigants must pay for, yet sometimes have no control over who is appointed, Mr. Folberg said.

The task force also plans to review the use of employment contracts that mandate arbitration for resolving disputes. Plaintiff, consumer and employee attorneys have voiced their complaints about blocking access to the courts, and several federal courts have ruled on whether such binding arbitration clauses run afoul of federal laws.

Ultimately, review of binding arbitration may be outside of the Judicial Council's jurisdiction, Mr. Folberg said, because of federal rulings on the issue.

Kelly-Moore's Mr. McDonald said he uses ADR for all types of insurance and employment-related litigation because "It's very good for both the plaintiff and the defendant to hear from an impartial third party what they think the case is worth" before it goes to trial, he said.

In one case an employee terminated by Kelly-Moore for theft

claimed she was fired because she was pregnant and a Mexican. A mediator reviewed the plaintiff and defendant briefs then asked Mr. McDonald if he would sit and talk with the plaintiff and her counsel to explain the company's efforts to establish that the employee had stolen from it.

As it turned out, the plaintiff had lied to her attorneys, who were then eager to settle the case for a small sum, Mr. McDonald said.

"You can resolve these issues very early (with ADR), rather than constantly going to court and jacking up your business expense for legal advice," he said.

Mr. McDonald cautions that not all ADR practitioners have the same style or level of professionalism and recommends that employers shop around when seeking ADR assistance. He added that attorneys generally know who are the good mediators and arbitrators.

Study the background of mediators to assure they are indeed neutral, advises Thomas R. Lowe, assistant vp risk-management for Atlas Van Lines in Evansville, Ind. To settle issues with claimants, Mr. Lowe often uses mediation, and never binding arbitration.

"We can declare an impasse in mediation and walk away. In binding arbitration you present your case and wait for the arbitrator to determine what your financial responsibility should be and I don't think that is in our best interest," he said.

Some insurers are also finding alternative dispute resolution better than taking their chances with a jury.

The growth in ADR for settling claims disputes is being driven by the increasing cost of litigation, satisfactory results and plaintiffs who are not willing to wait years for a court decision, said Michael Fortune, executive vp and chief claims officer for Zurich-American Insurance Group in Schaumburg, Ill.

"There is a lot of posturing that goes on in litigation," he said. "This is a way of saying 'We realize that, now let's go discuss the real issues.'"

## A California task force wants to determine whether the growth of alternative dispute resolution will leave the court system with the least-capable judges.

consultants, lawyers and psychologists.

Risk managers and others who use ADR say they are not eager to see any regulations imposed on ADR.

James D. Noble, director of corporate risk management and insurance for Colgate-Palmolive Co. in New York, said that ADR serves an important need because insurance-related claims are growing too complex to leave to lay juries.

Alternative dispute resolution can help companies intelligently settle business disputes, Mr. Noble said. He also plans to recommend its use for a current disagreement with an insurance partner.

"It just is not great to get into litigation with an insurer," he said.

"Everything starts to shut down. You can't talk to each other. The next thing you know it's being run by two law firms and the businesspeople who were involved suddenly are not involved and that to me is never a really good system," Mr. Noble said.

The free market is capable of regulating the ADR industry without intervention by the states, said Patrick McDonald, a frequent user of ADR services and vp

thing else to do," he said.

But still, California wants to determine whether the growth of private ADR will leave the court system with the least-capable judges.

Although most judges who join ADR firms have already retired from the bench, observers say, many of them are still in their working years and might have postponed retirement had an attractive alternative not been available.

Some judges who make the switch complain about disincentives to remain in public service, such as a lack of appreciation for their work, said James D. Ward, a California appellate court judge and vice-chairman of the Subcommittee on the Quality of Judicial Service, which is studying ways to retain judges in the public system.

"I am well aware there a lot of people who say, 'I can hardly wait for my last day and I'm out of here. I'm going out and work in the private sector and make more money,'" Judge Ward acknowledged.

Fortunately for supporters of alternative dispute resolution who benefit from the current system, the organizations looking into ADR's impact on the court

## Waste manager insured in napalm disposal project

By ERIN DIGGS

DEER PARK, Texas—A waste management company is not taking any special risk management precautions to dispose of more than 3 million gallons of U.S. government napalm, company representatives said.

"This napalm thing has been blown out of proportion. There is less risk handling napalm than most things we normally transport," said Bill Reeves, vp-regulatory and environmental affairs for GNI, a Deer Park, Texas-based waste management company.

The napalm, stored since 1973 at a naval weapons station 60 miles north of San Diego, will be shipped to Texas, where it will be blended with other hazardous materials to create a specialized fuel, Navy Environmental Public Affairs Officer Lee Saunders said last week. That fuel will be shipped by train for final disposal in Baton Rouge, La., where it will be burned by the chemical company Rhodia Inc. in lieu of fossil fuel.

els.

This disposal plan solves a long-term problem the Navy has faced trying to dispose of the napalm. A plan last year to process the material at a plant in East Chicago, Ind., failed when the plant refused to accept the first shipment, Officials said.

**'There is less risk handling napalm than most things we normally transport,' says Bill Reeves.**

cer Saunders said.

According to Mike Howerton, director of business for GNI, the company is fully insured by units of American International Group Inc. against risks, including spills and damage to employees' health. GNI's coverage includes general liability, pollution coverage, excess liability, automobile liability and

fulfills the requirements of the company's contract with Batelle Memorial Institute, a contractor for the Navy.

Still, Mr. Howerton considers the possibility of an accident unlikely because of the careful preparation involved and the stable nature of napalm, a mixture of polystyrene, gasoline and benzene.

"You can throw a match on napalm, and it won't ignite. It is thick like molasses and must have a very high ignition point," Mr. Howerton said, meaning that it requires extremely intense heat to ignite.

According to Mr. Howerton, either GNI or the railroad, depending on fault, could be held liable for any accident during shipment of the converted napalm to its place of disposal.

Navy officials estimate the total cost of disposing of the more than 34,000 canisters—3.2 million gallons—of Vietnam-era napalm to be about \$39 million. The project is scheduled to begin within a month and should be completed within two years.



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# Snowy Chicago won't file it on

The Arctic Blast of 1999 that blanketed Chicago with deep snow, more deep snow and even more snow for days could have been absolutely catastrophic for the insurance industry.

Thankfully for insurers, though, many Chicagoans take a perverse pride in coping with the setbacks a huge snowfall causes.

Nearly 22 inches of snow fell on Chicago on New Year's Day, and it's snowed almost daily ever since.

Chicagoans encountered biting cold, lengthy transit delays, sidewalks obstructed by mountains of snow, cars buried by snowplows, school and airline cancellations and slippery, salty roads. Of course, they cursed the widespread gridlock caused by the snow, bemoaned the Sisyphean chore of shoveling a path only to have it snowed over again and again, demonized the government agencies in charge of public transit and clearing the roads, and complained bitterly about frozen fingers and noses.

But, contrary to the usual pattern of human nature in America, they did not look to someone else to make good on their suffering. They did not automatically think someone else had to pay for the inconveniences they encountered.

I don't know why this is the case. Maybe it's because, at some instinctual level, we equate snow with fun. Or perhaps the gland that causes people to file frivolous lawsuits is impaired by sub-zero temperatures. Or maybe we were numbed by Michael Jordan's second retirement.

Whatever the reason, the insurance industry has avoided a potential avalanche of weather-related claims. I'm not talking about burst pipes, collapsed roofs and car accidents; there's no avoiding those.

Let's examine the wide array of claims that *could* have been filed as a result of Chicago's worst winter storm since 1967.

Accident and health claims alone could have been staggering. Take, for example, all the bruised tailbones and scraped knees as people slipped and fell throughout the city as snow turned to ice. Most people are so embarrassed at falling on their tails that they would be loathe to mention it to anyone, let alone seek medical attention.

The strained, wrenched and thrown backs caused by shoveling acres of snow would create numerous health care claims if they weren't such a point of pride with some folks. Boasting about the length of time spent recuperating from the effort of digging out becomes a contest for some.

And, of course, the potential claims for lost extremities could have sent medical loss ratios through the roof.

Those are claims for the thousands of ears that suffer prolonged exposure to cold, wither away and fall off. Of course, if individuals were to make claims for these injuries, insurers might make an argument for contributory negligence in the form of: "Why didn't the claimant wear a hat?"

But as many Chicagoans know, the loss of an ear or two is a small price to pay to avoid the problem of hat hair in winter.

Apart from medical losses, another big source of claims that insurers avoided was for property damage.

These losses would include gouges in sidewalks and driveways caused by hammering in frustration at stubborn ice and packed snow with metal shovels, not unlike using a hammer and chisel on marble. But because it is still snowing, we can't really see the damage yet, and therefore no one knows to file a claim.

All sorts of potential losses related to snow blower usage.

Many first-time users unwittingly have ground up their landscaping in their zeal to move snow. The thrill of drilling a path with a machine that sounds like a cross between a Harley-Davidson and a Jet Ski no doubt induces a euphoric daze that blinds people to the fact that they are straying far from the confines of their driveways.

There also are tens of thousands of potential warranty claims for emergency replacement of snow blowers that broke down after having sat in garages, unused, for several winters. If claims for the cost of replacing these broken-down machines were ever really filed, they would dwarf the actual claims made for snow blowers stolen by the have-nots. That is because the rule of thumb is that a snow blower that cost \$300 in July will be valued at \$3,000 after the snow starts falling.

I'm not saying that insurance policies actually *would* cover some of the above claims but, as we all know, when has that ever stopped someone from filing a claim or lawsuit?

Editor Paul D. Winston's commentary appears biweekly.

## Forum

Continued from page 3

Financial Services Group Inc. in Hartford, Conn.

"As long as you keep redefining the game—how business is done—a company can thrive in the current environment," Mr. Ayer said.

Panel moderator V.J. Dowling, managing director of Dowling & Partners Securities L.L.C. in Hartford, Conn., questioned whether strong insurers would increasingly buy out weaker competitors.

"The jury is out" on whether making acquisitions is ultimately profitable for a company, Mr. Ayer said. High expenses and the uncertainty of returns will keep the pace of consolidation from accelerating, he predicted.

"Acquisitions have a great deal of danger," said Mr. Greenberg. The belief that a stronger entity can be built by acquiring weak companies with possible balance sheet problems is not sound, he said.

"Mergers and acquisitions will take place more on a strategic standpoint," rather than just to grow in size, said Thomas W. Crawford, president of retail distribution and advisory services for The Prudential Insurance Co. of America in Newark, N.J.

Mr. Dowling questioned whether the industry is in better shape because of a reduction in the drag on earnings from reserve additions, citing less reserving for workers comp and asbestos and environmental lines in particular.

"If anyone thinks that workers comp reserves are profitable, they

are not. It has gone from a good line a few years ago to a bad line in many states today. It will hit insurers' income statements soon," said Mr. Greenberg.

"The A&E problem hasn't gone away. Maybe companies just don't have any more to put up," he said.

"In 1998, the combined ratio on workers comp could be as high as 120%; there are no more reserves to release," said Mr. Ayer.

Mr. Greenberg pointed out that the stock market perversely rewards companies with reserving problems.

"Every few years, a company will put up a big one-time reserve. Analysts say: 'Great! They've dealt with that problem,' and their stock price goes up. It's not a great way to run a railroad," he said.

Heidi Hutter, chairman, president and CEO of Swiss Re America in New York, said that an inaccurate picture of an insurer's health also occurs when analysts focus on calendar-year data, rather than accident-year data. The latter, she said, gives a more accurate picture of loss results.

"Boards and shareholders should be asking for accident-year results for a truer picture of a company's profitability," and pricing adequacy, she said.

"In commercial lines, how long can inadequate rates continue?" Ms. Hutter asked. "This is a great business if you want to fool yourself into thinking business is profitable."

The panel was divided on what the uncertain future of U.S. financial services reform legislation means for the industry.

Ms. Hutter said the barrier to financial services integration could

make U.S. companies less competitive with foreign counterparts.

"I see greater integration in Europe and would hate to see the U.S. fall behind in experimenting to see what forms of integration work. We don't want to be lagging in finding multidistribution channels that work, compared to competitors in other countries," she said.

Mr. Greenberg said he is skeptical of the benefits of integration.

"Under H.R. 10, if a bank were to go into all areas of financial services, it should be done under a holding company, so that bank customers are not put at risk," he said. "Banks haven't managed credit risk well; how will they be any better at underwriting?"

He also noted that an insurer that teams up with a bank for insurance distribution purposes may find itself precluded from distributing products through any other bank, thereby limiting its options.

Looking forward, the panel was asked whether their outlook for Y2K exposures has changed in the past year.

"We understand more now than we did, but I'm still on the side of people who expect significant harm to our society," said Ms. Hutter. Electricity and telephone utilities may be most at risk, she said.

"Will we have civil disorder? It's not hard to get into scenarios which are of extreme concern," she said.

"For the insurance industry, we know this isn't a fortuitous event," yet trial lawyers are gearing up to argue otherwise, she noted.

## Lockout

Continued from page 3

Sports' property broker.

"We presented near-final terms on Sept. 17, 1998," she recounted.

The 1998-99 basketball season was scheduled to start Nov. 3.

Unfortunately, "we received notice on Sept. 22 that they weren't prepared to buy it," she said.

According to Ms. Carmichael, California Sports had been looking into some kind of contingency insurance for several years because NBA team owners' anticipated a labor dispute, as revenues have not been keeping pace with players increasing salaries.

"They knew [a work stoppage] was on the horizon," she said.

The team's spokesman declined to comment further.

Broker Browning & Trudeau did not return phone calls.

Ms. Carmichael said Crump Financial Services lined up a total of seven underwriters to take on the Lakers/Forum contingency risk. The primary-layer underwriters were St. Paul Re, United National Insurance Co., Fulcrum Insurance Co. and Everest Reinsurance Co. The excess insurers were Investors Insurance Co., a unit of the Markel Corp.; Essex Insurance Co.; and the London and Bermuda Underwriters Group.

Before lining up these seven, the broker had approached several other domestic and international insurers.

"The venues were looking to have coverage for loss of revenue as a result of games being canceled...over a deductible of a certain number of games," recalled Frank Lorenzo, director of property underwriting at Swiss Re America in New York.

"Their perspective was they would accept a deductible of X number of games, with the expect-

tation that the underwriters would expect a short lockout," he said.

But Mr. Lorenzo said he anticipated lengthy negotiations because a contract was in existence and because the owners wished to amend its terms prior to its expiration.

"So I declined it. And most of the people that I dealt with subsequently declined it themselves, because they couldn't get the reinsurance support," he said.

Carolyn V. Norton, vp in the en-

**'If someone has control and can make an event happen, I don't want to participate,' Frank Lorenzo says.**

tertainment division of New Century Global of New York Inc., the program manager for Reliance National Entertainment, also confirmed that "we had an opportunity to provide a proposal for the NBA lockout insurance."

"However, the reinsurance market would not support it, and, based on this and our assessment of the risk, we declined to quote," she said.

AI Entertainment President Sal Nociforo said he, too, declined the risk. AI Entertainment is a unit of American International Group Inc. Both are based in New York.

Underwriters may have recalled the 1981 Major League Baseball strike, when insurers paid teams nearly all of the \$50 million in strike coverage limits that the teams had purchased. The coverage, written primarily by Lloyd's syndicates, paid out \$100,000 per canceled game—\$50,000 for each team.

"That's what caused everybody to realize that...wait a minute, if

we give these guys coverage, they can turn around and say, 'Why do we need to negotiate in good faith or give up any of our key points when we have coverage?'" observed Swiss Re's Mr. Lorenzo.

"In effect, insurance could prolong a strike by providing the means for one or more of the parties to keep going economically and have no incentive to get to the bargaining table," he said.

Coverage for a strike would pay the owners for revenues lost when the teams go on strike. Lockout insurance would compensate the players if their owners locked them out. Combined strike and lockout insurance would pay out in both scenarios, Mr. Lorenzo continued.

Few insurers are willing to write any of those coverages, he said.

"In my many years of doing contingency risks...on any situation, you do not provide insurance to parties that have the ability to directly cause insurance coming into play," he said. "So I turned this offer down on this basis, even though it was to cover a venue."

"Some of the brokers were trying to say that because it was a venue and not the teams themselves (seeking the coverage), the venue did not have direct control over the lockout. But in my underwriting analysis, if any element along the chain has direct control and it is not a fortuitous event, it's not insurable within my underwriting guidelines," Mr. Lorenzo said.

"Therefore, if someone has control and can make an event happen, I don't want to participate. Most underwriters look at it the same way. That's why strike insurance is so difficult to get," he concluded.

The NBA lockout ended Jan. 6, just 29 hours before the association's board of governors was to vote on canceling the rest of the season.

# ACE

Continued from page 1

ACE/CIGNA combination can be properly judged, analysts say.

Aspects of the acquisition that are unclear, for example, include how much additional reinsurance protection ACE would arrange for CIGNA's long-tail liabilities, which in 1995 were restructured and shifted to Brandywine Holdings, a separately capitalized company, to be run off. Also unclear is whether the cost of that reinsurance will be fully included in the \$3.45 billion purchase price.

Another uncertainty is that a challenge to regulators' approval of that restructuring still is before the Pennsylvania Supreme Court.

"Acquisition strategies by definition are very risky," said Donald S. Watson, director of global reinsurance rating at Standard & Poor's Corp. in New York.

The final structure of ACE's purchase of CIGNA could be affected by the Pennsylvania court's actions, he said.

The purchase would transform ACE from a specialty insurer and reinsurer, with operations largely based in Bermuda and London, into a multiline insurer and reinsurer with extensive operations worldwide.

The net written premiums of ACE would jump to nearly \$4 billion from \$883 million, the company estimates.

In the United States, the enlarged ACE's net written premiums would increase to nearly \$2 billion from \$503 million for ACE only. Internationally, net written premiums in the United Kingdom and Europe would increase to \$773 million from \$129 million; in Japan to \$441 million from \$21 million; and in Latin America to \$176 million from \$5 million.

That would still leave it smaller than some international competitors, such as American International Group Inc., which had \$13.41 billion in property/casualty net written premiums in 1997.

The purchase of CIGNA's property/casualty operations would greatly expand ACE's lines of business. For example, in the United States, ACE would write workers compensation and commercial package business, while internationally it would pick up accident and health and automobile insurance.

Also, much of CIGNA's property and casualty writings are primary coverage, as opposed to the high excess liability business that ACE originally was created to cover during the liability insurance crisis in the mid-1980s.

When Mr. Duperreault joined ACE in 1994, he immediately began to diversify the company's operations by adding new people and making acquisitions. ACE's array of coverages now includes property, marine and aviation, satellite, financial lines, catastrophe reinsurance, and substantial operations at Lloyd's of London.

In recent months, ACE has made several major acquisitions. In January 1998, it completed the acquisition of U.S. specialty insurer Westchester Specialty Group Inc. for \$338 million and created ACE USA around the company. In 1998, it bought catastrophe reinsurer Cat Ltd. for \$711 million and bolstered its Lloyd's of London holdings with the \$500 million purchase of Tarquin Ltd.

When the deal is completed, CIGNA's domestic operations would be merged with ACE USA and trade under that name. ACE is buying the Insurance Co. of North America name, but it has not yet determined how or whether it would use it. The international operations also would be renamed with the ACE name, Mr. Duperreault said.

Dominic J. Frederico, president and chief executive officer of ACE Bermu-

da, would become chairman of ACE USA. The current management of the CIGNA units would stay in comparable positions with the company.

Gerald A. Isom, president of CIGNA Property & Casualty, would be the senior operating executive of ACE USA, while Kingsley Schubert, president of CIGNA International, would hold a senior executive position at ACE. Dennis Redding, the current head of ACE USA, would continue to hold a senior executive position, Mr. Duperreault added.

The diversification away from ACE's core line of high-severity/low-frequency coverages should benefit ACE, he said.

"I believe in a diversified company. A narrowly focused company just doesn't have the maneuvering room it needs in a competitive market," Mr. Duperreault said.

CIGNA's ongoing operations also would fit well with ACE's because the CIGNA business is mainly profitable, he said.

The main exception, he said, is the middle-market business CIGNA writes in the United States.

"But that used to be a much, much larger part of the business before... the trend has been to reduce that

## The implications of the pending challenge to CIGNA's restructuring remain an uncertain element of the deal.

business, and I agree with that," he said.

Mr. Duperreault said he is confident that Brandywine Holdings would be capable of covering all of CIGNA's outstanding liabilities and would not be a drain on ACE.

"I have no problem stepping into CIGNA's shoes," he said.

As of year-end 1997, Brandywine had \$4.6 billion of statutory assets.

ACE is in the process of securing additional third-party protection to ensure that the potential liabilities are fully capped, Mr. Duperreault confirmed. He would not specify the amount of coverage that will be bought.

"The reinsurance will be put in place contemporaneously with the closing, and the cost has been factored into the purchase price," he said.

Mr. Duperreault declined to comment on the outstanding litigation against CIGNA's restructuring prior to a Pennsylvania Supreme Court hearing on the issue, which is slated for Feb. 1.

Uncertainty over the amount of reinsurance to be bought and the outcome of the court hearing takes a little shine off the otherwise good deal, said Mr. Watson of S&P.

"We are all still waiting to see what the reinsurance will be," he said.

However, even if CIGNA's restructuring is overturned by a series of court and regulatory decisions, ACE still would likely benefit from the transaction as CIGNA's old liabilities, regardless of how they are ultimately structured, are well-capitalized, Mr. Watson said.

"It wouldn't of itself cause the deal to fall apart, but maybe the price would change," he said of the possibility of the court unraveling the company's restructuring.

Brandywine has had a successful runoff so far, and claims payments are well within its original projections, said Eric Simpson, senior vp at A.M. Best Co. in Oldwick, N.J.

"And the addition of a large stop-loss coverage could diminish the rightful concerns of policyholders," he said.

On the face of it, the purchase of additional reinsurance coverage could

benefit policyholders if the restructuring is allowed to stand, said John N. Ellison, a partner at Anderson Kill & Olick P.C. in Philadelphia, who represents a group of policyholders fighting the restructuring.

But that will not be clear until more details on the reinsurance coverage are in place, he said.

Mr. Ellison claimed that policyholders still have a good chance of prevailing before the Pennsylvania Supreme Court, which he said could unravel the CIGNA restructuring. ACE then would have to stand by the liabilities if it goes through with the purchase, he said.

"All this talk about restructured Brandywine operations is a bit of an overstatement of the restructured status right now," Mr. Ellison said.

Regulatory approval of the sale to ACE would be needed, regardless of the state Supreme Court ruling.

The deal also would benefit new and existing CIGNA policyholders, according to brokers.

In an increasingly consolidating market, policyholders now would have access to a new global insurance company, said Norman Barham, vice chairman of J&H Marsh & McLennan Inc. in New York.

"The global arena has become real important, and people need a global reach," he said.

ACE would be able to expand its product offerings through the deal, Mr. Barham said.

In particular, the addition of a workers comp unit would enable ACE to offer combined casualty and workers comp programs, which are becoming increasingly attractive to buyers, he said.

The additional products and capacity that ACE could provide would benefit CIGNA policyholders, agreed Charles Ruoff, executive vp at Acoria Inc. in Indianapolis.

An ACE/CIGNA combination would offer policyholders the full gamut of products from low-level primary to high-excess coverage in several lines of business, he said.

"Maybe some will be concerned about having so many eggs in one basket, but with the market consolidating the way it is, there's less choice anyway," Mr. Ruoff said.

With the addition of CIGNA's operations, ACE could become a substantial competitor to international insurers AIG, Zurich and Allianz, he added.

The combined ACE/CIGNA would contain several former AIG executives. Mr. Duperreault was an executive vp at AIG, and Mr. Frederico was a senior vp at an AIG unit. Mr. Schubert at CIGNA International was chief operating officer of AIG units in Japan and South Korea prior to joining CIGNA in 1992.

"AIG is a world-class organization, so anything we do in international business, we'll be competing with them," Mr. Duperreault said.

AIG has been a vigorous opponent of the CIGNA restructuring.

ACE also has an ironic link to CIGNA. John Cox, the founding chairman of ACE in 1984, was formerly president of INA, which was merged with Connecticut General Corp. in 1982 to form CIGNA Corp.

The deal also would bring an end to CIGNA's original ambitions, when it was formed in 1982, to cross-sell property and casualty and employee benefits products.

Instead, CIGNA would concentrate on its employee benefits business, CEO Wilson H. Taylor said in a statement.

"This transaction further positions CIGNA to capitalize on its strengths in the global employee benefits business," he said.

CIGNA would be able to use funds from the sale to expand its benefits operations either through internal growth or acquisitions, a CIGNA spokesman said. **BI**

## Updates

### Renaissance Re shopping unit

PEMBROKE, Bermuda—Renaissance Re Holdings is jettisoning Nobel Insurance Ltd., its Dallas-based primary unit, six months after it bought the specialty insurer for \$54.1 million.

"We concluded that we were not prepared to put in the substantial amounts of new capital that the company needed in order to increase its writings," said John M. Lummis, senior vp and chief financial officer of Renaissance Re.

Keith Hynes, executive vp in charge of primary operations at Renaissance Re, is to leave the company March 31.

Renaissance Re bought Nobel in June 1998. Nobel writes surety coverage, property/casualty insurance, bail bond insurance, coverage for explosives and propane companies and for low-value dwellings. The purchase was part of Renaissance Re's plans to expand into the U.S. primary insurance market.

However, last week it revealed it was incurring a \$40 million aftertax charge relating to Nobel. The charge consists of \$30 million in losses stemming from surety and casualty claims; a \$5 million writedown of goodwill; and \$5 million in other charges.

The losses relate to business written before Renaissance Re bought Nobel, Mr. Lummis said.

After the announcement of the charge, A.M. Best Co. downgraded Nobel's financial performance rating to B+ from A-.

Renaissance Re plans to sell profitable Nobel units, including those covering bail bonds and low-value dwellings, Mr. Lummis said. The surety business will be run off.

### 1998 third-worst in U.S. cat losses

NEW YORK—1998 will go down as the third-worst year for U.S. catastrophe losses in the past 10 years, according to the Property Claim Services unit of New York-based Insurance Services Office Inc.

PCS said last week that U.S. property/casualty insurers paid out an estimated \$10.7 billion in losses for the year, nearly four times more than the \$2.6 billion paid out in 1997. Losses in 1998 are surpassed only by the \$23 billion loss in 1992 and the \$17 billion loss in 1994.

In its announcement, PCS revised its estimates for insured damage from Hurricane Georges and storms and tornadoes that wreaked havoc in Minnesota. Damage estimates for Georges, which blasted Puerto Rico and the Dominican Republic before pummeling the Florida Keys, increased to \$2.9 billion, up \$400 million from initial estimates. Property damage estimates from Minnesota's storms reached \$1.3 billion.

### GOP patient rights bill on the way

WASHINGTON—Senate Republicans this week will reintroduce patient protection legislation, a sign that the battle over the issue is about to begin anew.

The Republican measure, which died last year on the Senate floor, would: mandate that patients in managed care plans have direct access to pediatricians and obstetricians/gynecologists; require that employers in certain situations offer employees more than just a closed-panel provider network; give patients better access to emergency room treatment; set new external and internal review requirements of coverage denial decisions; and expand tax-favored medical savings accounts.

Finance Committee Chairman William Roth, R-Del., said the need for patient protection legislation is well understood, adding that the Republican proposal takes a common-sense approach. Senate Democrats, though, described the Republican approach as "empty."

Last year's Republican bill died when Republicans and Democrats failed to agree on rules to consider both the Republican bill and a measure the Democratic leadership backed that would have expanded patients' right to sue insurers and employers over coverage denial decisions.

### Briefly noted

The 600-member San Mateo County Individual Practice Assn. Medical Group Inc. in San Mateo, Calif., did not renew its contract with Aetna U.S. Healthcare, claiming the insurer is trying to break up the IPA by negotiating with the doctors individually. The group also claims the insurer is not providing accurate, up-to-date capitation data and owes it money from past years. Coincidentally, the 20-year-old IPA sold its HMO, the Bay Pacific Health Plan, to Aetna in 1991. . . . **The Pension Benefit Guaranty Corp.** now has a toll-free number—800-736-2444—for employers and other plan pension plan administrators with questions about PBGC-related issues, including premiums, plan terminations and coverage. . . . The seven-member Virginia Supreme Court earlier this month unanimously upheld the constitutionality of a \$1 million cap on **medical malpractice awards**. The decision, which applies to all types of medical malpractice awards, reaffirmed a trial court's imposition of the 1976 cap, which halved a jury's \$2 million verdict in a 1995 case of fatal misdiagnosis. . . . **Swiss Re New Markets**, part of the Zurich-based Swiss Re Group, and financial news and information provider Bloomberg L.P. have created a joint venture service offering information and prices on insurance-linked securities trading in the market. Plans call for the service to provide additional information, as well as offer analytical tools to help investors evaluate the performance of insurance-linked securities. . . . A federal district judge in Seattle used the term "outrageously arrogant" in referring to new Microsoft Corp. **contracts for temporary workers**, which require them to waive their right to additional pay or benefits that a court might grant in the future (BI, Oct. 26, 1996). A Microsoft spokesman could not be reached for comment. . . . Aetna International Inc. last week purchased **Asistencia Medica Social Argentina S.A.**, the South American country's largest health care company. AMSA, with about 250,000 members, offers both indemnity- and health maintenance organization-type plans. Aetna will pay about \$100 million and assume \$20 million in debt in return for 100% of AMSA's common shares, Aetna announced.

# California

Continued from page 3

ant's insurers as well as the defendant, Mr. Sullivan said. Such third-party lawsuits were allowed for 10 years in California under the controversial court decision *Royal Globe Insurance Co. vs. Superior Court*. A state Supreme Court decision eventually stopped the practice (BI, March 17, 1997).

"That is going to be hard fought," said Mr. Sullivan. "We don't see any need for compromise there. The burden is on proponents to show why it is needed. That will definitely be a big fight."

Tort reform proponents should prevail on that issue, Mr. Sullivan said, because a lot of states have examined the issue and ruled against it and because Gov. Davis and legislators are likely to reject it once opponents make their case.

But organized labor and trial attorneys this

year likely will win increases in workers comp disability benefits, Mr. Webb said. They have said they want an additional \$1.5 billion spent on temporary and permanent disability benefits and for a vocational rehabilitation benefit.

To put that amount in perspective, a total of

## 'That is going to be hard fought,' says ACTR's John H. Sullivan about legislation allowing bad-faith lawsuits against defendants' insurers.

\$2.73 billion in workers compensation indemnity benefits were paid out statewide in 1997, Mr. Webb said.

"You cannot add that much cost to the system without having a significant impact on the

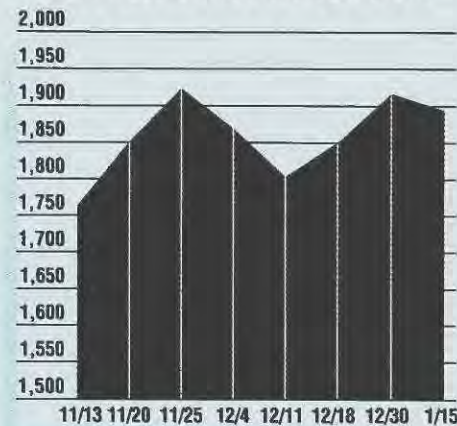
employer community," he added.

Employers and insurers have said they are not opposed to a benefit increase. But, in return, they want cost-saving system improvements, such as the streamlining of some burdensome processes that keep workers from returning to work quickly. One such idea is an improved claims dispute resolution process that would change the way disability ratings are calculated. The current system generates too much litigation between employees and employers, Mr. Webb said.

As for HMO liabilities, the ACTR is concerned about trial lawyers' interest in broadening the definition of the practice of medicine to include administrative decisions about what procedures are and are not covered under a health plan, Mr. Sullivan said. Such a move would make these decisions subject to medical malpractice lawsuits and insurance coverage.

Trial attorneys could not be reached for comment. **BI**

## BI Insurance Index



Base=100 on Dec. 29, 1998

Source: Nordby International Inc. (nordby.com) Boulder, Colo.

## PCS catastrophe options

| As of Jan. 15               | Call spread | Price bid/ask | Call spread             | Price bid/ask |
|-----------------------------|-------------|---------------|-------------------------|---------------|
| National Annual 1999        |             |               | California Annual 1999  |               |
| 40/60                       | 11.0/15.0   |               | 60/80                   | 1.2/2.3       |
| 60/80                       | 6.0/12.0    |               | 80/100                  | 1.0/1.9       |
| 80/100                      | 4.0/8.0     |               | 150C                    | 0.5/2.5       |
| 150C                        | 4.3/6.0     |               |                         |               |
| 200/250                     | 2.8/4.0     |               | Western Annual 1999     |               |
|                             |             |               | 80/100                  | 0.5/2.2       |
| Southeastern September 1999 |             |               | Midwest June 1999       |               |
| 40/60                       | 2.6/—       |               | 10/20                   | 1.0/1.4       |
| 60/80                       | 1.9/3.0     |               |                         |               |
| 80/100                      | 1.4/2.4     |               | Florida Sept./Dec. 1999 |               |
| Eastern September 1999      |             |               | 100/150                 | 3.0/—         |
| 40/60                       | 1.5/—       |               |                         |               |

Total volume: 0 Total open interest: 10,997

For information on PCS cat options, call the Chicago Board of Trade at 312-435-3674.

Source: Chicago Board of Trade

## British Issues

| Companies      | Price pence | P/E  | Div. pence | Yield % | 52-week high-low |
|----------------|-------------|------|------------|---------|------------------|
| Gdn Royal Exch | 343         | 5.2  | 13.4       | 4.0     | 495-227          |
| Legal & Gen    | 803         | 22.4 | 13.3       | 2.1     | 834-500          |
| Royal & Sun    | 486         | 13.7 | 23.6       | 5.0     | 825-437          |

## Brokers

|                |     |      |      |     |         |
|----------------|-----|------|------|-----|---------|
| Lmbt Fenchurch | 88  | 10.9 | 4.2  | 6.0 | 121-78  |
| JLT            | 183 | 11.1 | 10.5 | 7.2 | 236-152 |

Note: Prices are Jan. 15 closings; other numbers from Jan. 14.

Source: Nordby International Inc. (nordby.com) Boulder, Colo.

# Structured

Continued from page 1

level by Rep. E. Clay Shaw Jr., R-Fla. Rep. Shaw and 10 co-sponsors—both Republicans and Democrats—recently reintroduced a bill, H.R. 263, that would impose upon the factoring company a 50% excise tax on any such transaction, except in court-approved hardship cases (BI, Aug. 3, 1998).

"This tax would, in effect, eliminate the market for this service and protect the victim from exploitation," he said.

Although a similar federal bill failed last session, legislative and insurer representatives say they are optimistic about passage of settlement resale legislation—at both the federal and state levels—during the current legislative sessions.

Activities at both legislative levels aim to protect structured settlement recipients such as Orion Olson, 20, who was a homeless man living in Minnesota when he sold his rights to \$67,500 in remaining settlement payments to a Pennsylvania company for about \$13,000 two years ago, said Chris Messerly, his pro-bono attorney.

The settlement was for vision and neurological damage Olson suffered in a vicious dog attack when he was 3 years old. Payments began when he received a first payment of \$7,500 at age 18.

Although payments were to continue for 10 years, in 1997 he sold his rights to the remaining payments. The then-homeless man responded to a television ad offering quick

cash from Philadelphia-based J.G. Wentworth & Co. Inc., said Mr. Messerly, an attorney in the Minneapolis office of Robins, Kaplan, Miller & Ciresi L.L.P.

Mr. Messerly said he is considering legal action to try and overturn Mr. Orion's sale of his future payment rights.

Mr. Orion's story encouraged Minnesota Attorney General Mike Hatch to propose protective legislation in Minnesota.

According to Michael Goodman, J.G. Wentworth's executive vp and chief operating officer, though, settlement resales provide claimants with needed flexibility and discounted lump-sum cash. But, according to Mr. Goodman, Wentworth, the nation's largest purchaser of settlements, actively supports requiring court approval of structured settlements—both when they are set up and resold. Wentworth is supporting such legislation, which is being proposed by a purchasers' group, he said.

The AIA, which is spearheading the multi-state legislative effort, is targeting California, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, Washington and Wisconsin.

According to AIA Vp Janet Bachman, structured settlements are "a valuable product...but we need to enact some reasonable legislative protections so that aggressive settlement purchasing companies do not take advantage of people during times of great vulnerability."

The Washington-based American Council

of Life Insurance also is "working toward enactment of the same type of legislation in most of the same states," said Laurie Lewis, senior counsel for the ACLI.

Some state-based claimants' attorney groups also are likely to jump on the bandwagon, as they did in states such as Connecticut, Illinois and Kentucky, all of which recently enacted similar protective legislation, said Randy Dyer, executive vp of the National Structured Settlement Trade Assn.

On the federal level, both the AIA and ACLI are generally supportive of the concept of increased regulation of such transactions, although the ACLI has no position on whether 50% is an appropriate level for the excise tax.

Also motivating insurers is a desire to prevent structured settlement resales from becoming just another marketplace practice, which could jeopardize the current tax-free status of the settlements, Mr. Dyer said. Current law lets the injured person receive the benefits tax-free, but the recipient cannot change the terms, such as the amount and frequency, of settlement payments.

Risk managers and brokers need to be aware of these developments as they engage in claim settlement discussions, said Lance Ewing, leader of the External Affairs Team of the New York-based Risk & Insurance Management Society Inc. However, the impact of state-specific proposals must be evaluated on a state-by-state basis, said Mr. Ewing, who also is director of insurance and loss prevention for GES Exposition Service in Las Vegas. **BI**

## BI Industry Stock Report JAN. 11, 1999, THROUGH JAN. 15, 1999

| BROKERS                     |         |          |                 |                       |                   |                  |           |                             |     |        |                 |                       |                   |                  |           |                                |         |       |                 |                       |                   |                  |           |
|-----------------------------|---------|----------|-----------------|-----------------------|-------------------|------------------|-----------|-----------------------------|-----|--------|-----------------|-----------------------|-------------------|------------------|-----------|--------------------------------|---------|-------|-----------------|-----------------------|-------------------|------------------|-----------|
|                             |         | Price    | Weekly % change | Year to date % change | Year to date High | Year to date Low | Vol.(000) |                             |     | Price  | Weekly % change | Year to date % change | Year to date High | Year to date Low | Vol.(000) |                                |         | Price | Weekly % change | Year to date % change | Year to date High | Year to date Low | Vol.(000) |
| Aon Corp.                   | NYS     | 55.06    | -1.23           | -1.78                 | 75.56             | 48.25            | 3833      | CNA Surety                  | NYS | 13.38  | -3.17           | -10.46                | 16.75             | 12.56            | 134       | RLI Corp.                      | NYS     | 33.00 | 0.00            | -1.12                 | 45.63             | 30.69            | 68        |
| E.W. Blanch Holdings Inc.   | NYS     | 48.13    | 4.48            | 3.08                  | 49.38             | 33.31            | 156       | EMC Insurance Group Inc.    | NDO | 12.38  | -1.25           | -2.94                 | 15.88             | 9.00             | 49        | St. Paul Companies             | NYS     | 32.00 | -9.38           | -8.57                 | 47.19             | 28.06            | 4938      |
| Gallagher Arthur J. & Co.   | NYS     | 42.38    | -4.91           | -3.14                 | 46.75             | 33.56            | 124       | ESG Re Limited              | NDO | 20.50  | -6.29           | -3.47                 | 28.88             | 12.75            | 153       | SCOR                           | NYS     | 60.19 | -10.17          | -7.40                 | 72.75             | 47.50            | 25        |
| Hilo, Rogal & Hamilton      | NYS     | 18.06    | -5.56           | -3.02                 | 19.88             | 15.38            | 34        | Enhance Financial Services  | NYS | 26.50  | -5.15           | -12.40                | 37.56             | 17.31            | 510       | SAFECO Corp.                   | NDO     | 41.13 | -1.50           | -3.24                 | 56.00             | 38.25            | 2341      |
| Kaye Group Inc.             | NDO     | 7.81     | 9.65            | 7.76                  | 8.06              | 5.13             | 63        | Everest Reinsurance         | NYS | 35.44  | -5.81           | -3.41                 | 45.25             | 28.75            | 1018      | SCPIE Holdings Inc.            | NYS     | 28.50 | -1.30           | -5.20                 | 38.38             | 26.63            | NA        |
| Marsh & McLennan            | NYS     | 59.75    | -2.05           | 1.06                  | 64.31             | 43.38            | 2797      | Executive Risk Inc.         | NYS | 53.00  | -1.40           | -1.62                 | 75.75             | 35.50            | 138       | Seibels Bruce Group            | NDO     | 3.56  | 1.79            | 1.79                  | 8.38              | 3.06             | 56        |
| Poe & Brown                 | NYS     | 33.25    | -2.21           | -4.83                 | 42.50             | 28.81            | 43        | EXEL Ltd.                   | NYS | 63.50  | -7.97           | -11.27                | 83.25             | 61.38            | 3626      | Selective Ins. Group           | NDO     | 20.63 | -2.94           | 1.85                  | 29.25             | 16.69            | 188       |
| BROKERS                     | AVERAGE |          | -0.10           | 0.15                  |                   |                  |           | Frontier General Corp.      | NYS | 22.50  | -10.89          | -6.74                 | 31.06             | 18.00            | 870       | Terra Nova Insurance Co. Ltd.  | NYS     | 25.44 | 10.90           | 4.36                  | 35.00             | 22.50            | 221       |
| INSURERS/REINSURERS         |         |          |                 |                       |                   |                  |           | Frontier Insurance Group    | NYS | 14.44  | 6.45            | 15.50                 | 25.69             | 11.06            | 1175      | TIG Holdings                   | NYS     | 15.75 | -0.40           | 1.61                  | 34.31             | 11.63            | 2274      |
| ACE Ltd.                    | NYS     | 32.00    | -3.58           | -2.10                 | 43.00             | 24.38            | 7257      | Gainsco Inc.                | NDO | 5.94   | -4.04           | -5.94                 | 10.00             | 5.56             | 199       | Tokio Marine & Fire            | NDO     | 58.00 | -0.54           | -1.49                 | 61.38             | 39.00            | 50        |
| Accel International Corp.   | NDO     | 3.00     | 0.00            | 0.00                  | 3.50              | 2.13             | 19        | Gryphon Holdings            | NDO | 19.00  | 1.67            | 1.67                  | 19.38             | 11.38            | 21        | Torchmark Corp.                | NYS     | 34.44 | -1.96           | -0.90                 | 49.81             | 31.81            | 2718      |
| Acceptance Insurance Cos.   | NYS     | 18.38    | -4.55           | -7.55                 | 25.75             | 16.75            | 133       | Harleysville Group          | NDO | 23.88  | 3.80            | -6.37                 | 28.50             | 17.25            | 165       | Transatlantic Holdings         | NYS     | 74.88 | -0.42           | -0.99                 | 94.50             | 70.50            | 213       |
| AEGON N.V.                  | NYS     | 110.81   | -7.70           | -9.12                 | 130.13            | 46.13            | 411       | Hartford Steam Boiler       | NYS | 38.13  | -5.28           | -5.13                 | 59.56             | 34.75            | 407       | Travelers Property Casualty    | NYS     | 30.81 | -1.40           | 0.61                  | 46.06             | 24.13            | 3044      |
| Aetna Life & Casualty       | NYS     | 86.44    | -3.76           | 8.30                  | 90.63             | 60.19            | 3276      | HCC Insurance Holdings      | NYS | 19.63  | -0.63           | 15.87                 | 23.94             | 16.06            | 705       | Trenwick Group Inc.            | NDO     | 33.25 | -3.62           | 5.14                  | 41.75             | 26.75            | 32        |
| AFLAC Inc.                  | NYS     | 44.31    | 6.62            | 0.71                  | 45.31             | 23.56            | 3547      | ING Groep N.V.              | NYS | 58.25  | -12.24          | -4.51                 | 76.75             | 36.06            | 704       | Unico American Corp.           | NDO     | 11.25 | -0.83           | -2.44                 | 18.13             | 8.88             | 25        |
| Allmerica Financial Corp.   | NYS     | 55.88    | 0.45            | -1.32                 | 75.25             | 38.38            | 1387      | IPC Holdings Ltd.           | NDO | 22.00  | 0.57            | -3.30                 | 33.25             | 19.00            | 306       | United Fire & Casualty         | NDO     | 32.25 | -4.44           | -3.10                 | 44.50             | 30.75            | 23        |
| Allstate Corp.              | NYS     | 38.56    | -3.59           | 0.16                  | 52.38             | 36.06            | 13978     | Hartford Financial Services | NYS | 52.00  | -6.31           | -6.83                 | 60.00             | 37.63            | 2847      | Unilirn                        | NDO     | 72.75 | -1.69           | 2.65                  | 75.47             | 55.56            | 221       |
| AMBAC Indemnity Corp.       | NYS     | 56.00    | -7.82           | -6.57                 | 65.94             | 40.88            | 1085      | LaSalle Re Holdings Ltd.    | NYS | 20.06  | -8.29           | -2.73                 | 42.94             | 19.50            | 89        | UNUM Corp.                     | NYS     | 59.31 | -4.14           | -1.04                 | 62.00             | 41.75            | 3270      |
| American Bankers Ins.       | NDO     | 48.88    | 1.69            | 2.36                  | 66.06             | 30.13            | 2392      | Lincoln National            | NYS | 80.44  | -3.88           | -2.94                 | 98.88             | 67.00            | 1263      | Vesta Insurance Co.            | NYS     | 6.75  | -4.42           | 17.39                 | 64.75             | 5.00             | 768       |
| American Financial Group    | NYS     | 38.44    | -7.52           | -6.68                 | 45.75             | 30.50            | 219       | MAIC Holdings Inc.          | NYS | 31.88  | -3.41           | -0.39                 | 33.13             | 23.25            | 89        | Zenith National Ins.           | NYS     | 20.94 | -8.97           | -9.46                 | 30.50             | 20.50            | 65        |
| American General            | NYS     | 69.19    | -7.05           | -11.58                | 79.00             | 52.38            | 3957      | Market Corp.                | NYS | 170.50 | -4.62           | -5.41                 | 187.00            | 132.00           | 16        | INSURERS/REINSURERS            | AVERAGE |       | -2.68           | -0.74                 |                   |                  |           |
| American Heritage Life Ins. | NYS     | 22.38    | -0.56           | -7.01                 | 26.69             | 17.06            | 176       | MBIA Insurance Group        | NYS | 68.31  | -3.10           | 3.02                  | 80.94             | 46.06            | 2144      |                                |         |       |                 |                       |                   |                  |           |
| American Indemnity(Fin)     | NDO     | 10.63    | -6.59           | 0.00                  | 15.38             | 9.50             | 1         | Meadowbrook Insur. Group    | NYS | 16.25  | -1.52           | -0.38                 | 35.00             | 14.94            | 53        |                                |         |       |                 |                       |                   |                  |           |
| American International      | NYS     | 102.63   | -4.26           | 5.39                  | 107.94            | 64.88            | 14732     | MMI Cos. Inc.               | NYS | 17.00  | -3.89           | 1.87                  | 26.00             | 13.75            | 168       | Foundation Health Systems Inc. | NYS     | 9.81  | -11.30          | -10.80                | 32.63             | 5.88             | 4288      |
| American Safety Insurance   | NDO     | 9.38     | -3.85           | -1.32                 | 15.06             | 6.75             | 12        | Mutual Risk Mgmt. Ltd.      | NYS | 36.81  | -2.16           | -2.97                 | 39.94             | 25.38            | 245       | Humana Inc.                    | NYS     | 19.50 | -0.32           | 2.97                  | 32.13             | 12.25            | 3111      |
| Argonaut Group              | NDO     | 26.75    | 1.90            | 1.46                  | 37.50             | 21.25            | 213       | NAC Re Corp.                | NYS | 45.50  | -3.06           | -2.54                 | 55.88             | 43.69            | 272       | Oxford Health Plans            | NDO     | 18.88 | -5.77           | 34.82                 | 21.75             | 5.81             | 9655      |
| AXA-UAP Group               | NYS     | 73.25    | -4.87           | 2.36                  | 80.25             | 37.31            | 239       | Navigators Group            | NDO | 15.25  | -2.01           | 0.00                  | 20.75             | 13.25            | 11        | Pacificare Health Sys.         | NDO     | 71.50 | 3.25            | 0.00                  | 88.88             | 48.75            | 62        |
| Baldwin & Lyons Inc.        | NDO     | 23.63    | -6.44           | 1.07                  | 28.00             | 18.50            | 2         | NYMagic Inc.                | NYS | 16.50  | -14.29          | -20.96                | 34.25             | 16.00            | 44        | Safeguard Health Enter.        | NDO     | 3.63  | -15.94          | 1.75                  | 11.75             | 3.28             | 42        |
| Berkley W.R. Corp.          | NDO     | 31.00    | -4.25           | -8.15                 | 49.88             | 25.25            | 376       | Ohio Casualty Corp.         | NDO | 43.00  | 4.40            | 4.56                  | 51.75             | 33.75            | 232       | Sierra Health Services         | NYS     | 21.63 | 0.87            | 3.59                  | 27.63             | 15.88            | 264       |
| Berkshire Hathaway Inc.     | NYS     | 65000.00 | -0.46           | -4.83                 | 84000.00          | 46700.00         | 4         | Old Republic Int'l          | NYS | 20.50  | -4.09           | -4.37                 | 32.25             | 17.94            | 2357      | United Healthcare Corp.        | NYS     | 45.19 | -0.69           | 1.40                  | 73.94             | 29.56            | 5020      |
| Capital RE Corporation      | NYS     | 19.25    | -4.35           | -1.60                 | 38.69             | 14.75            | 341       | Orion Capital Corp.         | NYS | 36.63  | -5.33           | -6.54                 | 59.25             | 28.00            | 450       | Wellpoint Health Networks      | NYS     | 77.50 | -7.39           | -9.75                 | 87.88             | 45.88            | 1199      |
| Capital Transamerica Corp.  | NAS     | 18.50    | -5.13           | 4.59                  | 22.75             | 15.00            | 25        | Partner Re Ltd.             | NYS | 44.44  | -1.66           | -1.66                 | 52.50             | 33.63            | 292       | HMOs                           | AVERAGE |       | -4.66           | 3.00                  |                   |                  |           |
| Centris Group Inc.          | NYS     | 13.63    | 28.24           | -5.33                 | 14.81             | 7.94             | 985       | Penn-America Group Inc.     | NYS | 9.31   | -0.67           | 0.68                  | 23.00             | 8.13             | 71        | ALL COMPANIES                  | AVERAGE |       | -2.48           | 0.80                  |                   |                  |           |
| Chartwell Re                | NYS     | 25.94    | 2.47            | 11.56                 | 34.63             | 21.94            | 100       | PMA Capital Corporation     | NDO | 18.00  | -3.36           | -7.39                 | 23.75             | 16.25            | 73        |                                |         |       |                 |                       |                   |                  |           |
| Chubb Corp.                 | NYS     | 62.94    | -3.36           | -3.08                 | 88.81             | 55.38            | 2530      | Philadelphia Cons. Holding  | NDO | 23.56  | 1.34            | 10.38                 | 24.50             | 17.88            | 187       |                                |         |       |                 |                       |                   |                  |           |
| CIGNA Corp.                 | NYS     | 83.69    | 0.83            | 7.64                  | 86.44             | 55.94            | 4310      | PXRE Corp.                  | NYS | 22.63  | -5.48           | -10.40                | 35.25             | 20.63            | 152       |                                |         |       |                 |                       |                   |                  |           |
| Cincinnati Financial Corp.  | NAS     | 36.88    | -0.34           | 3.33                  | 45.63             | 30.50            | 1550      | Reliance Group Holdings     | NYS | 12.38  | -6.16           | -4.35                 | 19.81             | 10.75            | 658       |                                |         |       |                 |                       |                   |                  |           |
| Citigroup                   | NYS     | 51.88    | 10.37           | 2.60                  | 73.50             | 28.50            | 70778     | Reliastar Financial Corp    | NYS | 43.69  | -3.45           | -2.37                 | 52.44             | 29.00            | 858       |                                |         |       |                 |                       |                   |                  |           |
| CNA Financial Corp.         | NYS     | 38.50    | -4.50           | -2.07                 | 53.25             | 34.50            | 406       | RenaissanceRe Holdings Ltd. | NYS | 34.50  | -2.13           | -4.50                 | 50.75             | 33.50            | 288       |                                |         |       |                 |                       |                   |                  |           |
|                             |         |          |                 |                       |                   |                  |           | Risk Capital Holdings       | NDO | 21.50  | 1.18            | 1.78                  | 25.50             | 18.81            | 86        |                                |         |       |                 |                       |                   |                  |           |

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